



Amendment No. 1
to
Contract No. NN150000001
for
Preparedness and Health and Safety Services
between
National American Red Cross
and the
City of Austin

- 1.0 The City hereby wishes to execute a hold over provision of the above referenced contract for a period of 30 days.
- 2.0 Effective September 30, 2017, the term for the hold over will be October 1, 2017 to October 31, 2017.
- 3.0 The total Contract amount is unchanged for the hold over period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Initial term: 10/1/2014 – 9/30/2017	\$75,000.00	\$75,000.00
Amendment No. 1: 30 day holdover 10/1/2017 – 10/31/2017	\$0.00	\$75,000.00

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

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

NATIONAL AMERICAN RED CROSS

Stephanie Darimont

Signature

Stephanie Darimont

Printed Name of Authorized Person

Aquatic Specialist

Title

10/15/2017

Date

CITY OF AUSTIN

Sandy Wirtanen

Signature

Sandy Wirtanen

Printed Name of Authorized Person

Procurement Specialist IV

Title

10/17/17

Date



**Financial and Administrative Service Department
Purchasing Office**
124 W. 8th St., Austin, Texas, 78701

February 20, 2015

American National Red Cross
Attn: Robert A. Macedo
2025 E. Street, NW
Washington, DC 20006

Dear Robert:

The Austin City Council approved the execution of a contract with your company for Preparedness and Health and Safety Services.

Responsible Department:	FSD
Department Contact Person:	Cheryl Bolin
Department Contact Email Address:	Cheryl.Bolin@austintexas.gov
Department Contact Telephone:	512-974-9459
Project Name:	n/a
Contractor Name:	American National Red Cross
Contract Number:	NN150000001
Contract Period:	10/1/2014 - 9/30/2017
Dollar Amount	\$75,000.00
Extension Options:	n/a
Requisition Number:	RQM 8600 14040400294
Solicitation Number:	n/a
Agenda Item Number:	78
Council Approval Date:	8/7/2014

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact Cheryl Bolin, Contract Manager at 512-974-9459.

Sincerely,

Terry Nicholson
Senior Buyer Specialist
Purchasing Office
Financial and Administrative Service Department

cc: C. Bolin, PARD
M. MacDougal, PARD
M. Walker, PARD
S. Brandt, FSD

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
National American Red Cross
For
Preparedness and Health and Safety Services**

This Contract is made by and between the City of Austin ("City" or "Authorized Provider"), a home-rule municipality incorporated by the State of Texas, and National American Red Cross ("Contractor", "Red Cross", or "American Red Cross"), having offices at 2025 E Street, NW, Washington, DC 20006.

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 Section 2, 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 Robert Macedo, Phone: (512) 539-9562, Email Address: Robert.Macedo@redcross.org. The City's Contract Manager for the engagement shall be Cheryl Bolin, Phone: (512) 974-9459, Email Address: Cheryl.Bolin@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

Contractor's Obligations. The Contractor shall fully and timely provide the services described in Exhibit A, "Authorized Provider Resource Guide," in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations. Courses, instructors, and facility locations specific to the obligations under this Contract are listed in Exhibit B.

SECTION 3. COMPENSATION

3.1 **Contract Amount.** In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not to exceed \$75,000 for all fees and expenses, according to the payment and invoicing arrangement described in Section 3.3.

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 Contractor's registration with 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	Parks and Recreation Department
Attn:	Accounts Payable
Address	200 South Lamar Blvd.
City, State, Zip Code	Austin, TX 78704

3.2.2 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other 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 Payment under this Contract will be made in annual installments of \$25,000 per year.

3.3.2 The Contractor may invoice the City for each annual installment at the beginning of the Service Year, where the Service Year begins on the first of October.

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

3.3.4 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.

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

3.3.5.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.5.2 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;

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

3.3.5.4 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;

3.3.5.5 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;

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

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

3.3.6 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.

3.3.7 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.

3.5 Final Payment and Close-Out.

3.5.1 The making and acceptance of final payment will constitute:

3.5.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

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

SECTION 4. TERM AND TERMINATION

4.1 Term of Contract. The Effective Date of the Contract is October 1, 2014. The Contract shall be in effect for a term of 36 months.

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 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.

4.5 **Termination Without Cause.** The City or Contractor 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.

5.2.1 **Equal Employment Opportunity.** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

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

5.2 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.3 Delays.

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

5.3.2 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.

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

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 to 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 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.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 **Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the 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;

7.1.7 known or anticipated sale, merger, or acquisition;

7.1.8 known, planned or anticipated stock sales;

7.1.9 any litigation 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 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.

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

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 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 effect 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.

7.5 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

ATTN: Sandy Brandt, Contract Administrator

P O Box 1088

Austin, TX 78767

National American Red Cross

ATTN: Robert Macedo, Contract Manager

2025 E Street, NW

Washington, DC 20006

7.6 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.

7.7 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.

7.8 No Contingent Fees. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

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

7.10 Prohibition Against Personal Interest in Contracts. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.11 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.

7.12 **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.

7.13 **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.

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

7.15 **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.

7.16 **Dispute Resolution.**

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

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

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

7.17.1 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.

7.17.2 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.**

7.17.3 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.

7.18 **Subcontractors.**

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

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

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

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

7.18.2.3 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;

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

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

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

7.18.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

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 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>.

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

NATIONAL AMERICAN RED CROSS

By: 
Signature

Name: Robert A. Macedo

Printed Name

Title: Territory Aquatic Specialist

Date: 02/05/2015

CITY OF AUSTIN

By: 
Signature

Name: Larry V. Nicholson

Printed Name

Title: Sr. Buyer Spec.

Date: 2/20/15

List of Exhibits

Exhibit A	Authorized Provider Resource Guide
Exhibit B	Courses, Instructors, and Facility Locations
Exhibit C	Non Discrimination Certification, Section 0800

Authorized Provider

RESOURCE GUIDE





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WELCOME

Thank you for choosing to be an Authorized Provider for the American Red Cross. By entering into this relationship with the Red Cross, your organization has become not only an important part of the Preparedness and Health and Safety Services training team, but it has become part of a long tradition of providing quality education that saves lives throughout the United States dating back to 1909.

As we work together there are some mutual commitments that serve as the basis for the obligations of the Red Cross and your organization. Our mutual commitments are to:

- Establish a relationship based on mutual respect and trust.
- Provide the American people with responsive, accessible, affordable and high-quality health and safety services, education and training in a professional manner.
- Contribute to the mission of the Red Cross by helping people prevent, prepare for and respond to emergencies.
- Help people lead safer, healthier lives.

The Red Cross is committed to helping Authorized Providers offer the highest quality training possible. In addition, the Red Cross offers:

- Two-year certifications for first aid and CPR/AED and free quarterly digital refreshers to keep employees' skills sharp.
- A choice of free digital or affordable print course materials.
- Flexible training options that can adapt to your business' changing needs, including web-based learning and a nationwide corporate training system that's ideal if you have facilities spanning multiple geographic locations.
- A web-based training management system for instructors to manage course records and print certificates.
- Online ordering for training materials and products and a dedicated instructor website with updated tools and resources.
- Optional training modules and lessons, training supplies, first aid kits and more.
- Training that incorporates the latest science and educational innovation and meets OSHA guidelines.



PURPOSE OF THE RESOURCE GUIDE

This American Red Cross *Authorized Provider Resource Guide* provides your organization with the basic information it needs to serve as an American Red Cross Authorized Provider. This includes:

- Where to get assistance
- General Red Cross information
- Red Cross responsibilities to the Authorized Provider
- Authorized Provider responsibilities
- How best to support your instructors
- How to properly support the program
- How to get books, materials and equipment for conducting training
- Red Cross policies and procedures that affect the Authorized Provider
- Support materials that Authorized Providers can use to promote Red Cross programs



BEING PART OF THE RED CROSS

THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

The International Red Cross Movement is the largest humanitarian volunteer organization in the world, with more than 175 member countries, of which the United States is one. Muslim countries prefer to use the Red Crescent symbol. In June 2006 Magen David Adom and the Palestine Red Crescent Society were unanimously approved membership in the Federation. The goal of the movement is to prevent and alleviate human pain and suffering. Seven Fundamental Principles guide the direction for the movement, and all Red Cross and Red Crescent societies must adhere to them. These principles apply to you as an Authorized Provider.

Humanity

The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavors, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality

It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavors to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality

In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence

The Movement is independent. The national societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

EXHIBIT A

**Voluntary Service**

It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity

There can be only one Red Cross or Red Crescent society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality

The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.

AMERICAN RED CROSS

The American Red Cross, founded in 1881 by Clara Barton, is a part of the International Red Cross and Red Crescent Movement.

The Mission of the American Red Cross:

The American Red Cross prevents and alleviates human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors.

To support the mission of the American Red Cross, nearly 1.3 million employees and volunteers serve throughout the United States and its territories, and on military installations around the world. Supported by the resources of a national organization, they form the largest volunteer service and educational force in the nation. They help people prevent, prepare for and cope with emergencies, whether those emergencies involve blood, disaster, social services, or health and safety. The following services are provided by the American Red Cross:

PREPAREDNESS AND HEALTH AND SAFETY SERVICES

Every year, the Red Cross trains some 11 million people in lifesaving skills. Red Cross first aid, CPR and AED programs are designed to give you the confidence to respond in an emergency situation with skills that can save a life. The American Red Cross has been the leader in swimming and lifeguarding since 1914, and we teach preparedness courses to help families and communities prepare for all kinds of emergencies and disasters.

EXHIBIT A



SERVICE TO THE ARMED FORCES

Using the latest in computer and telecommunications technology, the Red Cross allows military members stationed all over the world to send messages to loved ones back home during an emergency or other important event. These communications are delivered around-the-clock, seven days a week, 365 days a year.

BIOMEDICAL SERVICES

The American Red Cross provides nearly half of the nation's blood supply (collecting 6.5 million units a year from volunteer donors) to patients in 2,500 hospitals across the country through its national network. Every two seconds, someone in America needs blood. The Red Cross must collect blood donations each and every day to meet the needs of accident victims, cancer patients and children with blood disorders, and the organization works to accomplish this through its 35 Blood Services regions.

DISASTER SERVICES

Each year, the American Red Cross responds immediately to more than 70,000 disasters, including house or apartment fires (the majority of disaster responses), hurricanes, floods, earthquakes, tornadoes, hazardous materials spills, transportation accidents, explosions and other natural and man-made disasters.

Red Cross disaster relief focuses on meeting people's immediate emergency disaster-caused needs. When a disaster threatens or strikes, the Red Cross provides shelter, food and health and mental health services to address basic human needs. The Red Cross also feeds emergency workers, handles inquiries from concerned family members outside the disaster area, provides blood and blood products to disaster victims and helps those affected by disaster to access other available resources.

INTERNATIONAL SERVICES

As part of the world's largest humanitarian network, the American Red Cross alleviates the suffering of victims of war, disaster and other international crises, and works with other Red Cross and Red Crescent societies to improve chronic, life-threatening conditions in developing nations. We reconnect families separated by emergencies and educate the American public about international humanitarian law. More information about Red Cross services can be found at redcross.org.



WHERE TO GET ASSISTANCE

RED CROSS REPRESENTATIVE

Your American Red Cross contact is

Name, Title *Robert Macedo, Territory Acquisition Specialist*
Phone, E-mail *512-539-9562 robert.macedo@redcross.org*

INSTRUCTOR'S CORNER

A website dedicated to certified American Red Cross instructors provides a wealth of tools and resources. Instructors and instructor trainers must have an American Red Cross Learning Center account and be certified as an instructor to access Instructor's Corner. These include:

- Instructor Tools and Teaching Aids—Find downloadable resources such as electronic presentation tools, course codes, fact sheets, how to teach additional Red Cross programs, instructor reminders and more.
- Training Supplies—Order training supplies online 24 hours a day, 7 days a week directly from our publisher, Krames StayWell.
- Enter course records in Saba or download course record forms complete them electronically and then e-mail them to the Training Support Center at support@redcrosstraining.org to expedite the student certification process.
- Marketing and Promotional Materials—Download marketing tools to promote your Red Cross courses and programs.

Visit Instructor's Corner at redcross.org/instructorscorner or call (800) 667-2968.

TRAINING SUPPORT CENTER (TSC)

A professional call center is available to assist Authorized Providers with:

- Course registrations (including instructor classes)
- Course record entry

You may contact the training support center by phone at 1-800-REDCROSS or by e-mail at support@redcrosstraining.org. The hours of operation for the training support center are:

Monday - Friday from 7:00 a.m. to 11:00 pm. ET

Saturday from 7:30 a.m. to 8:00 p.m. ET

Sunday from 10:00 a.m. to 6:00 p.m. ET



THE ROLE OF THE RED CROSS AUTHORIZED PROVIDER

Authorized Providers have a long history of working with the American Red Cross to provide training and information in first aid and CPR, swimming and water safety, and caregiving. Authorized Providers are collaborators with the Red Cross in providing quality Health and Safety Services training for their own employees. Authorized Providers have an obligation to provide the highest quality training possible.

As an Authorized Provider you have agreed, through the *Authorized Provider Agreement*, to provide Red Cross instructional programs in accordance with the standards and objectives of the program. The *Authorized Provider Agreement* provides an outline of the mutual expectations, rights and responsibilities of both the Red Cross and the Authorized Provider. Following the guidelines in this document ensures the integrity of Red Cross programs and protects all parties involved—the Authorized Provider, the Red Cross and the instructor. The agreement also outlines in writing how you will do business with the Red Cross.

RED CROSS RESPONSIBILITIES TO THE AUTHORIZED PROVIDER

To assist you in offering quality training, the Red Cross is committed to providing the following support to its Authorized Providers:

- Adhere to the terms of the *Authorized Provider Agreement*
- Designate an individual to serve as your primary contact and provide updates as needed
- Provide the finest programs based on research and input from our customers
- Properly train your instructors
- Ensure the quality of the program through ongoing evaluations and program development
- Provide open communications with you
- Provide information that you need to offer quality training as well as meet your training responsibilities
- Provide services to you at a fair price, based on value
- Provide American Red Cross course completion certificates in a timely manner
- Maintain your instructors' records
- Recertify your instructors who meet the criteria
- Maintain course records for seven years
- Develop course curriculum and materials

EXHIBIT A



- Provide timely updates and information to instructors
- Provide technical assistance to instructors
- Provide a quality assurance program
- Give permission to use the Red Cross name and emblem in promotion of Red Cross instructional programs (in strict accordance with the *Authorized Provider Agreement* and with Red Cross policies and procedures from time to time)
- Provide flyers, brochures, posters and other course promotional materials

AUTHORIZED PROVIDER'S RESPONSIBILITIES

As an Authorized Provider, you also have responsibilities that are outlined in detail in the *Authorized Provider Agreement*. The following are the basic responsibilities of the Authorized Provider:

- Adhere to the terms of the *Authorized Provider Agreement*
- Designate an individual to be the primary contact to the Red Cross and provide updates as needed
- Identify only individuals who are qualified to be instructor candidates
- Submit properly completed records and reports in the designated time frames through the Red Cross Learning Center.
- Keep the Red Cross informed of changes in an instructor's status
- Support instructors' adherence to Red Cross policies and procedures
- Respect the copyrighted materials, the Red Cross name and emblem, other trademarks and proprietary content of the American Red Cross
- Assist the Red Cross in resolving issues that may arise with instructors
- Maintain a safe environment suitable for the delivery of the programs
- Maintain open communications with the Red Cross
- Inform course participants that the training is an American Red Cross course; the instructor should show visual Red Cross identification during the training
- Ensure that course participants who have successfully met the course prerequisites, objectives and certification requirements receive American Red Cross certificates.

EXHIBIT A



INSTRUCTOR SUPPORT

Successful training depends largely on the quality of the instructor. Both the American Red Cross and you have an obligation to support your instructor(s) in providing the best training possible.

In accordance with the *Authorized Provider Agreement*, the Red Cross will provide the following support to your instructors:

- Provide effective, quality instructor training
- Provide effective evaluation
- Provide information on updates and program revisions
- Make available opportunities to volunteer for the American Red Cross
- Provide opportunities for professional skill development by offering periodic instructor upgrades, instructor in-services, additional instructor specialty courses and co-teaching opportunities
- Make available the proper materials and equipment needed to conduct training
- Ensure proper equipment is used during all courses

The Authorized Provider also does the following to support an instructor:

- Make an instructor available to the Red Cross for training, retraining and other professional development-related activities
- Supply Red Cross digital and/or print materials for support of the courses
- Explore opportunities to potentially volunteer with the Red Cross
- Work with the Red Cross to ensure that quality instruction takes place at its facility
- Ensure that the appropriate, qualified individuals are selected to be trained as Red Cross instructors
- Maintain up to date contact with the Red Cross

INSTRUCTOR CERTIFICATION

Certification occurs when an instructor candidate successfully completes the instructor course and is issued an Instructor Certificate that indicates that all requirements have been met on the date that the instructor candidate completes the instructor course.

Before an instructor can teach, the new instructor and a Red Cross representative official must sign the **Instructor Agreement and Code of Conduct**.

EXHIBIT A



Certified instructors who teach on behalf of your agreement must be indicated on Appendix C of the *Authorized Provider Agreement*.

Under the terms of the *Authorized Provider Agreement*, the instructor, as an employee or volunteer for the Authorized Provider, may provide training using Red Cross courses to the Authorized Provider's employees.

SELECTING THE RIGHT INSTRUCTOR CANDIDATE

To ensure the quality of American Red Cross Health and Safety Services training programs, it is important to select the appropriate person to enter the instructor course. Here are some characteristics to consider:

- Excellent communicator and educator
- Knowledgeable about the subject taught
- Positive and enthusiastic attitude
- Patient and flexible
- Professional demeanor
- Committed to teaching
- Proficient public speaker
- Proactive

SUPPORTING INSTRUCTOR TRAINER DEVELOPMENT

To maintain its reputation of providing the highest quality health and safety training available, the American Red Cross relies on identifying potential candidates to become instructor trainers. An instructor trainer candidate (ITC) is an experienced Red Cross instructor who has entered into training to become an instructor trainer (IT). Instructor trainers are certified by the Red Cross to conduct instructor courses and train new instructors. If your organization has a need to train instructors, you may want to inquire about developing an instructor trainer for your organization.

The process to train instructor trainer candidates has been designed to be flexible enough to take into consideration the knowledge and experience a candidate possesses upon acceptance into the program. Training time may vary based on a candidate's knowledge and experience and the course(s) a candidate may wish to teach. The training ensures that an instructor trainer will serve as an effective representative of the Red Cross and will abide by the standards, policies and procedures of the organization. Candidates completing this process are then able to train individuals as instructors and help increase the reach of Red Cross health and safety training programs.

EXHIBIT A



QUALITY ASSURANCE

Quality assurance in American Red Cross Health and Safety Services programs is the responsibility of all parties: the Red Cross, the Authorized Provider and the instructor. The Red Cross is the leader in quality health and safety training, and it maintains that status by authorizing instructors who adhere to the training standards and continually strive to provide exceptional training and service.

You can help to maintain this high quality by using the following strategies:

- Choose the right individuals to become instructors
- Support instructors' compliance with Red Cross policies and procedures by making sure they have the proper equipment, space and time to conduct the training
- Make instructors available for additional training as necessary
- Review, take action and monitor the information received from the course evaluation forms
- Observe instructors when they teach
- Encourage instructors to co-teach with other Red Cross trained instructors

The Red Cross will also support you with its quality assurance efforts. In addition, the Red Cross takes steps to ensure its training standards are maintained. These include:

- Providing high quality instructor training
- Establishing and explaining all national and local policies, regulations and procedures that relate to the instructor's responsibilities including the *Instructor Agreement*
- Making co-teaching opportunities available to instructors
- Monitoring of training records and other reporting forms for potential problems
- Evaluating courses randomly by either surveying or observing the teaching of instructors
- Providing technical support to instructors



TRAINING ISSUES

Even with the best planning and proactive quality assurance programs, problems may occur. When this happens, the Red Cross will work closely with the Authorized Provider to immediately deal with the situation.

If a problem is minor, the Red Cross will try to deal directly with the instructor to resolve the issue. Most situations can be handled effectively with simple counseling.

Occasionally issues arise that may need further intervention. When this occurs the Red Cross will keep you informed of steps that are being taken by the Red Cross and will solicit your help in solving the problem. The basic steps for dealing with larger issues are:

1. Identifying the problem
2. Counseling the instructor
3. Providing remediation, if needed, such as co-teaching, teaching under observation or retraining
4. Monitoring the instructor
5. Continuing counseling, remediation and monitoring as necessary

In severe cases, the Red Cross has the right to suspend an instructor's certification. When this occurs, the instructor can not teach Red Cross courses until the problem is resolved. When a resolution is not possible, the Red Cross may have no recourse but to withdraw the instructor's certification. The Red Cross has an extensive and thorough process for withdrawal of certification and does not do this lightly.

In situations where the Red Cross has identified that courses are not taught according to standards and that the participants must be retrained, the Authorized Provider is responsible for all costs associated with any retraining. (See the *Authorized Provider Agreement*.) The Red Cross will notify the participants advising them of available retraining.



PROGRAM SUPPORT

LEARNING CENTER

The Learning Center provides instructors:

- Access to their records, including certificates and transcripts.
- Automatic training notices and alerts.
- Self-service course record entry.
- Ability to print student certificates of completion.

Instructors and instructor trainers must have an American Red Cross Learning Center account and be certified as an instructor to access Instructor's Corner.

Access the American Red Cross Learning Center at classes.redcross.org/Saba/Web/Main If you have difficulty logging into the Learning Center, you may call 1-800-RED-CROSS.

COURSE PLANNING

Since you are a valued customer of the American Red Cross, we want to ensure that the training you conduct is fully supported. To that end, course planning is critical. As a general rule, Authorized Providers should notify the Red Cross of course dates and times prior to the scheduled start of the course. This process will help your organization by ensuring:

- Course materials and equipment are available.
- Promotional materials and marketing support are available to you.

The Red Cross can assist with any other course planning necessary to ensure the quality of your training programs.

Blended learning courses can be offered by Authorized Providers, also. Blended learning courses involve both an online component and an in class component and are a great option when time to pull colleagues together for training is limited. Information on how to set up a blended learning class, including instructor orientation to the online content and steps to take ahead of time, can be found on Instructor's Corner:

- [First Aid/CPR/AED](#)
- [CPR/AED for Professionals](#)
- [Lifeguarding](#)

EXHIBIT A



REPORTING COURSE ACTIVITY

Collection of information on course activity benefits both your organization and the Red Cross by:

- Providing records on students trained, which can also be used by your organization to verify training.
- Providing statistics that help in program evaluation.
- Allowing the Red Cross and you to identify trends for possible areas of improvement.
- Assisting in monitoring for quality assurance.
- Helping to ensure all areas of the community are reached with Red Cross programs.
- Tracking instructor activity for recertification and recognition purposes.

SUBMIT TRAINING RECORDS THROUGH THE LEARNING CENTER

Instructors can submit training records electronically through the American Red Cross Learning Center. It can be accessed at classes.redcross.org/Saba/Web/Main. A [job aide](#) and [demonstration](#) is also available.

Your organization is responsible for ensuring that your instructors submit training records through the Learning Center to the Red Cross within 10 business days of the completion of each class.

OBTAINING COURSE COMPLETION CERTIFICATES

Most Red Cross training programs have course completion certificates (cards) that are given to participants who successfully complete the training. When the training is submitted electronically in the Learning Center, the instructor is able to print certificates after the course has been approved by the Red Cross. You may also request certificates be mailed to the instructor.

Instructors can also submit a *Course Record* or a program activity report electronically by e-mail at support@redcrosstraining.org. Certificates will then be mailed to the instructor.



PAYMENT OPTIONS

- Credit Card and Bank Transfer
 - Credit card payments can be made at the time of course record submission via the American Red Cross Learning Center.
 - When course records are submitted via postal mail to the TSC, a TSC agent will follow up with the billing representative to secure credit card or bank transfer information prior to course record processing.
- Prepayment
 - Authorized Providers (AP) may choose to prepay by credit card, check, money order or bank transfer. A **Prepayment Request Form** is available on Instructor's Corner.
 - For prepayment by check or money order, the AP mails the Prepayment Request Form to the training support center (TSC).
 - For prepayment by credit card and bank transfer, the Prepayment Request Form is sent to the training support center and a TSC agent will call the AP to collect the confidential information.
 - Authorized Providers can also place a call directly to the TSC at 1-800-RED-CROSS and request to make a prepayment on their account if the payment method will be via credit card or bank transfer.
- Invoicing - The American Red Cross will only invoice for course fees *greater than \$500 per class*.
 - Authorized Providers whose per course fees are more than \$500 per class and have an excellent payment history with the American Red Cross will be considered for invoicing. If you meet both requirements you may complete a Credit Approval Request Form and return it to your Red Cross representative. Your representative will discuss next steps with you once they have processed your application.
 - If your course fees do not meet the minimum \$500 per class and your agency is required by state or federal regulation to receive an invoice to process payment you may request an exception. Please contact your Red Cross representative to discuss alternatives. You will be requested to supply documentation of the regulation.



SUPPLIES AND EQUIPMENT

Many Red Cross training programs require a specific type of manual, specialized training equipment and videos. The instructor's manual outlines the specific text and equipment needs for each course. Maintaining the equipment ratios outlined in the instructor's manual allows instructors to stay within the timelines for the training, as well as providing course participants the time they need to properly practice and learn skills. Most of the materials needed to conduct Red Cross training are available directly from the Red Cross.

COURSE MATERIALS

Teaching materials such as participant texts, instructor's manuals and videos are available in digital format on Instructor's Corner or for purchase.

EQUIPMENT

Equipment used in Red Cross training must be maintained in good working order to ensure participant safety and effective teaching. Equipment that is not in good working order detracts from the participant's willingness to learn and practice effectively. All equipment used in Red Cross training should be maintained according to manufacturer guidelines. Equipment such as CPR manikins should be cleaned after each use according to the manufacturer guidelines and properly cleaned between each participant. More detail on manikin decontamination, including Centers for Disease Control and Prevention (CDC) guidelines, is available in instructor's manuals for courses that teach CPR and AED.

When using equipment in training, you should ensure that instructors take all the necessary safety precautions.

EQUIPMENT PURCHASE

Equipment and supplies such as manikins, AED trainers and accessories may be available for purchase. Equipment and supplies can be purchased at redcrossstore.org, redcross.org/instructorscorner and shopstaywell.com.



PROMOTING RED CROSS COURSES

In order to help you reach more individuals with critical lifesaving skills, marketing support is provided through the national level of the American Red Cross. In addition to incorporating the availability of training from Authorized Providers in a number of national advertising efforts, specific tools have been developed to help you reach more customers on a day-to-day basis:

- Signage which can be displayed at your training facility including a plaque, a window decal, posters and a banner for aquatic facilities—these identify you as an American Red Cross Authorized Provider so your employees will know they are receiving the best training available
- Nationally-produced collateral materials to assist you in explaining the benefits of Red Cross training to your employees. Contact your Red Cross representative for more information.

USE OF THE NAME AND LOGO OF THE AMERICAN RED CROSS

The American Red Cross has established graphic standards and guidelines for the use of the Red Cross name and logo. Authorized Providers may use the name and logo when promoting and advertising American Red Cross courses, provided that the Red Cross name and logo appear in conjunction with one of the following statements:

- Proud Provider of American Red Cross Health and Safety Training
- Proud Provider of American Red Cross Aquatics Training
- Proud Provider of American Red Cross First Aid, CPR and AED Training
- Proud Provider of American Red Cross Caregiving Training

Such use of the **Red Cross name and logo** by Authorized Providers is permitted on:

- Websites and Web properties used to promote classes
- Brochures, flyers and promotional material as provided electronically by American Red Cross
- Brochures, flyers and promotional materials developed by the Authorized Provider, subject to our Brand Standards and the additional guidance outlined below

EXHIBIT A



The **Red Cross name** may be used on business cards and letterhead in conjunction with one of the statements set forth above. The **Red Cross logo** cannot be used on business cards and letterhead.

Additional guidance for use of the Red Cross name and logo:

- The Red Cross name and logo cannot appear in close proximity to other logos
- The Red Cross name and logo must appear on a white background with a minimum white space around the logo as outlined in the Brand Standards
- The white space on which the Red Cross name and logo appear must encompass one of the statements provided above
- The Red Cross name and logo cannot appear on any material of a religious or political nature
- **All use of the name and logo must be consistent with current Red Cross Brand Standards, accessible at: redcross.org/brand**

Please refer to redcross.org/brand for downloadable Red Cross logos for use.

Any use of the Red Cross name or logo other than as specified above is prohibited, unless prior written approval has been obtained from a Red Cross representative. Improper use of the Red Cross name and logo will result in immediate withdrawal of permission to use the Red Cross name and logo and/or termination of the *Authorized Provider Agreement*.

If the *Authorized Provider Agreement* expires or is terminated by either party, the Authorized Provider must immediately stop using the Red Cross name and logo. APs will send proof of marketing materials, web sites, business cards, attachments, etc., which use the Red Cross logo to the Red Cross representative for review prior to printing or publishing.

COPYRIGHT PERMISSION REQUESTS

General Information

American Red Cross materials are proprietary and subject to copyright protection. The American Red Cross vigorously protects its materials to preserve their integrity and to protect them against exploitation by others. Authorized Providers are not authorized to duplicate, edit or modify any American Red Cross material. Further you may not create derivative works of any American Red Cross material. Under clearly defined criteria, Red Cross national headquarters may grant

EXHIBIT A



permission to use text, photographs, illustrations and audiovisual material from the American Red Cross. Authorized Providers wanting to reproduce copyrighted American Red Cross Health and Safety Services materials must first obtain written permission from American Red Cross national headquarters. Improper use of American Red Cross materials or propriety content may result in immediate withdrawal of permission to use American Red Cross materials, and/or cancellation of the *Authorized Provider Agreement*.

Translations into Other Languages

The translation of American Red Cross materials into another language always requires prior written approval from American Red Cross national headquarters. Certain other requirements may also apply. Contact your Red Cross representative for more information.



POLICIES AND PROCEDURES

RISK MANAGEMENT IN COURSES

Your organization can reduce risk of injury and illness in Red Cross courses by ensuring that instructors adhere to the safety guidelines provided by the Red Cross in the instructor's manual. For additional guidance, contact your Red Cross representative.

AUTHORIZED PROVIDERS AND INSURANCE COVERAGE

By name Authorized Providers are organizations that are authorized by the Red Cross to offer Red Cross courses (through the execution of the *Authorized Provider Agreement*). The coverages of the Red Cross corporate insurance plan are not extended to Authorized Providers and their third-party instructors because the courses that their instructors teach are not under the direct supervision and control of the Red Cross. Claims that arise from an Authorized Provider-offered Red Cross course are the responsibility of the Authorized Provider.

The Red Cross strongly recommends that Authorized Providers consult with their own insurance professional to ensure they have sufficient coverage.

INSTRUCTORS AND INSURANCE COVERAGE

Red Cross-trained instructors who work for or who are Authorized Providers must be sure they (or their employers) have adequate insurance to protect them while teaching Red Cross courses. Such coverages include, but are not limited to, general liability, auto liability and workers' compensation insurance, in accordance with state and local law.

AMERICANS WITH DISABILITIES ACT

Effective January 26, 1992, the Americans with Disabilities Act (ADA) bars discrimination against persons with disabilities in places of public accommodation. Title III of the law bars private entities (schools, banks, restaurants, social service agencies, offices, retail sales establishments, etc.) from discriminating against individuals with disabilities in the provision of their goods and services. Individuals with qualifying physical or mental disabilities may not be denied full and equal enjoyment of or participation in the goods, services, facilities, advantages or accommodations offered to the public. A place of public accommodation may not discriminate against its patrons, clients, invitees or guests on the basis of real or perceived qualifying disabilities.

EXHIBIT A



It is the responsibility of the Authorized Provider to ensure compliance with the ADA for courses that they conduct. An ADA [resource guide](#) is available to instructors who conduct American Red Cross training courses.

General Recommendations:

- Allow access to anyone seeking admission to a course (provided prerequisites are satisfied) regardless of real or perceived inability to participate in or pass the course.
- Tell participants in every course to participate within the limits of their ability and learn as much as they can. For some people, certification may not be important. For those individuals, focus on helping them to learn as much as possible.
- If there is a request for accommodation, discuss possible solutions with the individual or his or her guardian, and if the individual prefers and provides permission, a medical provider. Authorized Providers may not need to provide the accommodation preferred by the individual as long as the accommodation offered is reasonable (i.e., building a permanent ramp into a pool versus using a swing-arm harness).
- Certify each participant who can meet course skill and knowledge testing objectives.
- Use available resources to assist people with special needs.

GOOD SAMARITAN LAWS

All states have passed Good Samaritan laws or acts that give legal protection to lay rescuers who act in good faith with no expectation of remuneration and are not guilty of gross negligence or willful misconduct. The type of rescuer covered and the scope of protection vary from state to state.

The American Red Cross is not in a position to provide legal advice or render interpretations of the validity or scope of the various Good Samaritan laws.

DISCLOSURE POLICY

Each Authorized Provider should be prepared to deal with situations in which information concerning sexual and/or physical abuse or neglect is disclosed to Red Cross instructors/instructor trainers. Authorized Providers have the responsibility to:

- Establish a reporting policy consistent with state reporting laws that will ensure expediency in obtaining help for the person while maintaining confidentiality.

EXHIBIT A



- Inform instructors/instructor trainers of the reporting policy to follow should situations of disclosure occur.

CRIMINAL RECORD CHECK GUIDELINES

Because third-party instructors teaching for Authorized Providers are employees or volunteers of that organization, it is the responsibility of organization to conduct criminal record checks that might be required by law for their employees or volunteers. However, if a third-party instructor wishes to volunteer to teach courses for the Red Cross or wishes to become a paid employee for the Red Cross, the Red Cross will conduct the appropriate checks outlined in its standard guidelines.

LIFESAVING AWARDS

The Certificate of Merit Award

The Certificate of Merit is awarded to a nominated individual(s) who saves or sustains a human life and successfully completes a Red Cross course in first aid, CPR, AED or aquatics prior to the performance of the lifesaving or life-sustaining act. The certificate is signed by the President of the United States and the Chairman of the American Red Cross. The award package includes the certificate, citation and medals.

The Lifesaving Award for the Professional Responder

The Lifesaving Award for the Professional Responder was created to recognize professional responders who save or sustain a life while on duty. Someone who saves a life while on duty is not eligible for the Certificate of Merit Award. The certificate is signed by the Chairman and President of the American Red Cross. The award package includes the certificate, citation and medals.

Contact your Red Cross representative for more information or to obtain a nomination form.

OSHA ALLIANCE

On May 19, 2005, the American Red Cross and the Occupational Safety and Health Administration (OSHA) signed an Alliance agreement geared towards preparing employers and their employees to respond to disasters, life-threatening injuries and other emergencies.

Through this agreement, the Red Cross and OSHA will provide information, guidance and access to training resources on health and safety topics including emergency preparedness, disease prevention and first aid in the workplace.

More information about the alliance including free tools and resources are available on osha.gov/dcsp/alliances/red_cross/red_cross.html.

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RED CROSS REFRESHER CENTER

The Red Cross Refresher Center helps your course participants maintain the knowledge and skills learned during first aid, CPR and AED training courses. Participants are challenged with interactive quizzes, games, learning activities, videos and more to keep their skills fresh between certifications. The Refresher Center is available at redcrossrefresher.com.

AMERICAN RED CROSS SCIENTIFIC ADVISORY COUNCIL

In late 1998, the Red Cross formed an independent panel of nationally recognized health and safety experts known as the Scientific Advisory Council. Drawing on a body of collective expertise from such diverse fields as emergency medicine, occupational health, sports medicine, school health, emergency medical services (EMS) response and disaster mobilization, the Council helps to establish the standard in first aid care. It also advises the Red Cross in areas related to the development and dissemination of audience-appropriate information and training in first aid and safety. A list of council members and scientific advisory statements is available on redcross.org/instructorscorner.

PUT EXPERT ADVICE IN YOUR HAND

Red Cross has developed a suite of FREE apps. Enforce classroom first aid lessons by testing your knowledge with interactive quizzes about First Aid and learn how to stay safe before, during and after Wildfires, Hurricanes, Earthquakes and Tornadoes. These apps can be downloaded from [iTunes](#) or [Google Play](#). Please encourage your students to take advantage of these free tools!



First Aid: Follow the simple step-by-step instructions to guide you through everyday first aid scenarios. It is fully integrated with 9-1-1 so you can call EMS from the app at any time. Videos and animations make learning first aid fun and easy. The content is preloaded which means you have instant access to all safety information at anytime, even without reception or an Internet connection.



Wildfires: Get notified about active wildfires, as well as fire weather warnings, prepare your family, home and pets, let loved ones know that you are safe even if the power is out – a must have for anyone who lives in an area that is susceptible to wildfires or has loved ones that do.



Hurricanes: Be ready for severe weather with Hurricane by American Red Cross. Monitor conditions in your area or throughout the storm track, prepare your family and home, find help and let others know you are safe even if the power is out – a must have for anyone who lives in an area where a hurricane may strike or has loved ones who do.

EXHIBIT A

**American
Red Cross**

Earthquakes: Be ready for an earthquake with Earthquake by American Red Cross. Get notified when an earthquake occurs, prepare your family and home, find help and let others know you are safe even if the power is out – a must have for anyone who lives in an earthquake-prone area or has loved ones who do.



Tornadoes: Tornadoes are one of nature's most destructive forces – they're capable of producing winds over 150 miles an hour and they present a hazard to every single state. With the official American Red Cross Tornado App, you can have the tools and information for tornado safety in the palm of your hand.

EXHIBIT B
Courses, Instructors, and Facility Locations

Red Cross Courses Offered by the City of Austin

1. Lifeguarding – all bundles and modules (including emergency oxygen training)
2. First Aid/CPR/AED – all bundles and modules
3. Learn-to-Swim
4. Water Safety Instructor (includes Basic Water Rescue)
5. Lifeguarding Instructor

Instructors

Instructors who will be teaching on behalf of the City of Austin are listed below. Each instructor will have a complete profile in the American Red Cross Learning Center that includes up-to-date contact information, including email address, mailing address, phone number, and current instructor certifications.

Instructor Name	Learning Center Username	Email and Phone	Current Instructor Certification(s)
Nichole Bohner	Nichole.bohner@austintexas.gov	Nichole.bohner@austintexas.gov 512-974-9326	WSI, LGI
Nathan Bond	Nathan.bond@austintexas.gov	Nathan.bond@austintexas.gov 512-974-9340	WSI, LGI
Pedro Patlan	Pedro.patlan@austintexas.gov	Pedro.patlan@austintexas.gov 512-974-9334	LGIT, LGI, WSI
Paul Slutes	Paul.slutes@austintexas.gov	Paul.slutes@austintexas.gov 512-974-9341	LGI, WSI
Jodi Jay	Jodi.jay@austintexas.gov	Jodi.jay@austintexas.gov 512-974-9336	LGIT, WSIT, LGI, WSI
Travis Lutz	Travis.lutz@austintexas.gov	Travis.lutz@austintexas.gov 512-974-9332	LGI, WSI
Tyler Rusin	Tyler.rusin@austintexas.gov	Tyler.rusin@austintexas.gov 512-974-9332	WSI, LGI
Adrian Ortega	Adrian.ortega@austintexas.gov	Adrian.ortega@austintexas.gov 512-974-9332	WSI, LGI
Heinz "Kris" Williams	Kris.williams@austintexas.gov	Kris.williams@austintexas.gov 512-476-9044	LGI, WSI
Conor Hopkins	Conor.hopkins@austintexas.gov	Conor.hopkins@austintexas.gov 512-476-9044	LGI, WSI

Facility Locations

The City of Austin will provide training at the facilities below.

Facility Name and Address	Facility Contact Name	Facility Contact's Email and Phone
Aquatic Division Administrative and Training Center 2818 San Gabriel St. Austin, TX 78705	Pedro Patlan	Pedro.patlan@austintexas.gov 512-974-9334
Stacy Pool 700 East Live Oak Austin, TX 78704	Pedro Patlan	Pedro.patlan@austintexas.gov 512-974-9334
Bartholomew Pool 1800 East 51 st St. Austin, TX 78723	Pedro Patlan	Pedro.patlan@austintexas.gov 512-974-9334

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 2nd day of February, 2015

CONTRACTOR

Authorized
Signature

Title

Robert A. Macedo

Robert A. Macedo

Territory Aquatic Specialist



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 04/08/2014

DEPT: PARD Aquatics

TO: Purchasing Officer or Designee

FROM: Cheryl Bolin

BUYER: Terry Nicholson

PHONE: (512) 974-9459

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.

The books and materials that the City of Austin uses to train our staff are copyrighted by the American Red Cross. The American Red Cross's certification system is at the heart of the City of Austin's training program and instructional swim program. The City of Austin's FTE trainers are certified by the American Red Cross to train and certify staff. These Lifeguards, coaches and swimming instructors make up our summer staff which is over 600 employees. All City of Austin PARD programs that take place on, in, or near a body of water must have staff members that are Red Cross certified in either Basic Water Rescue, Lifeguarding or Open Water Lifeguarding, depending on the activity. Most of these staff members are trained by the Aquatic Division FTE's. Red Cross certification is required for all PARD Aquatic Division staff.

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: evaluation of other firms, knowledge of market, etc).

The American Red Cross is a humanitarian organization has been the leader in swimming and lifeguarding since 1914, and trains approximately 11 million people annually. Additionally, the American Red Cross provides the following advantages:

- Industry Standards are provided through:


- o Scientific Advisory Council

Established a nationally recognized panel of health and safety experts that determine the standard in first aid care and advises the Red Cross in areas related to the development and dissemination of audience-appropriate information and training in first aid and safety

5 year course evaluation cycle has been established and recommendations based on current scientific research determine the program content updates.


6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with American Red Cross which will cost approximately \$ 75,000.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification



Originator Date 04/15/14


Approved
Certification



Department Director or designee Date 4/16/14

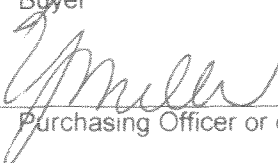
Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)



Buyer Date 5/20/14 Manager Initials CDW

Exemption Authorized
(if applicable)



Purchasing Officer or designee Date 5/20/14

02/26/2013



**American
Red Cross**

American Red Cross
Greater New York Region
520 West 49th Street
New York, NY 10019
Tel (212) 787-1000
www.nyredcross.org

April 15, 2014

To Whom It May Concern:

All Lifeguarding Certifications issued by the American Red Cross is only available through the American Red Cross and its Authorized Training Providers. Any certifications contrary to this statement or any certifications that are not verifiable by the American Red Cross will be considered invalid and not issued by the American Red Cross.

Please contact me if you have any questions regarding this matter.

Sincerely,

Corwin Smith
Business Operation Manager, LTP/Aquatics Channel
520 West 49th Street
New York, NY 10019
212/875-2022
corwin.smith3@redcross.org