



Amendment No. 7
to
Contract No. MA 6400 NS140000016
for
Panasonic Toughbooks Repair
between
Heartland Customer Solutions, LLC
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 31, 2020 to January 30, 2021. Three options will remain.
- 2.0 The total contract amount is increased by \$100,000 by this extension period. The contract history is recapped below:

Action	Action Amount	Cumulative Contract Amount
Initial Term: 01/31/2014 – 01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 – Extension 01/31/2016 – 01/30/2017	\$100,000.00	\$300,000.00
Amendment No. 2: Option 2 – Extension 01/31/2017 – 01/30/2018	\$100,000.00	\$400,000.00
Amendment No. 3: Option 3 – Extension 01/31/2018 – 01/30/2019	\$100,000.00	\$500,000.00
Amendment No.4: Name Change: Heartland Services, Inc. to Heartland Customer Solutions, LLC 08/27/2018	\$0.00	\$500,000.00
Amendment No. 5: Add five 12-month Options 10/15/2018	\$0.00	\$500,000.00
Amendment No. 6: Option 4 – Extension (1 of 5 see Amend. 5) 01/31/2019 – 01/30/2020	\$100,000.00	\$600,000.00
Amendment No. 7: Option 5 – Extension (2 of 5 see Amend. 5) 01/31/2020 – 01/30/2021	\$100,000.00	\$700,000.00

- 3.0 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.
- 4.0 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: Kate Deveney 01/08/20

Printed Name: Kate Deveney
Authorized Representative
Heartland Customer Solutions LLC
14206 Overbrook Road
Leawood, Kansas 66224-4536
kdeveney@heartlandsi.com

Sign/Date: Jim Howard

Jim Howard
Procurement Supervisor Manager
Purchasing Office - Austin Energy
123 West 8th Street
Austin, Texas 78701



Amendment No. 6
to
Contract No. 6400 NS140000016
For
Panasonic Toughbooks Repair
between
Heartland Customer Solutions, LLC.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be January 31, 2019 through January 30, 2020. Four (12 month) options to extend remain.
- 2.0 The total contract amount is increased by \$100,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/31/2014 – 01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 – Extension 01/31/2016 – 01/30/2017	\$100,000.00	\$300,000.00
Amendment No. 2: Option 2 – Extension 01/31/2017 – 01/30/2018	\$100,000.00	\$400,000.00
Amendment No. 3: Option 3 – Extension 01/31/2018 – 01/30/2019	\$100,000.00	\$500,000.00
Amendment No. 4: Vendor Name Change	\$0.00	\$500,000.00
Amendment No. 5 : Add Five 12-month Extension Options	\$0.00	\$500,000.00
Amendment No. 6 : Option 4 – Extension 01/31/2019 – 01/30/2020	\$100,000.00	\$600,000.00

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

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

Sign/Date: James Harris 12/13/18

Printed Name: JAMES HARRIS VP SFO
Authorized Representative

Heartland Customer Solutions LLC.
14206 Overbrook Road
Leawood, KS 66224-4536

Sign/Date: Bartley Tyler 12/13/18

Printed Name: Bartley Tyler
Authorized Representative

Sign/Date: James T. Howard 12/15/18

Printed Name: JAMES T. HOWARD

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



Amendment No. 5
to
Contract No. NS140000016
for
Panasonic Toughbooks Repair
between
Heartland Customer Solutions, LLC
and the
City of Austin, Texas

- 1.0 The parties hereby agree to add five additional 12-month extension options for the above referenced contract effective October 8, 2019. The extension options are as follow:

Extension Option 4	01/31/2019 – 01/30/2020
Extension Option 5	01/31/2020 – 01/30/2021
Extension Option 6	01/31/2021 – 01/30/2022
Extension Option 7	01/31/2022 – 01/30/2023
Extension Option 8	01/31/2023 – 01/30/2024

- 2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Initial Term: 01/31/2014-01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 - Extension 01/31/2016 - 01/30/2017	\$100,000.00	\$300,000.00
Amendment No. 2: Option 2 - Extension 01/31/2017 - 01/30/2018	\$100,000.00	\$400,000.00
Amendment No. 3: Option 3 - Extension 01/31/2018 - 01/30/2019	\$100,000.00	\$500,000.00
Amendment No. 4: Vendor Name Change	\$0.00	\$500,000.00
Amendment No. 5: Add Five 12-month Extension Options	\$0.00	\$500,000.00

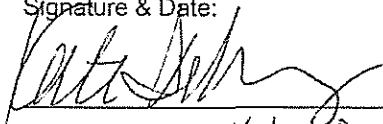
- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from

Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

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

Signature & Date:

 10/12/18
Printed Name: Kate Deveney
Authorized Representative

Heartland Customer Solutions, LLC
14206 Overbrook
Leawood, KS 66224

Signature & Date:

 10/15/18
Sai Purcell, Procurement Specialist IV
City of Austin Purchasing Office




Amendment No. 4
to
Contract No. NS140000016
For
Panasonic Toughboooks Repair
Between
Heartland Services, Inc.
and the
City of Austin

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

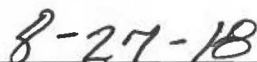
	From	To
Vendor Name	Heartland Services, Inc.	Heartland Customer Solutions, LLC
Vendor Code	HEA8313612	V00000955900
FEIN	[REDACTED]	[REDACTED]

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

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



Lynell Goodin-Brown
Contract Management Supervisor II
City of Austin, Purchasing Office



Date



Amendment No. 3
to
Contract No. 6400 NS140000016
For
Panasonic Toughbooks Repair
between
Heartland Services, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be January 31, 2018 through January 30, 2019. No options to extend remain.
- 2.0 The total contract amount is increased by \$100,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/31/2014 – 01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 – Extension 01/31/2016 – 01/30/2017	\$100,000.00	\$300,000.00 00
Amendment No. 2: Option 2 – Extension 01/31/2017 – 01/30/2018	\$100,000.00	\$400,000.00 00
Amendment No. 3: Option 3 – Extension 01/31/2018 – 01/30/2019	\$100,000.00	\$500,000.00 00

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

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

Sign/Date:

Printed Name: JAMES HARRIS
Authorized Representative

Heartland Services, Inc.
14206 Overbrook Road
Leawood, KS 66224-4536

Sign/Date:

Printed Name: Bartley Tyler
Authorized Representative

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



Amendment No. 2
to
Contract No. 6400 NS140000016
For
Panasonic Toughbooks Repair
between
Heartland Services, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be January 31, 2017 through January 30, 2018. One (12-Month) option will remain.
- 2.0 The total contract amount is increased by \$100,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/31/2014 – 01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 – Extension 01/31/2016 – 01/30/2017	\$100,000.00	\$300,000.00.00
Amendment No. 2: Option 2 – Extension 01/31/2017 – 01/30/2018	\$100,000.00	\$400,000.00.00

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

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

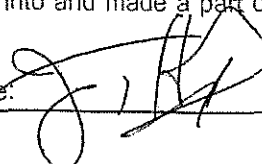
Sign/Date:

 1-12-17

Printed Name: JAMES HARRIS
Authorized Representative

Heartland Services, Inc.
14206 Overbrook Road
Leawood, KS 66224-4536

Sign/Date:



Printed Name: JAMES T. HOWARD
Authorized Representative

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



Amendment No. 1
to
Contract No. NS140000016
for
Panasonic Toughbooks Repair
between
Heartland Services, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective January 31, 2016 to January 30, 2017. Two options will remain.
- 2.0 The total contract amount is increased by \$100,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/31/2014 – 01/30/2016	\$200,000.00	\$200,000.00
Amendment No. 1: Option 1 – Extension 01/31/2016 – 01/30/2017	\$100,000.00	\$300,000.00

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

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

Sign/Date: _____

Printed Name: JAMES HARRIS
Authorized Representative
James Harris
14206 Overbrook Road
Leawood, Kansas 66224
888-685-8855
jharris@heartlandsi.com

Sign/Date: _____

Linell Goodin-Brown
2-23-16
Linell Goodin-Brown
Contract Compliance Supervisor
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



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

February 4, 2014

Heartland Services, Inc.
Jim Harris
14206 Overbrook Rd
Leawood, KS 66224-4536

Dear Mr. Harris:

The City of Austin approved the execution of a contract with your company for Repair Services for Panasonic Toughbooks in accordance with the referenced master agreement.

Responsible Department:	Communications Technology Management/Wireless Div.
Department Contact Person:	Mark Boyds
Department Contact Email Address:	mar@austintexas.gov
Department Contact Telephone:	512-927-3219
Project Name:	Repair for Panasonic Toughbooks.
Contractor Name:	Heartland Services, Inc.
Contract Number:	NS140000016
Contract Period:	January 31, 2014 through January 30, 2016
Extension Options:	Three (12) month options
Dollar Amount:	Not to Exceed \$500,000.00
Agenda Item Number:	47
Council Approval Date:	August 29, 2013

A Copy of the contract/purchase order will be forwarded via email.

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

Sincerely,

Lupe Cruz
Buyer I
City of Austin Purchasing Office
Finance and Administrative
Service Department

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Heartland Services, Inc.
For
Repair Services for Panasonic Toughbooks**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Heartland Services, Inc. ("Contractor"), having offices at 14206 Overbrook Road, Leawood, KS 66224-4536.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

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

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

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

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Jim Harris, Phone: (913) 685-8855, Email: JHarris@heartlandsi.com. The City's Contract Manager for the engagement shall be Mark Boyds, Phone: (512) 927-3219, Email: Mark.Boyds@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK.

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide support and maintenance services as more specifically described in Exhibit A in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 3. COMPENSATION:

3.1 **Contract Amount.** The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work, as described herein. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed \$200,000.00 for all fees and expenses with three 12-month extension options in an amount not-to-exceed \$100,000.00 per extension option, for a total contract amount not-to-exceed \$500,000.00.

3.2 **Invoices**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with

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the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn:	Accounts Payable
Address:	PO Box 1088
City, State, Zip Code	Austin, TX 78767

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

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

3.3 **Payment**

3.3.1 All proper invoices received by the City will be paid and received by Heartland within thirty (30) calendar days of the City's receipt of the invoice.

3.3.2 **If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved. All accounts with unpaid invoices beyond the 30 day allowable terms are considered to be no longer in good standing, and shall be ON HOLD until payment is made in full and account is brought current in whole at the sole discretion of Heartland Services.**

3.3.3 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.

3.3.4 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.

3.4 **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** The Contract shall be in effect for an initial term of 24 months and may be extended thereafter for up to 3 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

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4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

4.4 **Termination For Cause:** In the event of a default by either party, the other party 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 defaulting party, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the non-defaulting party'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.

4.5 **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.

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

SECTION 5. OTHER DELIVERABLES

5.1 Equal Opportunity

5.1.2 **Equal Employment Opportunity:** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit 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.

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

5.2 **Delays:**

5.2.2 The City may delay scheduled delivery by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

5.3 **Rights to Proposal and Contractual Material:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

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

SECTION 6. WARRANTIES

6.1 **Warranty - Price**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty - Services:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 Contractor warrants that for a period of ninety (90) days all services to be provided the City under the Contract will conform to Contractor's published specifications. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to

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such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.2 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources.

SECTION 7. MISCELLANEOUS

7.1 **Significant Event:** The Contractor shall immediately notify the Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.1.1 disposal of major assets;

7.1.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this contract;

7.1.3 any significant termination or addition of provider contracts;

7.1.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.1.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this contract;

7.1.6 reorganization, reduction and/or relocation in key personnel such as, but not limited to, customer service representatives or claims adjusters;

7.1.7 known or anticipated sale, merger, or acquisition;

7.1.8 known, planned or anticipated stock sales;

7.1.9 any litigation filed by a member against the Contractor; or

7.1.10 significant change in market share or product focus.

7.2 Right To Audit

7.2.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall, where reasonable and mutually agreed upon and scheduled in advance by both parties, have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor directly related to performance metrics under this Contract at the sole expense of the City. 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.

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

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7.3 **Stop Work Notice:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.4 **No Warranty By City Against Infringements:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.

7.5 **Indemnity and Limitation of Liability:**

7.5.1 Definitions:

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

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

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

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

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

7.5.3 Limitation of Liability.

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7.5.3.1 Except for infringement, in the event of any claim brought by one party against another hereunder, except for infringement, a party will be liable only for actual, direct losses or damages incurred (including cost of cover), limited to the amount of fees paid to Hewlett-Packard for maintenance services; provided, the claiming party shall be obliged to take reasonable steps to mitigate its losses or damages.

7.5.3.2 Irrespective of the basis or theory of the claim, neither party will be liable for any special, punitive, exemplary, indirect, incidental or consequential damages of any kind, including, without limitation, lost profits or loss of data, even if it has been advised of the possibility of such damages.

7.6 **Claims:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

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

P O Box 1088

Austin, TX 78767

To the Contractor:

Heartland Services, Inc.

ATTN: Jim Harris

14206 Overbrook Road

Leawood, KS 66224-4536

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

7.9 **Advertising:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.10 **No Contingent Fees:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling

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agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

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

7.12 **Independent Contractor**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.13 **Assignment-Delegation**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.14 **Waiver**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.15 **Modifications**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.16 **Interpretation**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.17 **Dispute Resolution**

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

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agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

7.18 **SUBCONTRACTORS**

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

7.18.1.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

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

7.18.1.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

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

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

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

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

7.19 **Jurisdiction And Venue:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the

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parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.20 **Invalidity:** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.21 **Holidays:** The following holidays are observed by the City:

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

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

7.22 **Survivability of Obligations:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

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

7.24 **Incorporation of Documents:** Section 0100, **Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:
<http://www.austintexas.gov/sites/default/files/files/Finance/Purchasing/standard-purchase-definitions.pdf>.

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

Heartland Services, Inc.

CITY OF AUSTIN

By: [Signature]
Signature

By: [Signature]
Signature

Name: W. JAMES HARRIS
Printed Name

Name: Teresa Reddy
Printed Name

Title: VP SALES / OPERATIONS

Title: Corp Contract Compliance Mgr.

Date: 1-29-14

Date: 1/21/14

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[Signature]

List of Exhibits

- Exhibit A Pricing Agreement and Statement of Work
Exhibit B Non Discrimination Certification (UC Note for reference only 5.2.1)

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Exhibit A
Pricing Agreement and Statement of Work

1.0 PURPOSE

This Request for Quote is to establish a service agreement with Heartland Services to repair out of warranty Panasonic toughbooks and video cameras for the City of Austin's Wireless Communication Services Division (WCSD). The City desires to award a single contract for the provision of all services described herein.

This contract will be for a 24-month period with three (3) 12-month extension options. The estimated annual contract amount is \$100,000.

2.0 SCOPE AND CLASSIFICATION

2.1. Scope

This specification establishes the minimum requirements for contracting the repair of out-of-warranty Panasonic toughbooks and video cameras. This contract will be governed by the City of Austin Purchasing Office Standard Purchase Terms and Conditions and the terms and conditions established by this contract.

2.2. Classification

This repair contract will support WCSD in assuring that Panasonic toughbooks and video cameras, procured for WCSD's customers, including both public safety and non public-safety entities, function properly at all times.

3.0 REQUIREMENTS

3.1. General Requirements

- 3.1.A. Heartland Services shall own and operate a service center authorized to perform full (not limited) repair of Panasonic toughbooks and video cameras and be able to repair and ship them within 3 business days after the repair estimate is approved. The completion of the repair within the specified turnaround time is dependent on the availability of the parts and technical information or software provided only by MFR needed to complete the repair. Heartland Services agrees to contact WCSD within 1 business day if the repair is expected to exceed the 3 business day timeframe. Heartland will not be responsible for delays associated with inclement weather or natural disasters in the US and abroad effecting resources needed to complete repairs.

3.2. Contractor Requirements

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- 3.2.A. Heartland Services shall be an authorized service center for full (not limited) repair of Panasonic toughbooks and video cameras.
 - 3.2.B. Heartland Services shall employ Panasonic factory-trained technicians. Heartland Services shall provide these certifications upon request from WCSD.
 - 3.2.C. Heartland Services shall have the capabilities to repair all Panasonic toughbooks and video cameras to the original manufacturers' specifications.
 - 3.2.D. Heartland Services shall have the manufacturer's recommended testing and service equipment available to perform repairs. City has the right to visit Heartland Services work location to verify their capabilities prior to award of a contract at any mutually agreed upon date and time at the sole expense of the City.
 - 3.2.E. Heartland Services shall maintain accurate records of each repair and test so WCSD has direct access to maintenance and repair history at all times.
 - 3.2.F. Heartland Services shall not sub-contract any of the services in this specification without the express written consent of WCSD.
- 3.3. Repairs
- 3.3.A. All out of warranty toughbooks and video cameras in need of repair shall be shipped directly from the Wireless Office by preferred method and FOB destination.
 - 3.3.B. In response to a repair request, Heartland Services shall inspect the entire piece of equipment and provide an estimate within two business days of receipt of the item(s) to be repaired, not counting the day delivered.
 - 3.3.C. Heartland shall diagnose the repair and provide to requestor the following information in written form: the correction or repair needed, estimated labor hours, description and cost of parts, and total cost to complete repair.
 - 3.3.D. Heartland Services shall obtain an approval of the estimate and a purchase order number prior to beginning repairs.
 - 3.3.E. Heartland Services shall provide a limited warranty of at least 90 days on repaired items and the replaced parts.
- 3.4. Delivery
- 3.4.A. All deliveries shall be made to the City of Austin Wireless Office at 1006 Smith Road Austin, TX 78721. Unless requested by WCSD in advance, deliveries shall be made between the hours of 7:30 A.M. and 4:30 P.M. except for City of Austin holidays and weekends.

3.4.B. Unless otherwise specified, repaired equipment shall be delivered via ground shipping and must be accompanied with a packing slip referencing the purchase order number.

3.4.C. All deliveries shall be shipped FOB destination. Shipping charges shall be paid by the City.

CITY OF AUSTIN
BID SHEET

REPAIR SERVICES FOR PANASONIC TOUGHBOOKS

This contract will be for a 24-month period with three (3) 12-month extension options.
The estimated annual contract amount is \$100,000.

Diagnostic Fee:

Toughbooks	\$130.00 per hour
Video Cameras	\$130.00 per hour

Repair Labor Rate:

Toughbooks	\$130.00 per hour
Video Cameras	\$130.00 per hour

Other Standard Rates:

Mainboard Repair Fee	\$295.00 per incident
LCD Repair Fee	\$295.00 per incident
Laptop Box Kit	\$15.00 per incident
Shipping Insurance	\$15.00 per incident
Replacement Parts	Varies

Replacement Parts:

Discount Offered Yes No

If yes, at what percent? For O/W Repairs, 15% off standard Sale Price

Shipping/Handling Charges:

Ground	\$30.00 per incident, lower 48 states
Overnight	\$40.00 per incident, lower 48 states

If additional discounts, reduced prices, or other special offers are made to other customers during the life of this contract, these same offers shall be extended to the City.

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Vendor can meet specified delivery requirements as stated in Section 0500:

☒ Yes X

No _____

Method Shipment (Circle one)

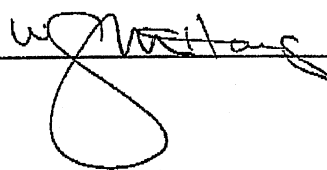
☒ FedEx

UPS/FedEX

Other Private Carrier

Company-Owned Vehicle

VENDOR NAME: Heartland Services, Inc

AUTHORIZED SIGNATURE: X 

PRINT NAME: W James Harris

DATE: 07 29 13

PHONE NUMBER: 913 685 8855

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Exhibit B
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.

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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 29th day of January, 2014

CONTRACTOR
Authorized
Signature

Heartland Services


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GSR

W. JAMES HARRIS

NP SALES/OPS

Title

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City of Austin

Chuck Brotherton

Wireless Communication Services Manager

Financial and Administrative Services Department
Communications and Technology Management
Wireless Communication Services Division, 1006 Smith Road, Austin, Texas 78721
Voice Phone: (512) 927-3209; Fax: (512) 927-3253
E-mail: charles.brotherton@austintexas.gov

TO: Stephen Elkins

FROM: Chuck Brotherton 

DATE: April 26, 2013

SUBJECT: UPDATED: Signatures Needed - Heartland Services Sole-Source "Certificate of Exemption" and "Request for Chief of Staff Signature" form

The attached "Certificate of Exemption," for a Panasonic Toughbook sole-source repair contract with Heartland Services, requires your and ACM Snipes' approval and signatures before it's submitted to Purchasing for routing to Council. The proposed sole-source repair contract is for an initial two-year term not to exceed \$200,000, plus three one-year renewal options not to exceed \$100,000 per year, for a total contract value not to exceed \$500,000.

Requesting ACM Snipes' signature requires completing the attached "Request for Chief of Staff Signature" form (which I've filled out), and this form also needs your signature before it goes to him.

We currently spend about \$50,000 annually for repair of Panasonic Toughbooks. As the devices age, we expect repair costs to increase. Our current contract with Heartland is sized at \$35,000 per year, which is not sufficient to cover present and future needs. We've pulled spending authority from future years to cover current expenditures. We can't amend or resize the current contract because it was competitively bid and Heartland was the only bidder. Purchasing tells us a new contract is the only option; Heartland is hereby presented as the sole-source provider.

The following documents are attached to this memo:

- Request for Chief of Staff Signature form (for your signature) and instructions
- Certificate of Exemption (for your signature)
- Contract Profile Sheet updated to reflect the initial term and renewal terms with each term's total value (includes the information summarized in this cover memo)
- Vendor sole-source letter from Heartland Services
- Vendor sole-source letter from Panasonic

Please sign where indicated and then let me know the packet is ready for pick-up. Arletha Guerrero will retrieve the packet and deliver it to ACM Snipes' office for his signature.

Please let me know if you have questions or concerns about this request.

Thank you.

Request for Chief of Staff Signature

What needs to be signed? Please provide a short summary of document.

"CERTIFICATE OF EXEMPTION" FOR SOLE-SOURCE CONTRACT WITH HEARTLAND SERVICES, INC., FOR REPAIR OF PANASONIC TOUCHBOOK COMPUTERS.

Why is the Chief of Staff's Signature needed?

CONTRACT AMOUNT REQUIRES COUNCIL AUTHORIZATION. INITIAL CONTRACT PERIOD IS TWO YEARS, NOT TO EXCEED \$200K, PLUS THREE ONE-YEAR RENEWALS NTE \$100K EACH. TOTAL \$500K.

Do you need this back before the three day requirement? If yes, why?

NO.

Who should this form be returned to?

PLEASE RETURN SIGNED, SCANNED CERTIFICATE TO:
LUPE VAZQUEZ (CTM); TERESA REDDY (PURCHASING); ARLETHA WARRERO (CTM)

Stephen A. Elkins

Director's Signature

Date

All requests should be forwarded from one Single Point of Contact (SPOC) in each department. Requests for signature should be submitted three days prior to needing the document signed. All documents for signature should be submitted in hard copy, with this form attached. Once signed, documents will be scanned and sent back to the department SPOC electronically, as well as the hard copy forwarded back to the department. It is the responsibility of the department to handle the signed document from that point for distribution.

For Chief of Staff Office Use

5-8-13 Date Received _____ Date Signed _____ Date Returned _____

Procedure for Obtaining Chief of Staff's Signature

When department directors or staff members need a signature for memos, travel requests, or other forms, there needs to be a single point of contact (SPOC) from each department designated to submit the request to the Chief of Staff's Executive Secretary. Along with the signature request, the "Request for Chief of Staff Signature" Form needs to be included.

Signature Form

This form requests that departments indicate what is being signed, why the Chief of Staff's signature is needed, and also for the Department Director to sign off that they have reviewed the item. Their signature verifies the item is ready to move forward to the Chief of Staff's office. Documents should be well revised and free of grammatical and spelling errors.

The form, along with the document that needs signature, should be forward to the Chief of Staff's Executive Secretary. Originals should be sent via interoffice mail or hand delivered. **Electronic documents will be reviewed, but the document with original signatures needs to be submitted.**

Time Frame

Documents should be submitted three days prior to needing the Chief of Staff's signature. If an expedited signature is required, please explain why a turn-around sooner than three days is requested.

Return of Document

Once the Chief of Staff's signature has been obtained, the Chief of Staff's Executive Secretary will scan the document and send to the SPOC in the department. The original document will also be sent to the SPOC through interoffice mail unless other arrangements for pick-up have been made. The Chief of Staff's office will keep the signature form for their files.

Directions for Completing

FSD Purchasing Office Certification of Exemption Form

(The following steps must be completed prior to forwarding form to Purchasing)

1. Enter date of request in MM/DD/YYYY format
2. Enter Purchasing Buyers name
3. Enter Department requesting exemption
4. Enter Originator of certification
5. Enter phone number of Originator
6. Select one of the exemptions that that apply to this procurement
7. Complete the Exemption Form providing any additional information required for the chosen exemption
8. Enter Vendor's Company Name
9. Enter Total Aggregate Amount
10. Obtain signature of:
 - Person requesting exemption (Originator)
 - Department Director or designee
 - AE General Manager (for Critical Business Needs)
 - Assistant City Manager, AE General Manager or designee (for all other exemptions where the purchase > \$50,000)
11. Forward completed form to Purchasing:
 - Buyer reviews and signs document
 - Purchasing Officer or designee (only required if purchase > \$50,000)



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 04/26/2013

DEPT: CTM

TO: Purchasing Officer or Designee

FROM: Chuck Brotherton, Manager, CTM-Wireless

BUYER: Lupe Cruz

PHONE: (512) 927-3209

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

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

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

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

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

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

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

City of Austin and some of its external customers, including Travis County Emergency Services District fire departments, currently utilize Panasonic Toughbooks as mobile data computers in their vehicles. Heartland Services, Inc., is the only vendor that is approved to provide component-level main-board repairs for Panasonic Toughbooks in the United States, as assigned and approved by Panasonic. (See attached vendor sole-source letters from Heartland and Panasonic.)

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

The original contract with Heartland Services, NS090000030, was created in 2009 as a sole-source. In 2011, when CTM-Wireless requested to exercise its renewal option, Purchasing denied the request and asked that we competitively bid a new contract. This was done and only one vendor, Heartland Services, responded, confirming in the process that they were in fact a sole source.

We currently spend approximately \$50,000 per year on the repair of Panasonic Toughbook computers. Our current contract, NA120000079, at \$35,000 per year, is not large enough to meet our needs and has required early renewals to adequately cover spending authority. Since our current contract was competitively bid, it cannot under Purchasing rules be amended to increase spending authority.

Therefore, this request is to create a new sole-source contract with Heartland Services, Inc., for the repair of Panasonic Toughbook computers, for an initial two-year term not to exceed \$200,000, plus three one-year renewal options not to exceed \$100,000 per year, for a total contract value not to exceed five-hundred thousand dollars (\$500,000).


6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Heartland Services, Inc. which will cost approximately \$ 500,000.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification

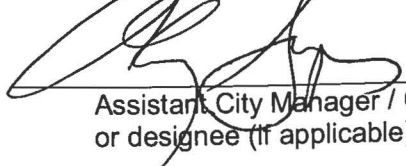
 4/26/2013

Originator Date

Approved
Certification

 5/1/2013

Department Director or designee Date

 5/8/13

Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)

Buyer Date Manager Initials

Exemption Authorized
(if applicable)

Purchasing Officer or designee Date

02/26/2013



01/09/2013

Heartland Services (14206 Overbrook Leawood, KS 66224) performs over 95% of all Toughbook repairs in the United States. Heartland has been contracted by Panasonic for 13 years to be the Panasonic National Service Center.

Heartland Services is the only company approved to provide Component Level Main Board Repairs in the United States, as assigned and approved by Panasonic. Heartland also is responsible for providing these Component Level Main Board Repairs for regions throughout much of the world, primarily excluding Asia.

Although there are other Panasonic ASPs in the US, these groups are mostly Sales companies involved in varying degrees in the area of service and repair. Many of these companies routinely forward any repairs in their possession to Heartland for completion of service work. In turn, many of the Panasonic end users receive a delay in the repair turn around time and larger repair fees (our invoice plus mark-up) since the 3rd party ASP is involved in the process.

All customers/end users are welcome to deal directly with Heartland Services, Panasonic's National Service Center, as coordinated by Panasonic. By calling Panasonic Toughbook tech support line, a repair RMA is issued by Panasonic for the repair to be handled at Heartland Services.

Heartland Services has been the Panasonic National Service Center for the Toughbook for well over a decade, and has been aligned with Panasonic to handle their repair work for well over 20 years.


Heartland Services is exclusively partnered with a single manufacturer, strictly focused on providing service and repair for Panasonic products. We are the Panasonic National Service Center for the following

Panasonic products:

- *Digital Video Recording Media
- *Projectors
- *Arbitrators/in-Car Video Systems
- *Copiers
- *Printers
- *Faxes
- *Color Printers
- *Scanners
- *Point of Sale Cash Registers
- *Security Cameras and Recording Media
- *Business Telephones

Please contact me directly if you have questions or require clarification on any points.

Thank you,


Jim Harris
Heartland Services, Inc.
14206 Overbrook
Leawood, KS 66224

Panasonic

System Communications Company of North America
Division of Panasonic Corporation of North America

February, 2013

Mark Boyds
mark.boyds@austintexas.gov
City of Austin
1006 Smith Rd.
Austin, TX 78721

Ref: Notation Letter of Notation – Heartland Services Sole Source for Panasonic Service

Regarding:

Heartland Services, Inc
14206 Overbrook
Leawood KS, 66224
Phone: 913-685-8855
Fax: 913-685-8555
sitewebinfo@heartlandsi.com

Mr. Boyds,

Panasonic System Communications Company of North America (PSCNA) notates that Heartland Services operates the Panasonic National Service Center (NSC). Heartland Services is the only parts distributor and repair facility for Panasonic Toughbook® within the United States.

Should you have any questions, please contact us directly at Contracts@us.panasonic.com.

Sincerely,



David Knisely
Senior Manager, Capture & Contracts Management
Panasonic System Communications Company of North America
973.303.7727