



Amendment No. 6  
to  
Contract No. GC140000008  
TxSmartBuy Contract #269-M2  
for  
Influenza Vaccine Only  
between  
Sanofi Pasteur, Inc.  
DBA Aventis Pasteur, Inc.  
and the  
City of Austin

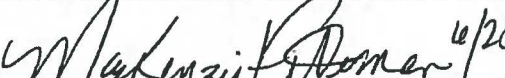
- 1.0 The City hereby replaces TPASS Contract #269-M1, expiring on 06/30/2018, with TxSmartBuy Contract #269-M2.
- 2.0 The City hereby exercises the extension option for the above referenced contract. Effective June 30, 2018 to December 31, 2018. Zero options remain.
- 3.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 06/27/2014 – 08/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Dates revised to match TPASS Contract #269-M1 dates 07/02/2014 – 12/31/2014	\$0.00	\$1,307,613.00
Amendment No. 2: Option 1 – Extension 01/01/2015 – 12/31/2015	\$1,307,613.00	\$2,615,226.00
Amendment No. 3: Option 2 – Extension 01/01/2016 – 12/31/2016	\$1,307,613.00	\$3,922,839.00
Amendment No. 4: Option 3 – Extension 01/01/2017 – 12/31/2017	\$1,307,613.00	\$5,230,452.00
Amendment No. 5: Option 4 – Extension 01/01/2018 – 06/30/2018 (TPASS Contract #269-M1 expires 06/30/2018)	\$1,307,613.00	\$6,538,065.00
Amendment No. 6: TxSmartBuy Contract #269-M2 replaces TPASS Contract #269-M1 06/30/2018		
Amendment No. 6: Option 5 – Extension 06/30/2018 – 12/31/2018	\$1,307,613.00	\$7,845,678.00

- 4.0 MBE/WBE goals do not apply to this contract.
- 5.0 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.
- 6.0 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.

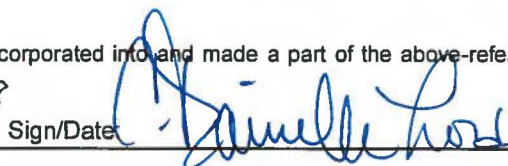
Sign/Date:

 6/28/18

Printed Name: Mackenzie Fetherman  
Authorized Representative

Sanofi Pasteur, Inc.  
DBA Aventis Pasteur, Inc.  
1 Discovery Drive  
Swiftwater, Pennsylvania 18370-0187  
(800) 822-2463

Sign/Date:

 6/28/18

Danielle Lord  
Procurement Manager  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



Amendment No. 4  
of  
Contract No. GC140000008  
TPASS Contract #269-M1  
for  
Purchase of Vaccines  
between  
SmithKline Beecham Corporation  
Dba GlaxoSmithKline Pharmaceuticals  
and the  
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective January 1, 2017 to December 31, 2017, to coincide with TPASS Contract #269-M1.

2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 08/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: 09/01/14 – 12/31/14	0.00	\$1,307,613.00
Amendment No. 2: Option 1 01/01/15 – 12/31/15	1,307,613.00	\$2,615,226.00
Amendment No. 3: Option 2 01/01/16 – 12/31/16	1,307,613.00	\$3,922,839.00
Amendment No. 4: Option 3 01/01/17 – 12/31/17	1,307,613.00	\$5,230,452.00

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

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

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

Signature:

Printed Name: Pascal Pigeon  
Authorized Representative

Signature:

Danielle Lord d'1/18/17  
Danielle Lord, Corporate Purchasing Manager  
City of Austin  
Purchasing Office

SmithKline Beecham Corporation  
3 Franklin Plaza  
1600 Vin St 3F0625  
Philadelphia, PA 19102



Amendment No. 3  
of  
Contract No. GC140000008  
TPASS Contract #269-M1  
for  
Purchase of Vaccines  
Between  
SmithKline Beecham Corporation  
Db, GlaxoSmithKline Pharmaceuticals  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective January 1, 2016 to December 31, 2016 to coincide with TPASS Contract #269-M1.
- 2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 08/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: 09/01/14 – 12/31/14	\$0.00	\$1,307,613.00
Amendment No. 2: Option 1 01/01/15 – 12/31/15	\$1,307,613.00	\$2,615,226.00
Amendment No. 3: Option 2 01/01/16 – 12/31/16	\$1,307,613.00	\$3,922,839.00

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

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

Signature:

Printed Name: PASCAL PROGENIT  
Authorized Representative

VICE PRESIDENT -  
COMMERCIAL STRATEGY

Signature:

Michael Benson, Chief Administrator Officer  
City of Austin  
Purchasing Office

3/11/16  
Danielle Lord  
Corp. Purchasing  
Mgr.

SmithKline Beecham Corporation  
Db, GlaxoSmithKline Pharmaceuticals  
3 Franklin Plaza  
1600 Vin St 3F0625  
Philadelphia, PA 19102



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-M2  
for  
Influenza Vaccine Only  
between  
Novartis Vaccines & Diagnostics, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. The extension option will be effective January 1, 2016 to December 31, 2016 to coincide with TPASS Contract #269-M2.
- 2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 01/01/2015 – 12/31/2015	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 01/01/2016 – 12/31/2016	\$1,307,613.00	\$2,615,226.00

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

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

Signature:

Handwritten signature of Steve Christy.

Printed Name: **STEVE CHRISTY**  
Authorized Representative

*NATIONAL ACCOUNT MANAGER*

Signature:

Handwritten signature of Michael Benson, dated 3/11/16.

~~Michael Benson, Chief Administrator Officer~~  
City of Austin  
Purchasing Office

*Danielle Lord*  
*Corp. Purchasing Mgr*

Novartis Vaccines & Diagnostics, Inc.  
PO Box 822746  
Philadelphia, PA 19182



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-M1  
for  
Purchase of Vaccines  
between  
Novartis Vaccines & Diagnostics, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective January 1, 2015 the term for the extension option will be January 1, 2015 to December 31, 2015 to coincide with TPASS Contract #269-M1.
- 2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 12/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 01/01/15 – 12/31/15	\$1,307,613.00	\$2,615,226.00

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

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

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Authorized Representative

Signature: \_\_\_\_\_

Michael Benson, Chief Administrator Officer  
City of Austin  
Purchasing Office

Novartis Vaccines & Diagnostics, Inc.  
PO Box 822746  
Philadelphia, PA 19182



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-M2  
for  
Influenza Vaccine Only  
between  
Sanofi Pasteur, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. The extension option will be effective January 1, 2016 to December 31, 2016 to coincide with TPASS Contract #269-M2.
- 2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 01/01/2015 – 12/31/2015	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 01/01/2016 – 12/31/2016	\$1,307,613.00	\$2,615,226.00

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

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

Signature:

Handwritten signature of Pamela Garcia-Gomez in blue ink.

Printed Name: **PAMELA GARCIA-GOMEZ**  
Authorized Representative **DEPUTY DIRECTOR,**  
**STATE GOVERNMENT CONTRACTS**

Sanofi Pasteur, Inc.  
Discovery Drive  
Swiftwater, PA 78370

Signature:

Handwritten signature of Michael Benson in blue ink.

**Michael Benson, Chief Administrator Officer**  
City of Austin  
Purchasing Office

3/11/16  
**Danielle Lord**  
Corp. Purchasing  
Mgr.



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-M1  
for  
Purchase of Vaccines  
between  
Sanofi Pasteur Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective January 1, 2015 the term for the extension option will be January 1, 2015 to December 31, 2015 to coincide with TPASS Contract #269-M1.
- 2.0 The total contract amount is increased by \$1,307,613.00 combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 12/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 01/01/15 – 12/31/15	\$1,307,613.00	\$2,615,226.00

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

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

Signature: 

Printed Name: PAMELA GARCIA-GOMEZ  
Authorized Representative DEPUTY DIRECTOR,  
STATE GOVERNMENT CONTRACTS

Signature: 

Michael Benson, Chief Administrator Officer  
City of Austin  
Purchasing Office

Sanofi Pasteur Inc.  
Discovery Drive  
Swiftwater, PA 78370



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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,

A handwritten signature in black ink, appearing to read "Sai Xoomsai".

Sai Xoomsai,  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
ABO Pharmaceuticals ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between ABO Pharmaceuticals having offices at 7930 Arjons Drive, Suite A, San Diego, California 92126 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 **TPASS Contract Number 269-A3**, including any and all supporting schedules and Item Availability and Price List which can be found at:  
[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

ABO Pharmaceuticals

MARCEUS NEMETH

Printed Name of Authorized Person



Signature

SALES DIRECTOR - NATIONAL ACCOUNTS

Title:

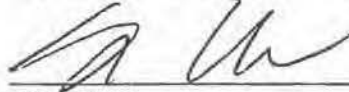
6.12.14

Date:

CITY OF AUSTIN

Sai Porcell

Printed Name of Authorized Person



Signature

Senior Buyer Specialist

Title:

6/18/14

Date:

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Marcus Nemeth; Phone: (949)699-2727; Email: [Marcus@abopharmaceuticals.com](mailto:Marcus@abopharmaceuticals.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov); and Michael Gonzales, Phone: (512)972-5536; Email: [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Monica McClure, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

ABO Pharmaceuticals

ATTN: Marcus Nemeth

7930 Arjons Drive, Suite A

San Diego, CA 92126

11. **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.

12. **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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies

licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

13.2.2.2 Contractor/Subcontracted Work.

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

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

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

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

13.3 **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.

14. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 FRIDAY day of JUNE, 2014

CONTRACTOR

MARCUS NEMETH (CarboPharma)

Authorized Signature

Marcus Nemeth

Title

SALES DIRECTOR - NATIONAL ACCOUNTS



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-A3  
for  
Purchase of Vaccines  
between  
ABO Pharmaceuticals  
and the  
City of Austin

1.0 The City hereby exercises the extension option for the above-referenced contract. Effective September 1, 2014 the term for the extension option will be September 1, 2014 to December 31, 2014 to coincide with TPASS Contract #269-A3.

2.0 The total contract amount is increased by <sup>\$40.00</sup>~~\$435,871.00~~ combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 08/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 09/01/14 – 12/31/14	<del>\$435,871.00</del>	<del>\$1,743,484.00</del>

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

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

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

Signature:

Handwritten signature of Marcus Nemeth.

Printed Name: MARCUS NEMETH  
Authorized Representative

Signature:

Handwritten signature of Debbie DePaul.

Debbie DePaul, Contract Compliance Supervisor  
City of Austin  
Purchasing Office

ABO Pharmaceuticals  
7930 Arjons Drive, Ste A  
San Diego, CA 92126

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
GlaxoSmithKline ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between GlaxoSmithKline having offices at 5 Crescent Drive, Philadelphia, PA 19112 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and the Item Availability and Price List which can be found at:

[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 including any and all supporting schedules.

1.2.2 This Contract including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or service to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall become effective on the date signed by the city and expire automatically on August 31, 2014.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial contract term and \$1,307,613 each and combined for each extension option for a total not-to-exceed contract amount of \$7,845,678 each and combined for all contractors approved by the City Council for this procurement..

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.

GLAXOSMITHKLINE

Kimberly M. Bradley

Printed Name of Authorized Person

Kimberly M. Bradley

Signature

VP, Marketing Customer Strategy

Title:

6-16-14

Date:

CITY OF AUSTIN

Sai Purcell

Printed Name of Authorized Person

Sai Purcell

Signature

Senior Buyer Specialist

Title:

6-24-14

Date:

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
GENERAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Babatunde A. Adedeji; Phone: (215) 751-6786; Email: BabatundeA.Adedeji@gsk.com. The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 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.

2.2.4 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Notices:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	GlaxoSmithKline
ATTN: Monica McClure, Contract Administrator	ATTN: Babatunde A. Adedeji
P O Box 1088	5 Crescent Drive
Austin, TX 78767	Philadelphia, PA 19112

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of

funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13. **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

14. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 17<sup>th</sup> day of JUNE, 2014

CONTRACTOR	<u>GLAXO SMITH KLINE</u>
Authorized Signature	<u>Nancy Cox</u>
Title	<u>MGR, HR POLICY &amp; COMPLIANCE</u>

Vaccines and Biologicals

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostice Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol®	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial). <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol®	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent.	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys®	49281-880-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL®	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose .5 mL Vials/Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel®	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles)	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.20	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Absorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10 ) Single dose 0.5 mL Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Absorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10 ) Single dose 0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate Vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - ActHIB®	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) 1 mL Single dose Vials per Pkg.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 560.30	\$ 15.00
Hepatitis A Vaccine Ten (10) 1440 EL.U./1 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-52	15	PKG	\$ 287.10	\$ 7.50
Hepatitis A Vaccine Ten (10) 720 EL.U./0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-52	15	PKG	\$ 187.10	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 1440 EL.U./1 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 266.30	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 720 EL.U./0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis B Immune Globulin (Human) .5 ml Syringe	BDI PHARMA, INC.	Grifols - HyperHep B .5ml	13533-0636-03	1	SYR	\$ 80.29	N/A
Hepatitis B Immune Globulin (Human) 1 ml Syringe	BDI PHARMA, INC.	Grifols - HyperHep B 1ml	13533-0636-02	1	SYR	\$ 149.57	N/A
Hepatitis B Immune Globulin (Human) 5 ml Vial	BDI PHARMA, INC.	Grifols - HyperHep B 5ml	13533-0636-05	1	VIAL	\$ 692.84	N/A
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 355.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 339.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.20	\$ 7.50

Vaccines and Biologicals

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Immune Serum Globulin, Human U.S.P. Single dose 10 mL Vial	BDI PHARMA, INC.	Grifols - GamaSTAN 10ml	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses [ten (10) .5 mL Vials] per Pkg. <i>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</i>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 343.05	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses [ten (10) .5 mL Vials] per Pkg.	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 406.85	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra®	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 ml For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package	GLAXOSMITHKLINE, LLC	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose .5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune®	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg.	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine Inactivated Ten (10) . 5 mL Prefilled BD Luer-Lok Syringes per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL®	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine Inactivated One (1) . 5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL®	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam®	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam®	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam®	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam®	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 2ml	13533-0618-02	1	VIAL	\$ 486.26	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 10ml	13533-0618-10	1	VIAL	\$ 2,377.73	N/A
Rabies Vaccine (Human Diploid Cell) No Diluent Needed (Post Exposure) Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX®	49281-250-51	14	VIAL	\$ 226.05	N/A
Rabies Vaccine Pkg: 1 single dose vial freeze-dried vaccine, 1 vial 1 ml sterile diluent, 1 disposable syringe, 1 smaller needle for injection, 25 gauge x 1 in., 1 longer needle for reconstitution, 21 gauge x 1.5 in.	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - RabAvert	63851-501-01	3	PKG	\$ 198.32	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 300 IU Syringe	BDI PHARMA, INC.	Grifols - Hyper Rho Full	13533-0631-02	1	SYR	\$ 90.41	N/A
Rotavirus Vaccine, Live, Oral, Pentavalent Ten (10) Single dose 0.5 mL Vials Per Pkg.	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1,047.60	\$ 7.50
Tetanus And Diphtheria Toxioids Adsorbed Ten (10) Single dose .5 mL Vials per Pkg (contains no latex)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-10	14	PKG	\$ 208.45	\$ 15.00
Tetanus And Diphtheria Toxioids Adsorbed Ten (10) Prefilled Single dose .5 mL Syringes Per Pkg (without needle)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC.	Grifols - HyperTet S/D	13533-0634-02	1	SYR	\$ 318.08	N/A
Tetanus Toxioid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	REGIMED MEDICAL	Sanofi Pasteur - Tet Tox Ad	49281-820-10	7	PKG	\$ 356.16	\$ 7.50
Tetanus Toxioid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Tet Tox Ad	49281-820-10	14	PKG	\$ 396.03	\$ 7.50
Tetanus Toxioid, Reduced Diphtheria Toxioid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 ML Vials Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Adacel®	49281-400-10	14	PKG	\$ 308.30	\$ 22.50

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled Bd Luer-Lok Single dose 0.5 mL Syringes Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Adacel®	49281-400-15	14	PKG	\$ 154.15	\$ 11.25
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed. Ten (10) Single dose 0.5 ML Vials Per Pkg.	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg. <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC.	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - TYPHIM-Vi®	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	REGIMED MEDICAL	Sanfo Pasteur - TYPHIM-Vi®	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	SANOFI PASTEUR INC	Sanfo Pasteur - TYPHIM-Vi®	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose .5 mL Vials of Diluent for reconstitution per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - YF-VAX®	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - YF-VAX®	49281-915-05	14	PKG	\$ 394.07	N/A



Amendment No. 1  
of  
Contract No. GC140000008  
TPASS Contract #269-A3  
for  
Purchase of Vaccines  
between  
GLAXOSMITHKLINE PHARMACEUTICALS  
and the  
City of Austin

1.0 The City hereby exercises the extension option for the above-referenced contract. Effective September 1, 2014 the term for the extension option will be September 1, 2014 to December 31, 2014 to coincide with TPASS Contract #269-A3.

2.0 The total contract amount is increased by <sup>\$0.00</sup>~~\$435,871.00~~ combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 06/18/2014 – 08/31/2014	\$1,307,613.00	\$1,307,613.00
Amendment No. 1: Option 1 09/01/14 – 12/31/14	<sup>\$0.00</sup> <del>\$435,871.00</del>	<sup>\$0.00</sup> <del>\$1,307,613.00</del> \$1,743,484.00

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

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

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

Signature:

Printed Name: PASCAL PRIGENT  
Authorized Representative

Signature:

Debbie DePaul  
Debbie DePaul, Contract Compliance Supervisor  
City of Austin  
Purchasing Office

GLAXOSMITHKLINE PHARMACEUTICALS  
5 Crescent Drive  
Philadelphia, PA 19112



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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,

A handwritten signature in black ink, appearing to read "Sai Xoomsai".

Sai Xoomsai,  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Sanofi Pasteur, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between Sanofi Pasteur, Inc. having offices at Discovery Drive, Swiftwater, PA 18370 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price List attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until December 31, 2014, and may be extended thereafter for up to five (5) twelve month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

Sanofi Pasteur, Inc.

CITY OF AUSTIN

Tami Bindee

Printed Name of Authorized Person

[Signature]

Signature

Dep. Dir, Fed. Gov't Ctr

Title:

6/17/14

Date:

Sai Purcell

Printed Name of Authorized Person

[Signature]

Signature

Senior Buyer Specialist

Title:

6/26/14

Date:

Exhibit A – General Provisions

Exhibit B – Price List

Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Jill Bingham; Phone: (570) 957-3486; Email: [Jill.Bingham@sanofipasteur.com](mailto:Jill.Bingham@sanofipasteur.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices will be in Contractor's usual and customary format, will contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

3. **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.

4. **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.

5. **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.

6. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Monica McClure, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Sanofi Pasteur Inc.

ATTN: Jill Bingham

Discovery Drive

Swiftwater, PA 18370

7. **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.

8. **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.

9. **Insurance:** The following insurance requirement applies.

9.1 **General Requirements**

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

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

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

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

9.1.5 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

9.1.6 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.

9.1.7 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

9.1.8 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.

9.1.9 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.

9.1.10 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.

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

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

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

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

9.2.2.1. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.2.2 Contractor/Subcontracted Work.

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

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

9.3 **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.

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered,

or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, the Contractor's price shall be deemed to include all delivery and transportation charges. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Department".

14. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

15. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

# Exhibit B

CPA - TPASS Managed Contract No. 269-M1

Updated: April 28, 2014

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostic Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial). <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent.	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys*	49281-880-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL*	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose .5 mL Vials/Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel*	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.20	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Tip-Lok Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate Vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - ActHIB*	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) 1 mL Single dose Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 560.30	\$ 15.00
Hepatitis A Vaccine Ten (10) 1440 EL U / 1 mL Prefilled Tip-Lok Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-52	15	PKG	\$ 287.10	\$ 7.50
Hepatitis A Vaccine Ten (10) 120 EL U / 0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-52	15	PKG	\$ 187.10	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 1440 EL U / 1 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 266.30	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 120 EL U / 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis B Immune Globulin (Human) .5 mL Syringe	BDI PHARMA, INC	Grifols - HyperHep B .5ml	13533-0636-03	1	SYR	\$ 80.29	N/A
Hepatitis B Immune Globulin (Human) 1 mL Syringe	BDI PHARMA, INC	Grifols - HyperHep B 1ml	13533-0636-02	1	SYR	\$ 149.57	N/A
Hepatitis B Immune Globulin (Human) 5 mL Vial	BDI PHARMA, INC	Grifols - HyperHep B 5ml	13533-0636-05	1	VIAL	\$ 692.84	N/A

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 355.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 339.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg. <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.70	\$ 7.50
Immune Serum Globulin, Human U.S.P. Single dose 10 mL Vial	BDI PHARMA, INC.	Grifols - GamaSTAN 10ml	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses [ten (10) .5 mL Vials] per Pkg. <b>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</b>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 343.05	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra*	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 mL For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose .5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune*	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg.	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine Inactivated Ten (10) .5 mL Prefilled BD Luer-Lok Syringes per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine Inactivated One (1) .5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 2ml	13533-0618-02	1	VIAL	\$ 486.26	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 10ml	13533-0618-10	1	VIAL	\$ 2,377.73	N/A
Rabies Vaccine (Human Diploid Cell) No Diluent Needed (Post Exposure) Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX*	49281-250-51	14	VIAL	\$ 226.05	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 300 IU Syringe	BDI PHARMA, INC.	Grifols - Hyper Rho Full	13533-0631-02	1	SYR	\$ 90.41	N/A
Rotavirus vaccine, live, Oral, Pentavalent Ten (10) Single dose 0.5 mL Vials Per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1,047.60	\$ 7.50
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Single dose .5 mL Vials per Pkg (contains no latex)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-10	14	PKG	\$ 208.45	\$ 15.00
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Prefilled Single dose .5 mL Syringes Per Pkg (without needle)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC.	Grifols - HyperTet S/D	13533-0634-02	1	SYR	\$ 318.08	N/A
Tetanus Toxoid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	REGIMED MEDICAL	Sanofi Pasteur - Tet Tox Ad	49281-820-10	7	PKG	\$ 356.16	\$ 7.50

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur Tet Tox Ad	49281-820-10	14	PKG	\$ 396.03	\$ 7.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC.	Sanofi Pasteur - Adacel*	49281-400-10	14	PKG	\$ 308.30	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled Bd Luer-Lok Single dose 0.5 mL Syringes Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC.	Sanofi Pasteur - Adacel*	49281-400-15	14	PKG	\$ 154.15	\$ 11.75
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC.	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC.	Sanofi Pasteur - TYPHIM-Vi*	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	REGIMED MEDICAL	Sanofi Pasteur - TYPHIM-Vi*	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	SANOFI PASTEUR INC.	Sanofi Pasteur - TYPHIM-Vi*	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose .5 mL Vials of Diluent for reconstitution per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur - YF-VAX*	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur - YF-VAX*	49281-915-05	14	PKG	\$ 394.07	N/A

# Exhibit C

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

City of Austin, Texas  
Human Rights Commission

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

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

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

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

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

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

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

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

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

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this 17th day of June, 2014

CONTRACTOR

Authorized Signature

Title

Sanofi Pasteur Inc  
TruBile  
Dep. Dir. Fed Gov't CTR

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Sanofi Pasteur, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between Sanofi Pasteur, Inc. having offices at Discovery Drive, Swiftwater, PA 18370 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and Item Availability and Price List which can be found at:

[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

Sanofi Pasteur, Inc.

Tami Binder

Printed Name of Authorized Person

Tami Binder

Signature

Dep. Dir., Fed. Govt Ctr

Title:

6/17/14

Date:

CITY OF AUSTIN

Sai Russell

Printed Name of Authorized Person

Sai Russell

Signature

Senior Buyer Specialist

Title:

6/26/14

Date:

Exhibit A - General Provisions

Exhibit B - City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Jill Bingham; Phone: (570) 957-3486; Email: [Jill.Bingham@sanofipasteur.com](mailto:Jill.Bingham@sanofipasteur.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices will be in Contractors usual and customary format, and shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

3. **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.

4. **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.

5. **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.

6 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	Sanofi Pasteur Inc.
ATTN: Monica McClure, Contract Administrator	ATTN: Jill Bingham
P O Box 1088	Discovery Drive
Austin, TX 78767	Swiftwater, PA 18370

7. **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.

8. **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.

9. **Insurance:** The following insurance requirement applies.

9.1 **General Requirements**

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

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

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

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

9.1.5 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

9.1.6 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.

9.1.7 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

9.1.8 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.

9.1.9 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.

9.1.10 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.

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

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

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

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

9.2.2.1. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.2.2 Contractor/Subcontracted Work.

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

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

9.3 **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.

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, the Contractor's price shall be deemed to include all delivery and transportation charges. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Department".

14. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

15. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

## Exhibit C

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

City of Austin, Texas  
Human Rights Commission

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

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

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

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

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

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

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

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

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

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this 17th day of June, 2014

CONTRACTOR

Authorized Signature

Title

Sanofi Pasteur Inc  
M. B. B. B.  
Dep. Dir., Fed Govt CTE



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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,

A handwritten signature in black ink, appearing to read "Sai Xoomsai".

Sai Xoomsai,  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Novartis Vaccines & Diagnostics, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract ("Contract") is between Novartis Vaccines & Diagnostics, Inc., located at 350 Massachusetts Avenue, Cambridge, Massachusetts 02139 ("Contractor") and the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, each a "Party" and collectively the "Parties," and is effective when signed by an authorized representative of both Parties. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price list attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until December 31, 2014, and may be extended thereafter for up to five (5) twelve-month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the City's Purchasing Officer or his designee.

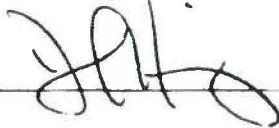
**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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 Parties have caused a duly authorized representative to execute this Contract on the date set forth below.

NOVARTIS VACCINES AND  
DIAGNOSTICS, INC.

David Hering  
Printed Name of Authorized Person

  
Signature

VP Marketing  
Title

7/1/14  
Date

CITY OF AUSTIN

Sai Porcell  
Printed Name of Authorized Person

  
Signature

Senior Buyer Specialist  
Title

7/2/14  
Date

- Exhibit A – General Provisions
- Exhibit B – Price List
- Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Delis Negron; Phone: (512) 574-2808; Email: [Delis.Negron@Novartis.com](mailto:Delis.Negron@Novartis.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512) 972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov)

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay,

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation, or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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 the 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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATTN: Monica McClure, Contract Administrator  
P.O. Box 1088  
Austin, TX 78767

To the Contractor:  
Novartis Vaccines & Diagnostics  
ATTN: Delis Negron  
1943 Savannah Drive  
Round Rock, TX 78681-2176

11. **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.

12. **Termination Without Cause:** Either Party shall have the right to terminate the Contract, in whole or in part, without cause at any time upon at least thirty (30) calendar days' prior written notice to the other Party. 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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

13.2.2.2 Contractor/Subcontracted Work.

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

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

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

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

13.3 **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.

14. **Equal Employment Opportunity**: No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation**. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

23. **Assignment.** Neither Party may sell, assign, transfer or otherwise dispose of this Contract, or any rights or obligations thereunder, without the prior written consent of the other Party; provided, however, that Contractor may freely assign this Contract to an Affiliate or to any person or entity that acquires all or substantially

all of the business or assets (or of the business division or product line) of Contractor to which this Contract primarily relates. Any attempted assignment of this Contract that is not in compliance with the terms of this subsection shall be null, void and of no effect. No assignment will relieve any party of the performance of any accrued obligation that such Party may then have pursuant to this Contract. For purposes of this Contract, "Affiliate" means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" shall mean, direct or indirect, ownership of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby the entity or person controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. In the case of entities organized under the laws of certain countries, the maximum percentage ownership permitted by law for a foreign investor may be less than fifty percent (50%), and in such case such lower percentage shall be substituted in the preceding sentence, provided that such foreign investor has the power to direct the management and policies of such entity.

# Exhibit B

CPA - TPASS Managed Contract No. 269-M1

Updated: April 28, 2014

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostic Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial) NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys*	49281-980-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL*	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles) NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose 0.5 mL Vials/Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel*	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles) NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.70	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Tip-Lok Syringes per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Vials per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Althib*	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) vaccine Ten (10) 1 mL Single dose Vials per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 540.30	\$ 15.00
Hepatitis A vaccine Ten (10) 1.440 FL OZ 1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 387.10	\$ 15.00
Hepatitis A vaccine Ten (10) 1.0 FL OZ 0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0827-11	15	PKG	\$ 387.10	\$ 15.00
Hepatitis A vaccine Ten (10) Single dose 1.440 FL OZ 1 mL Vials per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 386.30	\$ 15.00
Hepatitis A vaccine Ten (10) Single dose 1.0 FL OZ 0.5 mL Vials per Pkg NOTE: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0827-11	15	PKG	\$ 387.10	\$ 15.00
Hepatitis B Immune Globulin (Human) 5 mL Syringe	RED PHARMA INC	Inflix - HyperHep B (m)	11515-0636-05	1	SRP	\$ 30.29	N/A
Hepatitis B Immune Globulin (Human) 1 mL Syringe	RED PHARMA INC	Inflix - HyperHep B (m)	11515-0636-05	1	SRP	\$ 145.57	N/A
Hepatitis B Immune Globulin (Human) 5 mL Vial	RED PHARMA INC	Inflix - HyperHep B (m)	11515-0636-05	1	VIAL	\$ 692.84	N/A

## Vaccines and Biologicals

Updated: April 28, 2014

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 155.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 139.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.20	\$ 7.50
Immune Serum Globulin, Human L: S:P Single dose 10 mL Vial	BDI PHARMA, INC	Grifols - GamaSTAN 10mL	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses (ten (10) 5 mL Vials) per Pkg <b>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</b>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	<del>343.09</del> \$ 343.09	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose 5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra*	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 mL For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose 5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune*	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine (Inactivated) Ten (10) 5 mL Prefilled BD Luer-Lok Syringes per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine (Inactivated) One (1) 5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC	Grifols - HyperRAB S/D 2mL	13533-0618-02	1	VIAL	\$ 186.24	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC	Grifols - HyperRAB S/D 10mL	13533-0618-10	1	VIAL	\$ 1,377.73	N/A
Rabies Vaccine, Human Diploid Cell No Diluent Needed, Post Exposure Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX*	49281-250-51	14	VIAL	\$ 126.35	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 100 U Syringe	BDI PHARMA, INC	Grifols - HyperRho Syringe	13533-0614-02	1	SR	\$ 90.11	N/A
Rotavirus Vaccine (Live, Oral Pentavalent) Ten (10) Single dose 0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1047.40	\$ 7.50
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Single dose 5 mL Vials per Pkg (without needles)	SANOFI PASTEUR INC	Sanofi Pasteur - Tetavax	49281-115-14	14	PKG	\$ 208.15	\$ 15.00
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Prefilled Single dose 5 mL Syringes per Pkg (without needles)	SANOFI PASTEUR INC	Sanofi Pasteur - Tetavax	49281-115-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC	Grifols - HyperTet S/D	13533-0614-02	1	SR	\$ 114.08	N/A
Tetanus Toxoid Vaccine Ten (10) single dose 5 mL Vials per Pkg	REGIMED MEDICAL	Sanofi Pasteur - Tet Toxoid	13,811-520-11	7	PKG	\$ 1,156.10	\$ 7.50

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid Vaccine Ten (10) Single dose 0.5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur Tet Tox Ad	49281-820-10	14	PKG	\$ 196.03	\$ 7.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur Adacel®	49281-400-10	14	PKG	\$ 108.30	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled BD Luer-Lok Single dose 0.5 mL Syringes Per Pkg <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur Adacel®	19281-400-15	14	PKG	\$ 154.15	\$ 11.25
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur TYPHIM-Vi®	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok 5 mL Syringe	REGIMED MEDICAL	Sanofi Pasteur TYPHIM-Vi®	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok 5 mL Syringe	SANOFI PASTEUR INC	Sanofi Pasteur TYPHIM-Vi®	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose 5 mL Vials of Diluent for reconstitution per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur VF VAX®	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur VF VAX®	49281-915-05	14	PKG	\$ 394.07	N/A



June 19, 2014

Texas Comptroller of Public Accounts  
Texas Procurement and Support Services (TPASS)  
Attn: Yvette Marietta

Re: Purchases of Product from Novartis Vaccines

Dear Yvette:

As you know, Novartis Vaccines and Diagnostics, Inc. ("Novartis Vaccines") and Texas Procurement and Support Services ("TPASS") are parties to an agreement (the "Agreement") regarding the purchase and sale of Novartis Vaccines' vaccine products. Pursuant to the Agreement, Novartis Vaccines has the right to determine the purchase price payable for each Product.

Novartis Vaccines hereby notifies TPASS that the price payable for Product under the Agreement shall be as follows:

NDC#	Product	Product Description	Product Price*	Effective Date
46028-0208-01	Menveo®	Meningococcal (Groups A,C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine	\$362.31/pk**	7/01/14
46028-0208-01	Menveo®	Meningococcal (Groups A,C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine	\$406.85/pk	05/01/2014
63851-0501-01	RabAvert®	Rabies Vaccine Kit	\$202.29	03/01/2014

*\* Price excludes excise or other taxes or assessments and may be increased by Novartis Vaccines in its sole discretion to reflect such taxes or assessments levied upon the applicable Product.*

*\*\*Restricted to entities vaccinating uninsured college entry 19-29 yr olds.*

Novartis Vaccines is excited to continue to grow our relationship and we look forward to working together in 2014.

Very truly yours,

NOVARTIS VACCINES AND DIAGNOSTICS, INC.

By: 

Name: David Hering  
Title: VP, U.S. Marketing

# Exhibit C

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

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 1 day of July, 2011

CONTRACTOR

Authorized Signature

Title

David Hering

[Signature]

VP Marketing

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Novartis Vaccines & Diagnostics, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract ("Contract") is between Novartis Vaccines & Diagnostics, Inc., located at 350 Massachusetts Avenue, Cambridge, Massachusetts 02139 ("Contractor") and the City of Austin ("City") a home-rule municipality incorporated by the State of Texas, each a "Party" and collectively the "Parties," and is effective when signed by an authorized representative of both Parties. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and Item Availability and Price List which can be found at:  
[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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 Parties have caused a duly authorized representative to execute this Contract on the date set forth below.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

NOVARTIS VACCINES AND  
DIAGNOSTICS, INC.

David Hering  
Printed Name of Authorized Person

  
Signature

VP Marketing  
Title

7/1/14  
Date

CITY OF AUSTIN

Sai Purcell  
Printed Name of Authorized Person

  
Signature

Senior Buyer Specialist  
Title

7/11/14  
Date

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Delis Negron; Phone: (512) 574-2808; Email: [Delis.Negron@Novartis.com](mailto:Delis.Negron@Novartis.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512) 972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of § 2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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 the 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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows.

To the City:  
City of Austin, Purchasing Office  
ATTN: Monica McClure, Contract Administrator  
P.O. Box 1088  
Austin, TX 78767

To the Contractor:  
Novartis Vaccines & Diagnostics  
ATTN: Delis Negron  
1943 Savannah Drive  
Round Rock, TX 78681-2176

11. **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.

12. **Termination Without Cause:** Either Party shall have the right to terminate the Contract, in whole or in part, without cause any time upon at least thirty (30) calendar days' prior written notice to the other Party. 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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of

cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project

13.2.2.2 Contractor/Subcontracted Work.

13.2.1.2 Products/Completed Operations Liability for the duration of the warranty period

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

13.2.1 4Thirty (30) calendar days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

13.2.1 5The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

13.3 **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.

14. **Equal Employment Opportunity**. No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation**. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

23. **Assignment.** Neither Party may sell, assign, transfer or otherwise dispose of this Contract, or any rights or obligations thereunder, without the prior written consent of the other Party; provided, however, that

Contractor may freely assign this Contract to an Affiliate or to any person or entity that acquires all or substantially all of the business or assets (or of the business division or product line) of Contractor to which this Contract primarily relates. Any attempted assignment of this Contract that is not in compliance with the terms of this subsection shall be null, void and of no effect. No assignment will relieve any party of the performance of any accrued obligation that such Party may then have pursuant to this Contract. For purposes of this Contract, "Affiliate" means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" shall mean, direct or indirect, ownership of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby the entity or person controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. In the case of entities organized under the laws of certain countries, the maximum percentage ownership permitted by law for a foreign investor may be less than fifty percent (50%), and in such case such lower percentage shall be substituted in the preceding sentence, provided that such foreign investor has the power to direct the management and policies of such entity.

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

**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 1 day of July, 2014

CONTRACTOR

Authorized Signature

Title

David Herin  
[Signature]  
VP Marketing

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
GlaxoSmithKline ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between GlaxoSmithKline having offices at 5 Crescent Drive, Philadelphia, PA 19112 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price List attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall become effective on the date signed by the City and expire automatically on December 31, 2014. The contract is subject to extension per the renewal options remaining on the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

GlaxoSmithKline

Kimberly M. Bradley  
Printed Name of Authorized Person

Kimberly M. Bradley  
Signature

VP Marketing, Customer  
Title: Strategy

6-16-14  
Date:

CITY OF AUSTIN

Raspori Purcell  
Printed Name of Authorized Person

[Signature]  
Signature

Senior Buyer Specialist  
Title:

7/11/14  
Date:

Exhibit A – General Provisions

Exhibit B - Contract Price List

Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
GENERAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Babatunde A. Adedeji; Phone: (215) 751-6786; Email: BabatundeA.Adedeji@gsk.com. The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 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.

2.2.4 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	GlaxoSmithKline
ATTN: Monica McClure, Contract Administrator	ATTN: Babatunde A. Adedeji
P O Box 1088	5 Crescent Drive
Austin, TX 78767	Philadelphia, PA 19112

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this

contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

14. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 17<sup>th</sup> day of JUNE, 2014

CONTRACTOR

GLAXO SMITH KLINE

Authorized Signature

Nancy Cox

Title

MGR, HR POLICY + COMPLIANCE



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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,

A handwritten signature in black ink, appearing to read "Sai Xoomsai".

Sai Xoomsai,  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
ABO Pharmaceuticals ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between ABO Pharmaceuticals having offices at 7930 Arjons Drive, Suite A, San Diego, California 92126 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 **TPASS Contract Number 269-A3**, including any and all supporting schedules and Item Availability and Price List which can be found at:  
[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

ABO Pharmaceuticals

MARCEUS NEMETH

Printed Name of Authorized Person



Signature

SALES DIRECTOR - NATIONAL ACCOUNTS

Title:

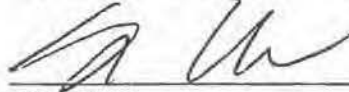
6.12.14

Date:

CITY OF AUSTIN

Sai Porcell

Printed Name of Authorized Person



Signature

Senior Buyer Specialist

Title:

6/18/14

Date:

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Marcus Nemeth; Phone: (949)699-2727; Email: [Marcus@abopharmaceuticals.com](mailto:Marcus@abopharmaceuticals.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov); and Michael Gonzales, Phone: (512)972-5536; Email: [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Monica McClure, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

ABO Pharmaceuticals

ATTN: Marcus Nemeth

7930 Arjons Drive, Suite A

San Diego, CA 92126

11. **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.

12. **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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies

licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

13.2.2.2 Contractor/Subcontracted Work.

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

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

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

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

13.3 **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.

14. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 FRIDAY day of JUNE, 2014

CONTRACTOR

MARCUS NEMETH (CarboPharma)

Authorized Signature

Marcus Nemeth

Title

SALES DIRECTOR - NATIONAL ACCOUNTS

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
GlaxoSmithKline ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between GlaxoSmithKline having offices at 5 Crescent Drive, Philadelphia, PA 19112 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and the Item Availability and Price List which can be found at:

[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 including any and all supporting schedules.

1.2.2 This Contract including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or service to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall become effective on the date signed by the city and expire automatically on August 31, 2014.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial contract term and \$1,307,613 each and combined for each extension option for a total not-to-exceed contract amount of \$7,845,678 each and combined for all contractors approved by the City Council for this procurement..

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.

GLAXOSMITHKLINE

Kimberly M. Bradley

Printed Name of Authorized Person

Kimberly M. Bradley

Signature

VP, Marketing Customer Strategy

Title:

6-16-14

Date:

CITY OF AUSTIN

Sai Purcell

Printed Name of Authorized Person

Sai Purcell

Signature

Senior Buyer Specialist

Title:

6-24-14

Date:

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
GENERAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Babatunde A. Adedeji; Phone: (215) 751-6786; Email: BabatundeA.Adedeji@gsk.com. The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 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.

2.2.4 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Notices:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	GlaxoSmithKline
ATTN: Monica McClure, Contract Administrator	ATTN: Babatunde A. Adedeji
P O Box 1088	5 Crescent Drive
Austin, TX 78767	Philadelphia, PA 19112

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of

funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13. **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

14. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 17<sup>th</sup> day of JUNE, 2014

CONTRACTOR	<u>GLAXO SMITH KLINE</u>
Authorized Signature	<u>Nancy Cox</u>
Title	<u>MGR, HR POLICY &amp; COMPLIANCE</u>

Vaccines and Biologicals

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostice Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol®	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial). <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol®	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent.	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys®	49281-880-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL®	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose .5 mL Vials/Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel®	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles)	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.20	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Absorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10 ) Single dose 0.5 mL Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Absorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10 ) Single dose 0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate Vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - ActHIB®	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) 1 mL Single dose Vials per Pkg.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 560.30	\$ 15.00
Hepatitis A Vaccine Ten (10) 1440 EL.U./1 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-52	15	PKG	\$ 287.10	\$ 7.50
Hepatitis A Vaccine Ten (10) 720 EL.U./0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-52	15	PKG	\$ 187.10	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 1440 EL.U./1 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 266.30	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 720 EL.U./0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis B Immune Globulin (Human) .5 ml Syringe	BDI PHARMA, INC.	Grifols - HyperHep B .5ml	13533-0636-03	1	SYR	\$ 80.29	N/A
Hepatitis B Immune Globulin (Human) 1 ml Syringe	BDI PHARMA, INC.	Grifols - HyperHep B 1ml	13533-0636-02	1	SYR	\$ 149.57	N/A
Hepatitis B Immune Globulin (Human) 5 ml Vial	BDI PHARMA, INC.	Grifols - HyperHep B 5ml	13533-0636-05	1	VIAL	\$ 692.84	N/A
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles)	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 355.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 339.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.20	\$ 7.50

Vaccines and Biologicals

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Immune Serum Globulin, Human U.S.P. Single dose 10 mL Vial	BDI PHARMA, INC.	Grifols - GamaSTAN 10ml	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses [ten (10) .5 mL Vials] per Pkg. <i>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</i>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 343.05	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses [ten (10) .5 mL Vials] per Pkg.	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 406.85	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra®	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 ml For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package	GLAXOSMITHKLINE, LLC	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose .5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune®	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg.	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine Inactivated Ten (10) . 5 mL Prefilled BD Luer-Lok Syringes per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL®	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine Inactivated One (1) . 5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL®	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam®	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam®	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam®	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam®	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 2ml	13533-0618-02	1	VIAL	\$ 486.26	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 10ml	13533-0618-10	1	VIAL	\$ 2,377.73	N/A
Rabies Vaccine (Human Diploid Cell) No Diluent Needed (Post Exposure) Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX®	49281-250-51	14	VIAL	\$ 226.05	N/A
Rabies Vaccine Pkg: 1 single dose vial freeze-dried vaccine, 1 vial 1 ml sterile diluent, 1 disposable syringe, 1 smaller needle for injection, 25 gauge x 1 in., 1 longer needle for reconstitution, 21 gauge x 1.5 in.	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - RabAvert	63851-501-01	3	PKG	\$ 198.32	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 300 IU Syringe	BDI PHARMA, INC.	Grifols - Hyper Rho Full	13533-0631-02	1	SYR	\$ 90.41	N/A
Rotavirus Vaccine, Live, Oral, Pentavalent Ten (10) Single dose 0.5 mL Vials Per Pkg.	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1,047.60	\$ 7.50
Tetanus And Diphtheria Toxioids Adsorbed Ten (10) Single dose .5 mL Vials per Pkg (contains no latex)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-10	14	PKG	\$ 208.45	\$ 15.00
Tetanus And Diphtheria Toxioids Adsorbed Ten (10) Prefilled Single dose .5 mL Syringes Per Pkg (without needle)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC.	Grifols - HyperTet S/D	13533-0634-02	1	SYR	\$ 318.08	N/A
Tetanus Toxioid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	REGIMED MEDICAL	Sanofi Pasteur - Tet Tox Ad	49281-820-10	7	PKG	\$ 356.16	\$ 7.50
Tetanus Toxioid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Tet Tox Ad	49281-820-10	14	PKG	\$ 396.03	\$ 7.50
Tetanus Toxioid, Reduced Diphtheria Toxioid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 ML Vials Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Adacel®	49281-400-10	14	PKG	\$ 308.30	\$ 22.50

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled Bd Luer-Lok Single dose 0.5 mL Syringes Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur - Adacel®	49281-400-15	14	PKG	\$ 154.15	\$ 11.25
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed. Ten (10) Single dose 0.5 ML Vials Per Pkg.	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg.	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg. <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC.	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - TYPHIM-Vi®	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	REGIMED MEDICAL	Sanfo Pasteur - TYPHIM-Vi®	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	SANOFI PASTEUR INC	Sanfo Pasteur - TYPHIM-Vi®	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose .5 mL Vials of Diluent for reconstitution per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - YF-VAX®	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - YF-VAX®	49281-915-05	14	PKG	\$ 394.07	N/A

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Novartis Vaccines & Diagnostics, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract ("Contract") is between Novartis Vaccines & Diagnostics, Inc., located at 350 Massachusetts Avenue, Cambridge, Massachusetts 02139 ("Contractor") and the City of Austin ("City") a home-rule municipality incorporated by the State of Texas, each a "Party" and collectively the "Parties," and is effective when signed by an authorized representative of both Parties. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and Item Availability and Price List which can be found at:  
[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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 Parties have caused a duly authorized representative to execute this Contract on the date set forth below.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

NOVARTIS VACCINES AND  
DIAGNOSTICS, INC.

David Hering  
Printed Name of Authorized Person

  
Signature

VP Marketing  
Title

7/1/14  
Date

CITY OF AUSTIN

Sai Purcell  
Printed Name of Authorized Person

  
Signature

Senior Buyer Specialist  
Title

7/11/14  
Date

Exhibit A – General Provisions

Exhibit B – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Delis Negron; Phone: (512) 574-2808; Email: [Delis.Negron@Novartis.com](mailto:Delis.Negron@Novartis.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512) 972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of § 2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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 the 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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows.

To the City:  
City of Austin, Purchasing Office  
ATTN: Monica McClure, Contract Administrator  
P.O. Box 1088  
Austin, TX 78767

To the Contractor:  
Novartis Vaccines & Diagnostics  
ATTN: Delis Negron  
1943 Savannah Drive  
Round Rock, TX 78681-2176

11. **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.

12. **Termination Without Cause:** Either Party shall have the right to terminate the Contract, in whole or in part, without cause any time upon at least thirty (30) calendar days' prior written notice to the other Party. 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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of

cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project

13.2.2.2 Contractor/Subcontracted Work.

13.2.1.2 Products/Completed Operations Liability for the duration of the warranty period

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

13.2.1 4Thirty (30) calendar days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

13.2.1 5The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

13.3 **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.

14. **Equal Employment Opportunity**: No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation**. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

23. **Assignment.** Neither Party may sell, assign, transfer or otherwise dispose of this Contract, or any rights or obligations thereunder, without the prior written consent of the other Party; provided, however, that

Contractor may freely assign this Contract to an Affiliate or to any person or entity that acquires all or substantially all of the business or assets (or of the business division or product line) of Contractor to which this Contract primarily relates. Any attempted assignment of this Contract that is not in compliance with the terms of this subsection shall be null, void and of no effect. No assignment will relieve any party of the performance of any accrued obligation that such Party may then have pursuant to this Contract. For purposes of this Contract, "Affiliate" means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" shall mean, direct or indirect, ownership of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby the entity or person controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. In the case of entities organized under the laws of certain countries, the maximum percentage ownership permitted by law for a foreign investor may be less than fifty percent (50%), and in such case such lower percentage shall be substituted in the preceding sentence, provided that such foreign investor has the power to direct the management and policies of such entity.

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

**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 1 day of July, 2014

CONTRACTOR

Authorized Signature

Title

David Herin  
[Signature]  
VP Marketing

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
GlaxoSmithKline ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between GlaxoSmithKline having offices at 5 Crescent Drive, Philadelphia, PA 19112 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price List attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall become effective on the date signed by the City and expire automatically on December 31, 2014. The contract is subject to extension per the renewal options remaining on the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

GlaxoSmithKline

Kimberly M. Bradley  
Printed Name of Authorized Person

Kimberly M. Bradley  
Signature

VP Marketing, Customer  
Title: Strategy

6-16-14  
Date:

CITY OF AUSTIN

Raspori Purcell  
Printed Name of Authorized Person

[Signature]  
Signature

Senior Buyer Specialist  
Title:

7/11/14  
Date:

- Exhibit A – General Provisions
- Exhibit B - Contract Price List
- Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
GENERAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Babatunde A. Adedeji; Phone: (215) 751-6786; Email: BabatundeA.Adedeji@gsk.com. The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 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.

2.2.4 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 transfer of funds.

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. **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.

7. **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.

8. **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.

9. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	GlaxoSmithKline
ATTN: Monica McClure, Contract Administrator	ATTN: Babatunde A. Adedeji
P O Box 1088	5 Crescent Drive
Austin, TX 78767	Philadelphia, PA 19112

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this

contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

14. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

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

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 17<sup>th</sup> day of JUNE, 2014

CONTRACTOR	<u>GLAXO SMITH KLINE</u>
Authorized Signature	<u>Nancy Cox</u>
Title	<u>MGR, HR POLICY + COMPLIANCE</u>



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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  
Sanofi Pasteur, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between Sanofi Pasteur, Inc. having offices at Discovery Drive, Swiftwater, PA 18370 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price List attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until December 31, 2014, and may be extended thereafter for up to five (5) twelve month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

Sanofi Pasteur, Inc.

CITY OF AUSTIN

Tami Bindee

Printed Name of Authorized Person

[Signature]

Signature

Dep. Dir, Fed. Gov't Ctr

Title:

6/17/14

Date:

Sai Purcell

Printed Name of Authorized Person

[Signature]

Signature

Senior Buyer Specialist

Title:

6/26/14

Date:

Exhibit A – General Provisions

Exhibit B – Price List

Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Jill Bingham; Phone: (570) 957-3486; Email: [Jill.Bingham@sanofipasteur.com](mailto:Jill.Bingham@sanofipasteur.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices will be in Contractor's usual and customary format, will contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

3. **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.

4. **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.

5. **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.

6. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Monica McClure, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Sanofi Pasteur Inc.

ATTN: Jill Bingham

Discovery Drive

Swiftwater, PA 18370

7. **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.

8. **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.

9. **Insurance:** The following insurance requirement applies.

9.1 **General Requirements**

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

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

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

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

9.1.5 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

9.1.6 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.

9.1.7 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

9.1.8 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.

9.1.9 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.

9.1.10 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.

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

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

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

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

9.2.2.1. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.2.2 Contractor/Subcontracted Work.

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

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

9.3 **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.

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered,

or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, the Contractor's price shall be deemed to include all delivery and transportation charges. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Department".

14. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

15. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

# Exhibit B

CPA - TPASS Managed Contract No. 269-M1

Updated: April 28, 2014

## Vaccines and Biologicals

**\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.**

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostic Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial). <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent.	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys*	49281-880-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL*	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose .5 mL Vials/Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel*	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.20	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Tip-Lok Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate Vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg. <b>NOTE: Temporary supply restraints</b> Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - ActHIB*	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) 1 mL Single dose Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) Vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 560.30	\$ 15.00
Hepatitis A Vaccine Ten (10) 1440 EL U / 1 mL Prefilled Tip-Lok Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-52	15	PKG	\$ 287.10	\$ 7.50
Hepatitis A Vaccine Ten (10) 120 EL U / 0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles). <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-52	15	PKG	\$ 187.10	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 1440 EL U / 1 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 266.30	\$ 7.50
Hepatitis A Vaccine Ten (10) Single dose 120 EL U / 0.5 mL Vials per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Havrix	58160-0825-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis B Immune Globulin (Human) .5 mL Syringe	BDI PHARMA, INC	Grifols - HyperHep B .5ml	13533-0636-03	1	SYR	\$ 80.29	N/A
Hepatitis B Immune Globulin (Human) 1 mL Syringe	BDI PHARMA, INC	Grifols - HyperHep B 1ml	13533-0636-02	1	SYR	\$ 149.57	N/A
Hepatitis B Immune Globulin (Human) 5 mL Vial	BDI PHARMA, INC	Grifols - HyperHep B 5ml	13533-0636-05	1	VIAL	\$ 692.84	N/A

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 355.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 339.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg. <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.70	\$ 7.50
Immune Serum Globulin, Human U.S.P. Single dose 10 mL Vial	BDI PHARMA, INC.	Grifols - GamaSTAN 10ml	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses (ten (10) .5 mL Vials) per Pkg. <b>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</b>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	\$ 343.05	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra*	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 mL For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose .5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune*	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg.	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine Inactivated Ten (10) .5 mL Prefilled BD Luer-Lok Syringes per Pkg.	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine Inactivated One (1) .5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 2ml	13533-0618-02	1	VIAL	\$ 486.26	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC.	Grifols - HyperRAB S/D 10ml	13533-0618-10	1	VIAL	\$ 2,377.73	N/A
Rabies Vaccine (Human Diploid Cell) No Diluent Needed (Post Exposure) Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX*	49281-250-51	14	VIAL	\$ 226.05	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 300 IU Syringe	BDI PHARMA, INC.	Grifols - Hyper Rho Full	13533-0631-02	1	SYR	\$ 90.41	N/A
Rotavirus vaccine, live, Oral, Pentavalent Ten (10) Single dose 0.5 mL Vials Per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1,047.60	\$ 7.50
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Single dose .5 mL Vials per Pkg (contains no latex)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-10	14	PKG	\$ 208.45	\$ 15.00
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Prefilled Single dose .5 mL Syringes Per Pkg (without needle)	SANOFI PASTEUR INC	Sanofi Pasteur - Tenivac	49281-215-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC.	Grifols - HyperTet S/D	13533-0634-02	1	SYR	\$ 318.08	N/A
Tetanus Toxoid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	REGIMED MEDICAL	Sanofi Pasteur - Tet Tox Ad	49281-820-10	7	PKG	\$ 356.16	\$ 7.50

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid Vaccine Ten (10) Single dose .5 mL Vials per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur Tet Tox Ad	49281-820-10	14	PKG	\$ 396.03	\$ 7.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC.	Sanofi Pasteur - Adacel*	49281-400-10	14	PKG	\$ 308.30	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled Bd Luer-Lok Single dose 0.5 mL Syringes Per Pkg. <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC.	Sanofi Pasteur - Adacel*	49281-400-15	14	PKG	\$ 154.15	\$ 11.75
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg. <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC.	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC.	Sanofi Pasteur - TYPHIM-Vi*	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	REGIMED MEDICAL	Sanofi Pasteur - TYPHIM-Vi*	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok .5 mL Syringe	SANOFI PASTEUR INC.	Sanofi Pasteur - TYPHIM-Vi*	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose .5 mL Vials of Diluent for reconstitution per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur - YF-VAX*	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg.	SANOFI PASTEUR INC.	Sanofi Pasteur - YF-VAX*	49281-915-05	14	PKG	\$ 394.07	N/A

# Exhibit C

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

City of Austin, Texas  
Human Rights Commission

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

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

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

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

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

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

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

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

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

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this 17th day of June, 2014

CONTRACTOR

Authorized Signature

Title

Sanofi Pasteur Inc  
TruBile  
Dep. Dir. Fed Gov't CTR

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Sanofi Pasteur, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract is between Sanofi Pasteur, Inc. having offices at Discovery Drive, Swiftwater, PA 18370 and the City, a home-rule municipality incorporated by the State of Texas, and is effective when signed by an authorized representative of the City. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-A3-Influenza Vaccines.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-A3, including any and all supporting schedules and Item Availability and Price List which can be found at:

[http://www.txsmartbuy.com/#ex\\_search/false/contract\\_number/269~A3](http://www.txsmartbuy.com/#ex_search/false/contract_number/269~A3)

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-A3 as referenced in Section 1.1.1 herein.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until August 31, 2014, and may be extended thereafter for up to five (5) 12 month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the Contractor and the City Purchasing Officer or his designee.

**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of \$1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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.

Sanofi Pasteur, Inc.

Tami Binder

Printed Name of Authorized Person

Tami Binder

Signature

Dep. Dir., Fed. Govt Ctr

Title:

6/17/14

Date:

CITY OF AUSTIN

Sai Russell

Printed Name of Authorized Person

Sai Russell

Signature

Senior Buyer Specialist

Title:

6/26/14

Date:

Exhibit A - General Provisions

Exhibit B - City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Jill Bingham; Phone: (570) 957-3486; Email: [Jill.Bingham@sanofipasteur.com](mailto:Jill.Bingham@sanofipasteur.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512)972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512)972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov).

2. **Invoices/Payment.**

2.1 Invoices will be in Contractors usual and customary format, and shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

3. **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.

4. **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.

5. **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.

6 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	Sanofi Pasteur Inc.
ATTN: Monica McClure, Contract Administrator	ATTN: Jill Bingham
P O Box 1088	Discovery Drive
Austin, TX 78767	Swiftwater, PA 18370

7. **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.

8. **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.

9. **Insurance:** The following insurance requirement applies.

#### 9.1 **General Requirements**

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

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

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

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

9.1.5 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

9.1.6 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.

9.1.7 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

9.1.8 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.

9.1.9 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.

9.1.10 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.

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

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

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

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

9.2.2.1. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.2.2 Contractor/Subcontracted Work.

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

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

9.3 **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.

10. **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

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

11.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

11.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

11.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

12. **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

13 **Delivery Terms and Transportation Charges:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, the Contractor's price shall be deemed to include all delivery and transportation charges. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Department".

14. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

15. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

## Exhibit C

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

City of Austin, Texas  
Human Rights Commission

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

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

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

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

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

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

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

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

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

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this 17th day of June, 2014

CONTRACTOR

Authorized Signature

Title

Sanofi Pasteur Inc  
M. B. L.  
Dep. Dir., Fed Govt CTR



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

Responsible Department:	Health and Human Services Department
Department Contact Person:	Michael Gonzales, Kurt Becker
Department Contact Email:	<a href="mailto:Michael.gonzales@austintexas.gov">Michael.gonzales@austintexas.gov</a> , Kurt.Becker@austintexas.gov
Department Contact Telephone:	512-972-5536, 512-972-5523
Project Name:	Purchase of Vaccines
Contractor Name:	Texas Procurement and Support Services (TPASS)
Contract Number:	GC140000008
Contract Amount:	\$1,307,613
Contract Period:	06/18/2014 – 08/31/2014
Extension Options:	5 12-months at \$1,307,613 each
Agenda Item Number:	27
Council Approval Date:	05/22/2014

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  
Novartis Vaccines & Diagnostics, Inc. ("Contractor")  
for  
Various Vaccine Purchase**

This Contract ("Contract") is between Novartis Vaccines & Diagnostics, Inc., located at 350 Massachusetts Avenue, Cambridge, Massachusetts 02139 ("Contractor") and the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, each a "Party" and collectively the "Parties," and is effective when signed by an authorized representative of both Parties. This Contract meets solicitation requirements by using Contractor's Texas Procurement and Support Services ("TPASS") Contract Number: 269-M1-Vaccines and Biologicals.

**1.1 This Contract is composed of the following documents:**

1.1.1 TPASS Contract Number 269-M1, including the Price List attached hereto as Exhibit B and any and all supporting schedules:

1.1.2 This Contract, including Exhibit A, General Provisions

**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 TPASS Contract Number: 269-M1 including the Price list attached hereto as Exhibit B and any and all supporting schedules.

1.2.2 This Contract, including Exhibit A, General Provisions

**1.3 Quantity.** There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

**1.4 Term of Contract.** The Contract shall be in effect on the date executed by the City ("Effective Date") and shall remain in effect until December 31, 2014, and may be extended thereafter for up to five (5) twelve-month extension options, subject to the extension of the cooperative contract (as referenced in Section 1.1.1 above), approval of the City's Purchasing Officer or his designee.

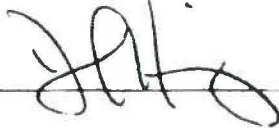
**1.5 Compensation.** The Contractor shall be paid a total not-to-exceed amount of 1,307,613 each and combined for the initial Contract term and \$1,307,613 each and combined for each extension option for a total amount not-to-exceed \$7,845,678 each and combined for all contractors approved by the City Council for this procurement.

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 Parties have caused a duly authorized representative to execute this Contract on the date set forth below.

NOVARTIS VACCINES AND  
DIAGNOSTICS, INC.

David Hering  
Printed Name of Authorized Person

  
Signature

VP Marketing  
Title

7/1/14  
Date

CITY OF AUSTIN

Sai Porcell  
Printed Name of Authorized Person

  
Signature

Senior Buyer Specialist  
Title

7/2/14  
Date

- Exhibit A – General Provisions
- Exhibit B – Price List
- Exhibit C – City of Austin Non-Discrimination Certificate

**EXHIBIT A  
SUPPLEMENTAL PROVISIONS**

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Delis Negrón; Phone: (512) 574-2808; Email: [Delis.Negron@Novartis.com](mailto:Delis.Negron@Novartis.com). The City's Contract Manager for the engagement shall be Kurt Becker; Phone: (512) 972-5523; Email: [Kurt.Becker@austintexas.gov](mailto:Kurt.Becker@austintexas.gov) and Michael Gonzales; Phone (512) 972-5536; [Michael.Gonzales@austintexas.gov](mailto:Michael.Gonzales@austintexas.gov)

2. **Invoices/Payment.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed. All invoices must be forwarded to the City Department that placed the order and created the purchase order.

2.1.1 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

2.2 **Payment.**

2.2.1 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.

2.2.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

2.2.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

2.2.3.1 delivery of defective or non-conforming services by the Contractor;

2.2.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

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

2.2.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

2.2.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay,

2.2.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation, or

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

2.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

2.2.5 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 transfer of funds.

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 the 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. **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.

7. **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.

8. **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.

9. **Right To Audit.**

9.1 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.

9.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATTN: Monica McClure, Contract Administrator  
P.O. Box 1088  
Austin, TX 78767

To the Contractor:  
Novartis Vaccines & Diagnostics  
ATTN: Delis Negron  
1943 Savannah Drive  
Round Rock, TX 78681-2176

11. **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.

12. **Termination Without Cause:** Either Party shall have the right to terminate the Contract, in whole or in part, without cause at any time upon at least thirty (30) calendar days' prior written notice to the other Party. 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.

13. **Insurance:** The following insurance requirement applies.

13.1 **General Requirements**

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

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

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

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

13.1.5 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.

13.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

13.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

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

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

13.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, 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.

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

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

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

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

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

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

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

13.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

13.2.2.2 Contractor/Subcontracted Work.

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

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

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

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

13.3 **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.

14. **Equal Employment Opportunity**: No Contractor or Contractor's agent shall engage in any\ discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, or any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

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

15.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

15.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

15.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) 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 Contractor 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.

16. **Non-Appropriation**. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty or removal fees charged to the City.

17. **Delivery Terms and Transportation Charges**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified. Unless otherwise stated, 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 Department".

18. **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 of 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, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

18.1 Recycled Deliverables shall be clearly identified as such.

18.2 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.

18.3 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of the 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 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.

18.4 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.

18.5 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.

19. **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 Contractor.

20. **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 when requested to do so by the City (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 any report or deliverable required to be submitted by the Contractor to the City.

21. **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 a Contract or securing favorable treatment with respect to the awarding or amending or the making of any determination 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 such amounts of the cost incurred by the Contractor in providing such gratuities.

22. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or 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 the employees of the City.

23. **Assignment.** Neither Party may sell, assign, transfer or otherwise dispose of this Contract, or any rights or obligations thereunder, without the prior written consent of the other Party; provided, however, that Contractor may freely assign this Contract to an Affiliate or to any person or entity that acquires all or substantially

all of the business or assets (or of the business division or product line) of Contractor to which this Contract primarily relates. Any attempted assignment of this Contract that is not in compliance with the terms of this subsection shall be null, void and of no effect. No assignment will relieve any party of the performance of any accrued obligation that such Party may then have pursuant to this Contract. For purposes of this Contract, "Affiliate" means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, "control" shall mean, direct or indirect, ownership of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby the entity or person controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. In the case of entities organized under the laws of certain countries, the maximum percentage ownership permitted by law for a foreign investor may be less than fifty percent (50%), and in such case such lower percentage shall be substituted in the preceding sentence, provided that such foreign investor has the power to direct the management and policies of such entity.

# Exhibit B

CPA - TPASS Managed Contract No. 269-M1

Updated: April 28, 2014

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
<b>NIGP #: 269-36 Diagnostic Agents</b>							
Tuberculin, PPD (Purified Protein Derivative) Single dose 1 mL Vial (5 TU 10 test per 1 mL vial) NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-21	14	VIAL	\$ 36.02	N/A
Tuberculin, PPD (Purified Protein Derivative) Single dose 5 mL Vial (5 TU 50 test per 5 mL vial) NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Tubersol*	49281-752-22	14	VIAL	\$ 131.01	N/A
<b>NIGP #: 269-80 Serums, Toxoids, and Vaccines</b>							
BCG Live (Intravesical) Single dose Pkg and 50 mL Vial of Diluent	SANOFI PASTEUR INC	Sanofi Pasteur - TheraCys*	49281-980-01	14	PKG	\$ 170.66	N/A
Diphtheria and Tetanus Toxoids Adsorbed USP (For Pediatric Use) Preservative Free Ten (10) Single dose 0.5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - DT	49281-225-10	14	PKG	\$ 354.16	\$ 15.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - DAPTACEL*	49281-286-10	14	PKG	\$ 237.29	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-11	15	PKG	\$ 167.60	\$ 22.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed Ten (10) 0.5 mL Prefilled Syringes per Pkg (without needles) Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Infanrix	58160-0810-52	15	PKG	\$ 167.60	\$ 22.50
Diphtheria & Tetanus Toxoids and Acellular Pertussis Adsorbed Inactivated Poliovirus & Haemophilus b Conjugate (Tetanus Toxoid Conjugate) Vaccine (DTaP-Hib-IPV) Five (5) Single dose 0.5 mL Vials/Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Pentacel*	49281-510-05	14	PKG	\$ 383.39	\$ 18.75
Diphtheria & Tetanus Toxoids & Acellular Pertussis Adsorbed, Hepatitis B (Recombinant) & Inactivated Poliovirus Combined Ten (10) Single dose 0.5 mL Prefilled Tip-Lok Syringes/Pkg (without needles) Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Pediarix	58160-0811-52	15	PKG	\$ 628.70	\$ 37.50
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Tip-Lok Syringes per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-52	15	PKG	\$ 432.70	\$ 30.00
Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine (DTaP/IPV) Ten (10) Single dose 0.5 mL Vials per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Kinrix	58160-0812-11	15	PKG	\$ 432.70	\$ 30.00
Haemophilus b Conjugate vaccine (Tetanus Toxoid Conjugate) Five (5) Single dose 0.5 mL Vials per Pkg NOTE: Temporary supply restraints Check with Sanofi's point of contact on the availability prior to placing an order.	SANOFI PASTEUR INC	Sanofi Pasteur - Althib*	49281-545-05	14	PKG	\$ 97.19	\$ 3.75
Hepatitis A and Hepatitis B (Recombinant) vaccine Ten (10) 1 mL Single dose Vials per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-11	15	PKG	\$ 544.60	\$ 15.00
Hepatitis A and Hepatitis B (Recombinant) vaccine Ten (10) Single dose 1 mL Prefilled Tip-Lok Syringes per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Twinrix	58160-0815-52	15	PKG	\$ 540.30	\$ 15.00
Hepatitis A vaccine Ten (10) 1.440 FL OZ 1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 387.10	\$ 15.00
Hepatitis A vaccine Ten (10) 1.0 FL OZ 0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0827-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis A vaccine Ten (10) Single dose 1.440 FL OZ 1 mL Vials per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0826-11	15	PKG	\$ 386.30	\$ 15.00
Hepatitis A vaccine Ten (10) Single dose 1.0 FL OZ 0.5 mL Vials per Pkg Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600.	GLAXOSMITHKLINE	GSK - Havrix	58160-0827-11	15	PKG	\$ 187.10	\$ 7.50
Hepatitis B Immune Globulin (Human) 5 mL Syringe	RED PHARMA INC	Inflix - HyperHep B (m)	1151140545-01	1	SRP	\$ 30.29	N/A
Hepatitis B Immune Globulin (Human) 1 mL Syringe	RED PHARMA INC	Inflix - HyperHep B (m)	1151140545-01	1	SRP	\$ 145.57	N/A
Hepatitis B Immune Globulin (Human) 5 mL Vial	RED PHARMA INC	Inflix - HyperHep B (m)	1151140545-05	1	VIAL	\$ 642.84	N/A

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Hepatitis B Vaccine (Recombinant) Ten (10) 10 mcg/0.5 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-52	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) 20 mcg/1 mL Prefilled Tip-Lok Syringes per Pkg (without needles) <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-52	15	PKG	\$ 155.60	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 10 mcg/0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0820-11	15	PKG	\$ 127.50	\$ 7.50
Hepatitis B Vaccine (Recombinant) Ten (10) Single dose 20 mcg/1 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Engerix-B	58160-0821-11	15	PKG	\$ 139.90	\$ 7.50
Human Papillomavirus Bivalent (Types 16 and 18) Vaccine, Recombinant Five (5) Single dose 0.5 mL Pre-filled Tip-Lok Syringes per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Cervarix	58160-0830-52	15	PKG	\$ 1,267.20	\$ 7.50
Immune Serum Globulin, Human L: S:P Single dose 10 mL Vial	BDI PHARMA, INC	Grifols - GamaSTAN 10mL	13533-0635-12	1	VIAL	\$ 277.74	N/A
Meningococcal (Groups A, C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine Five (5) Doses (ten (10) 5 mL Vials) per Pkg <b>Restricted to entities vaccinating uninsured college entry 19-29 yr olds.</b>	NOVARTIS VACCINES & DIAGNOSTICS	Novartis - Menveo	46028-208-01	3	PKG	<del>343.09</del> \$ 343.09	\$ 3.75
Meningococcal (Groups A, C, Y and W-135) Polysaccharide Polysaccharide Diphtheria Toxoid Conjugate Vaccine Five (5) Single dose 5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - Menactra*	49281-589-05	14	PKG	\$ 544.57	\$ 3.75
Meningococcal (Groups C and Y) Haemophilus B Tetanus Toxoid Conjugate Vaccine A single dose vial of lyophilized vaccine to be reconstituted with the accompanying vial of saline diluent A single dose after reconstitution is 0.5 mL For use in children 6 weeks through 18 months of age Ten (10) single dose vials per package <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Menhibrix	58160-0801-11	15	PKG	\$ 218.80	\$ 15.00
Meningococcal Polysaccharide Vaccine (Group A, C, Y and W-135 Combined) One (1) Single dose 5 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Menomune*	49281-489-01	14	VIAL	\$ 116.59	\$ 0.75
Pneumococcal 13-valent Conjugate Vaccine Ten (10) Single dose 0.5 mL Prefilled Syringes per Pkg	REGIMED MEDICAL	Pfizer - Prevnar 13	00005-1971-02	7	PKG	\$ 1,423.02	N/A
Poliovirus Vaccine (Inactivated) Ten (10) 5 mL Prefilled BD Luer-Lok Syringes per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-55	14	PKG	\$ 266.88	\$ 7.50
Poliovirus Vaccine (Inactivated) One (1) 5 mL Vial, Multi-Dose	SANOFI PASTEUR INC	Sanofi Pasteur - IPOL*	49281-860-10	14	VIAL	\$ 266.88	\$ 7.50
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-20	7	VIAL	\$ 387.40	N/A
Rabies Immune Serum Globulin (Human), Heat Treated 300 IU/mL, 2 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-20	14	VIAL	\$ 430.83	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	REGIMED MEDICAL	Sanofi Pasteur - Imogam*	49281-190-10	7	VIAL	\$ 1,934.84	N/A
Rabies Immune Serum Globulin (Human), Post Exposure 150 IU/mL, 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - Imogam*	49281-190-10	14	VIAL	\$ 2,154.11	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 2 mL Vial	BDI PHARMA, INC	Grifols - HyperRAB S/D 2mL	13533-0618-02	1	VIAL	\$ 186.24	N/A
Rabies Immune Serum Globulin (Human) 150 IU/mL, 10 mL Vial	BDI PHARMA, INC	Grifols - HyperRAB S/D 10mL	13533-0618-10	1	VIAL	\$ 1,377.73	N/A
Rabies Vaccine, Human Diploid Cell No Diluent Needed, Post Exposure Single dose 1 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur - IMOVAX*	49281-250-51	14	VIAL	\$ 126.35	N/A
Rho(D) Immune Globulin (Human) Prefilled Syringe, 100 U Syringe	BDI PHARMA, INC	Grifols - HyperRho Syringe	13533-0614-02	1	SR	\$ 90.11	N/A
Rotavirus Vaccine Live, Oral Pentavalent Ten (10) Single dose 0.5 mL Vials per Pkg <b>Note:</b> \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600	GLAXOSMITHKLINE	GSK - Rotarix	58160-0854-52	15	PKG	\$ 1047.40	\$ 7.50
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Single dose 5 mL Vials per Pkg (without needles)	SANOFI PASTEUR INC	Sanofi Pasteur - Tetavax	49281-115-14	14	PKG	\$ 208.15	\$ 15.00
Tetanus And Diphtheria Toxoids Adsorbed Ten (10) Prefilled Single dose 5 mL Syringes per Pkg (without needles)	SANOFI PASTEUR INC	Sanofi Pasteur - Tetavax	49281-115-15	14	PKG	\$ 208.45	\$ 15.00
Tetanus Immune Globulin (Human) 250 unit Syringe	BDI PHARMA, INC	Grifols - HyperTet S/D	13533-0614-02	1	SR	\$ 114.08	N/A
Tetanus Toxoid Vaccine Ten (10) single dose 5 mL Vials per Pkg	REGIMED MEDICAL	Sanofi Pasteur - Tet toxoid	13,811-520-11	7	PKG	\$ 1,156.10	\$ 7.50

## Vaccines and Biologicals

\*\*Contractor's Invoice will reflect an additional Federal Excise Tax.

Item Description	Contractor	Manufacturer Brand	Product Part No.	Delivery Days ARO	UOM	Unit Price	Federal Excise Tax per UOM**
Tetanus Toxoid Vaccine Ten (10) Single dose 0.5 mL Vials per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur Tet Tox Ad	49281-820-10	14	PKG	\$ 196.03	\$ 7.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur Adacel®	49281-400-10	14	PKG	\$ 108.30	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Five (5) Prefilled BD Luer-Lok Single dose 0.5 mL Syringes Per Pkg <b>NOTE: Temporary supply restraints</b> <b>Check with Sanofi's point of contact on the availability prior to placing an order.</b>	SANOFI PASTEUR INC	Sanofi Pasteur Adacel®	19281-400-15	14	PKG	\$ 154.15	\$ 11.25
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Single dose 0.5 mL Vials Per Pkg <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-11	15	PKG	\$ 318.80	\$ 22.50
Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed Ten (10) Prefilled Tip-Lok 0.5 mL Syringes per Pkg <b>Note: \$25 handling fee on orders less than three (3) pkgs (30 doses) or \$600</b>	GLAXOSMITHKLINE	GSK - Boostrix	58160-0842-52	15	PKG	\$ 318.80	\$ 22.50
Typhoid Vaccine, Bacterial (Killed) Blister Package Four (4) Capsules per Pkg <b>Minimum Order Qty = 3 pkgs</b>	CRUCCELL VACCINES, INC	Crucell - Vivotif	58337-0003-01	10	PKG	\$ 36.00	N/A
Typhoid Vi Polysaccharide Vaccine Twenty (20) multi-dose 10 mL Vial	SANOFI PASTEUR INC	Sanofi Pasteur TYPHIM-Vi®	49281-790-20	14	VIAL	\$ 1,054.40	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok 5 mL Syringe	REGIMED MEDICAL	Sanofi Pasteur TYPHIM-Vi®	49281-790-51	7	SYR	\$ 61.09	N/A
Typhoid Vi Polysaccharide Vaccine Single dose Prefilled BD Luer-Lok 5 mL Syringe	SANOFI PASTEUR INC	Sanofi Pasteur TYPHIM-Vi®	49281-790-51	14	SYR	\$ 64.97	N/A
Yellow Fever Vaccine Five (5) Single dose 5 mL Vials of Diluent for reconstitution per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur VF VAX®	49281-915-01	14	PKG	\$ 517.22	N/A
Yellow Fever Vaccine Five (5) Multi-Dose 2.5 mL Vial of Diluent per Pkg	SANOFI PASTEUR INC	Sanofi Pasteur VF VAX®	49281-915-05	14	PKG	\$ 394.07	N/A



June 19, 2014

Texas Comptroller of Public Accounts  
Texas Procurement and Support Services (TPASS)  
Attn: Yvette Marietta

Re: Purchases of Product from Novartis Vaccines

Dear Yvette:

As you know, Novartis Vaccines and Diagnostics, Inc. ("Novartis Vaccines") and Texas Procurement and Support Services ("TPASS") are parties to an agreement (the "Agreement") regarding the purchase and sale of Novartis Vaccines' vaccine products. Pursuant to the Agreement, Novartis Vaccines has the right to determine the purchase price payable for each Product.

Novartis Vaccines hereby notifies TPASS that the price payable for Product under the Agreement shall be as follows:

NDC#	Product	Product Description	Product Price*	Effective Date
46028-0208-01	Menveo®	Meningococcal (Groups A,C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine	\$362.31/pk**	7/01/14
46028-0208-01	Menveo®	Meningococcal (Groups A,C, Y and W-135) Oligosaccharide Diphtheria CRM197 Conjugate Vaccine	\$406.85/pk	05/01/2014
63851-0501-01	RabAvert®	Rabies Vaccine Kit	\$202.29	03/01/2014

*\* Price excludes excise or other taxes or assessments and may be increased by Novartis Vaccines in its sole discretion to reflect such taxes or assessments levied upon the applicable Product.*

*\*\*Restricted to entities vaccinating uninsured college entry 19-29 yr olds.*

Novartis Vaccines is excited to continue to grow our relationship and we look forward to working together in 2014.

Very truly yours,

NOVARTIS VACCINES AND DIAGNOSTICS, INC.

By: 

Name: David Hering  
Title: VP, U.S. Marketing

# Exhibit C

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

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 1 day of July, 2011

CONTRACTOR

Authorized Signature

Title

David Hering

[Signature]

VP Marketing