



# City of Austin

## Purchasing Office

P.O. Box 1088, Austin, TX 78767

September 20, 2017

Western Waterproofing Company of America dba Western Specialty Contractors of America  
Dan Wicht  
9468 Corporate Drive  
Selma, TX 78154

Dear Mr. Wicht:

The Austin City Council approved the execution of a contract with Western Specialty Contractors of America in accordance with the referenced solicitation.

|                                   |  |
|-----------------------------------|--|
| Responsible Department:           | Building Services Department   |
| Department Contact Person:        | Jill Cogburn   |
| Department Contact Email Address: | <a href="mailto:jill.cogburn@austintexas.gov">jill.cogburn@austintexas.gov</a> |
| Department Contact Telephone:     | (512) 974-9046   |
| Project Name:                     | Window Sealing at RLC  |
| Contractor Name:                  | Western Specialty Contractors of America                                       |
| Contract Number:                  | MA 7500 NA170000229  |
| Contract Period:                  | 9/20/2017 – 9/19/2019 or when services rendered                                |
| Dollar Amount                     | \$109,154.90   |
| Requisition Number:               | RQM 7500 17030700334   |
| Solicitation Type & Number:       | RFP JRD0316  |
| Agenda Item Number:               | 31   |
| Council Approval Date:            | 8/31/2017  |

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

Sincerely,

Jonathan Dalchau  
Procurement Specialist IV  
City of Austin  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("CITY")  
AND  
WESTERN WATERPROOFING COMPANY OF AMERICA DBA WESTERN SPECIALTY CONTRACTORS  
OF AMERICA ("CONTRACTOR")  
FOR  
REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS  
MA 7500 NA170000229**

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

This Contract is between Western Waterproofing Company of America dba Western Specialty Contractors of America having offices at 9468 Corporate Drive, Selma, TX 78154 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number RFP JRD0316 - Remove and Replace Window Sealing at Rutherford Lane Campus.

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

- 1.1.1 This Document
- 1.1.2 The City's Solicitation, Request for Proposal (RFP), JRD0316 - Remove and Replace Window Sealing at Rutherford Lane Campus including all documents incorporated by reference
- 1.1.3 Western Waterproofing Company of America dba Western Specialty Contractors of America Offer, dated 5/16/2017, including subsequent clarifications emailed on 6/16/2017 and 6/27/2017.

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

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

**1.3 Term of Contract.** The Contract will be in effect for an initial term of twelve (12) months. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.4 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$109,154.90 for the Contract term as indicated in the BAFO dated 6/16/2017. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

**1.5 Clarifications and Additional Agreements.** The following are incorporated into the Contract.

- 1.5.1 The Contractor shall provide four (4) lifts and workers to speed the project completion date as indicated in the Contractor's email response to a clarification question on 6/27/2017.

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

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

**WESTERN WATERPROOFING COMPANY  
OF AMERICA DBA WESTERN SPECIALTY  
CONTRACTORS OF AMERICA**

Don Wick  
Printed Name of Authorized Person

[Signature]  
Signature

Branch Manager  
Title:

September 14, 2017  
Date:

**CITY OF AUSTIN**

Jonathan Dalchau  
Printed Name of Authorized Person

[Signature]  
Signature

Procurement Specialist IV  
Title:

September 20, 2017  
Date:





**ADDENDUM  
REQUEST FOR PROPOSAL  
REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS  
CITY OF AUSTIN, TEXAS**

**RFP: JRD0316**

**Addendum No: 1**

**Date of Addendum: May 8, 2017**

This addendum is to incorporate the following changes to the above-referenced solicitation.

- 1.0 Delete the original Section 0600 – (RFP) Proposal Preparation Instructions and replace with Section 0600 – (RFP) Proposal Preparation Instructions – **UPDATED 5/8/2017**.
- 2.0 Questions and Answers.

(Q1) Are there any images available for Building 2?

(A1) Attachment C – Building 2 Images was added showing the different windows on Building 2, which consist of four windows over the docks on the west side; four multi floor windows, five elevated windows, one ground level, and one door on the east side; and three elevated windows and a door on the north side of the building.

(Q2) Do the windows on the south side of Building 1 need to be repaired?

(A2) No, these windows have already been repaired within the past few years.

(Q3) The gaskets on the window may be an integral part of the window, if so, do we need to remove?

(A3) The City is seeking the best proposal for sealing the windows for an extended length of time. In your proposal, please explain your repair approach and why you think it is the best alternative for the City.

(Q4) Are the doors on the buildings included?

(A4) Yes, repairs should be made to all glass areas including doors.

(Q5) I am not sure if I need to subcontract right now, can I decide to subcontract after the contract award?

(A5) Yes, if you decide you want to subcontract after the contract is award, you can contact the Small and Minority Business Resources department (SMBR) at (512) 974-7600 and follow the Good Faith Efforts at that time.

(Q6) I think I want to subcontract, but not sure of the dollar amount I will subcontract since it will be job specific, do I need to put the subcontracting values on the 0900 form?

(A6) Section 0900 – No Goals Form was developed by SMBR. It is our understanding that an estimated subcontracting amount should be included on the form. However, please contact SMBR at (512) 974-7600 for assistance in correctly completing Section 0900 – No Goals Form.





3.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURES affixed below, this Addendum is hereby incorporated into and made a part of the above-referenced Invitation for Bid.

APPROVED BY:

  
Jonathan Dalchau, Procurement Specialist IV  
Purchasing Office

5/8/2017  
Date

ACKNOWLEDGED BY:

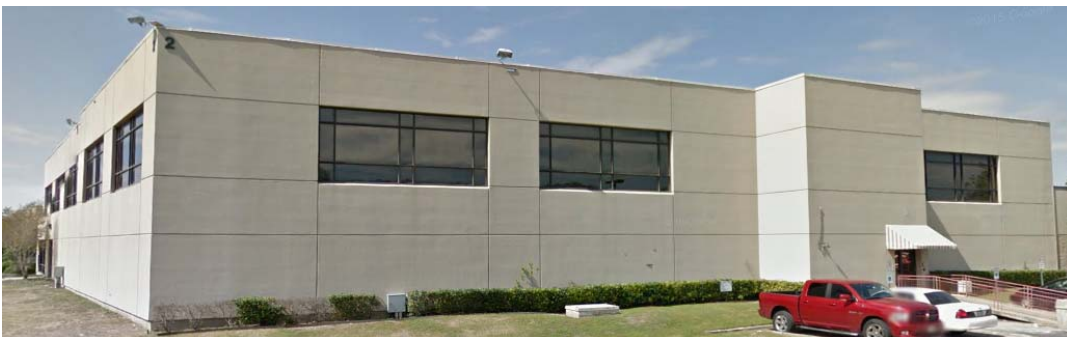
\_\_\_\_\_  
Vendor Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

**RETURN A COPY OF THIS ADDENDUM**  
**to the Purchasing Office, City of Austin, Texas *with your bid*.**  
**Failure to do so may constitute grounds for rejection of your bid.**

## Attachment C – Building 2 Images





**CITY OF AUSTIN, TEXAS**  
**Purchasing Office**  
**REQUEST FOR PROPOSAL (RFP)**  
**OFFER SHEET**

**SOLICITATION NO:** RFP 7500 JRD0316

**DATE ISSUED:** May 1, 2017

**REQUISITION NO.:** 7500 17030700334

**COMMODITY CODE:** 91079

**FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT THE FOLLOWING  
AUTHORIZED CONTACT PERSON:**

Primary Contact:

Jonathan Dalchau  
Procurement Specialist IV

**Phone: (512) 974-2938**

**E-Mail:** jonathan.dalchau@austintexas.gov

Secondary Contact:

Erika Larsen  
Procurement Specialist II

**Phone: (512) 974-3127**

**E-Mail:** erika.larsen@austintexas.gov

**COMMODITY/SERVICE DESCRIPTION:** Remove and Replace  
Window Sealing at Rutherford Lane Campus

**PRE-PROPOSAL CONFERENCE TIME AND DATE:** 9:00 AM,  
Thursday, May 4, 2017

**LOCATION:** RLC, 1520 Rutherford Lane, G Level Conference  
Room, Austin, TX 78754

**PROPOSAL DUE PRIOR TO:** 2:00 PM, Tuesday, May 16, 2017

**PROPOSAL OPENING TIME AND DATE:** 3:00 PM, Tuesday,  
May 16, 2017

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 308, AUSTIN, TEXAS 78701

**LIVE SOLICITATION CLOSING ONLINE:** For RFP's, only the  
names of respondents will be read aloud

For information on how to attend the Solicitation Closing online,  
please select this link:

<http://www.austintexas.gov/department/bid-opening-webinars>

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

| <b>Address for US Mail (Only)</b>                              | <b>Address for FedEx, UPS, Hand Delivery or Courier Service</b> |
|--|---|
| City of Austin   | City of Austin, Municipal Building                              |
| Purchasing Office-Response Enclosed for Solicitation # JRD0316 | Purchasing Office-Response Enclosed for Solicitation # JRD0316  |
| P.O. Box 1088  | 124 W 8 <sup>th</sup> Street, Rm 308                            |
| Austin, Texas 78767-8845                                       | Austin, Texas 78701   |
|  | Reception Phone: (512) 974-2500                                 |

**NOTE:** Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer arriving on time. See Section 0200 for additional solicitation instructions.

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

**SUBMIT 1 ORIGINAL AND 1 ELECTRONIC COPY OF YOUR RESPONSE**  
(Electronic copy should be a single scanned file of the original response per flash drive)

**\*\*\*SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT\*\*\***



**This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.**

| SECTION NO.  | TITLE  | PAGES |
|--------------|--|-------|
| 0100         | STANDARD PURCHASE DEFINITIONS  | **    |
| 0200         | STANDARD SOLICITATION INSTRUCTIONS   | **    |
| 0300         | STANDARD PURCHASE TERMS AND CONDITIONS   | **    |
| 0400         | SUPPLEMENTAL PURCHASE PROVISIONS   | 4     |
| 0500         | SCOPE OF WORK  | *     |
| 0600         | PROPOSAL PREPARATION INSTRUCTIONS & EVALUATION FACTORS                             | *     |
| 0605         | LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return                  | 2     |
| 0700         | REFERENCE SHEET – Complete and return if required                                  | 1     |
| 0800         | NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION                               | 2     |
| 0805         | NON-SUSPENSION OR DEBARMENT CERTIFICATION  | **    |
| 0810         | NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION           | **    |
| 0815         | LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return                          | 1     |
| 0835         | NONRESIDENT BIDDER PROVISIONS – Complete and return                                | 1     |
| 0900         | SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return                 | 1     |
| 0905         | SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return if applicable | 3     |
| Attachment A | IMAGES OF BUILDING 1   | 6     |
| Attachment B | EXCEPTIONS FORM  | 1     |

**\* Documents are hereby incorporated into this Solicitation as additional documents with the same force and effect as if they were incorporated in full text.**

**\*\* Documents are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of the \* Sections are available on the Internet at the following online address:**

[http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm#STANDARDBIDDOCUMENTS](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS)

**If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office located in the Municipal Building, 124 West 8<sup>th</sup> Street, Room #308 Austin, Texas 78701; phone (512) 974-2500. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.**

## INTERESTED PARTIES DISCLOSURE

In addition, Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 "Certificate of Interested Parties" that is signed and notarized for a contract award requiring council authorization. The "Certificate of Interested Parties" form must be completed on the Texas Ethics Commission website, printed, signed and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution.

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Federal Tax ID No. \_\_\_\_\_

Printed Name of Officer or Authorized Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature of Officer or Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**\* Proposal response must be submitted with this Offer sheet to be considered for award**

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

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City



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STANDARD PURCHASE TERMS AND CONDITIONS**

harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and Deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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**13. PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - i. delivery of defective or non-conforming Deliverables by the Contractor;
  - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

- 14. TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

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

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No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
  - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. AUDITS and RECORDS:**

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. Records Retention:
  - i. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.
  - ii. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City
  - iii. The Contractor shall retain all 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.
- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.



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**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
  - i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

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20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
- A. Recycled Deliverables shall be clearly identified as such.
  - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
  - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
  - E. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
  - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be

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required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.



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**30. DELAYS:**

- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

- A. Definitions:
  - i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
    - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
    - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
  - ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.
- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised March 2013).

- A. General Requirements.
  - i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
  - ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the

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City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions**

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the

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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 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY**: In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

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39. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
40. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
41. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
42. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
43. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
44. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
45. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
46. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
47. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

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**48. DISPUTE RESOLUTION:**

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

49. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

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

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

| <u>Holiday</u>                     | <u>Date Observed</u>      |
|------------------------------------|---------------------------|
| New Year's Day                     | January 1                 |
| Martin Luther King, Jr.'s Birthday | Third Monday in January   |
| President's Day                    | Third Monday in February  |
| Memorial Day                       | Last Monday in May        |
| Independence Day                   | July 4                    |
| Labor Day                          | First Monday in September |
| Veteran's Day                      | November 11               |

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|                           |                             |
|---------------------------|-----------------------------|
| Thanksgiving Day          | Fourth Thursday in November |
| Friday after Thanksgiving | Friday after Thanksgiving   |
| Christmas Eve             | December 24                 |
| Christmas Day             | December 25                 |

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

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

53. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

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

54. **EQUAL OPPORTUNITY**

A. **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 Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

B. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

55. **INTERESTED PARTIES DISCLOSURE**

As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in place. Link to Texas Ethics Commission Form 1295 process and procedures below:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

56. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**



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

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
  - ii. "Cost of components" means -
    - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
    - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
  - iii. "Domestic end product" means-
    - (1) An unmanufactured end product mined or produced in the United States; or
    - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
  - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
  - v. "Foreign end product" means an end product other than a domestic end product.
  - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS  
SOLICITATION NO.: RFP 7500 JRD0316**

The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office no later than 1:00 PM, one (1) week prior to the proposal due date. Submissions may be made via email to jonathan.dalchau@austintexas.gov, or via fax at (512) 974-2388.

2. **ALTERNATE OFFERS:** (reference paragraph 7A in Section 0200)

Alternate Offers will be considered.

3. **INSURANCE:** Insurance is required for this solicitation.

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

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

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

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

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form WC420304, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Contractor/Subcontracted Work.
    - (c) Products/Completed Operations Liability for the duration of the warranty period.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS  
SOLICITATION NO.: RFP 7500 JRD0316**

- (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
    - (2) The policy shall also include these endorsements in favor of the City of Austin:
      - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
      - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
      - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
  - iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
    - (1) The policy shall include these endorsements in favor of the City of Austin:
      - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
      - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
      - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
  - C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
4. **TERM OF CONTRACT:**
- A. The Contract shall be in effect for an initial term of 12 months, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
  - B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
  - C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
5. **QUANTITIES:** The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.
6. **INVOICES and PAYMENT:** (reference paragraphs 12 and 13 in Section 0300)
- A. Invoices shall contain a unique invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS  
SOLICITATION NO.: RFP 7500 JRD0316**

Invoices shall be emailed or mailed to the below address:

|                      |  |
|----------------------|--|
|                      | City of Austin   |
| Department           | Building Services Department   |
| Attn:                | Accounts Payable   |
| Address              | PO Box 1088  |
| City, State Zip Code | Austin, TX 78767   |
| Email                | <a href="mailto:BSDAPInvoices@austintexas.gov">BSDAPInvoices@austintexas.gov</a> |

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

**7. LIVING WAGES:**

- A. The minimum wage required for any Contractor employee directly assigned to this City Contract is \$13.50 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$13.50 per hour. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's Contract Manager with the first invoice, individual Employee Certifications for all employees directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each employee directly assigned to the contract. The Employee Certification form is available on-line at [https://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](https://www.austintexas.gov/financeonline/vendor_connection/index.cfm).
- E. Contractor shall submit employee certifications annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for employees added to the contract and/or to report any employee changes as they occur.
- F. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records required in paragraph C above to verify compliance with this provision.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS  
SOLICITATION NO.: RFP 7500 JRD0316**

**8. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING:**

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

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

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

**10. CONTRACT MANAGERS:** The following persons are designated as Contract Managers, and will act as the contact point between the City and the Contractor during the term of the Contract:

Department: Building Services

Contact: Jill Cogburn

Phone: (512) 974-9046

Email: [jill.cogburn@austintexas.gov](mailto:jill.cogburn@austintexas.gov)

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

**CITY OF AUSTIN  
SCOPE OF WORK  
REMOVE AND REPLACE WINDOW SEALING AT RLC  
SOLICITATION NO.: RFP JRD0316**

**1. PURPOSE**

The City of Austin (City) is seeking a qualified Contractor to remove existing window sealant (caulk) and apply new sealant to exterior windows on Buildings 1 and 2 located on the City's Rutherford Lane Campus (RLC), 1520 Rutherford Lane, Austin, TX 78754.

Any services that have been omitted from this scope of work which are clearly necessary or in conformance shall be considered a requirement although not directly specified or called for in the scope of work.

**2. CONTRACTOR QUALIFICATIONS**

The Contractor shall:

- 2.1. Have a minimum of three (3) years of continuous experience prior to this solicitation providing commercial window sealant repair in similar size and scope to the City.
- 2.2. Have access to all necessary equipment and tools to safely remove and replace the window sealant.
- 2.3. Use personnel that are OSHA 10 trained. The Contractor shall submit copies of training within ten (10) business days upon request by the City. If requested, the City will ask for copies before the completion of the award process.
- 2.4. Provide a SPOC, who is English-speaking, skilled, knowledgeable, and experienced in providing the types of services listed in this Scope of Work. The SPOC shall have the authority to dispatch Contractor personnel; and shall have full decision-making authority for all services provided under this Contract.

**3. CONTRACTOR RESPONSIBILITIES**

The Contractor shall:

- 3.1. Understand and agree that the scheduling of events at City facilities takes precedence over any scheduled maintenance and repair services agreed to by the City and the Contractor. The Contractor shall not hold the City liable, financially or otherwise, if the City needs to reschedule services with the Contractor due to a new event scheduled at a City facility. The City will make every reasonable effort to immediately notify the Contractor of changes in the City's schedule of events which may have an impact on scheduled services.
- 3.2. Provide all equipment, materials, labor, tools, incidentals, expendable items, personnel protective equipment, and transportation necessary for proper execution and completion of these services.
  - 3.2.1. Roof access will not be available. The Contractor shall provide man-lift, ladders, scaffolding or any other equipment needed to complete the project
- 3.3. Comply with all current Federal, State and local laws, City of Austin ordinances, rules and regulations. This includes safety standards that apply both to private industry and governmental agencies such as compliance with applicable Occupational Safety and Health Administration (OSHA) safety requirements: <http://www.osha.gov/>
- 3.4. Be responsible for ensuring the safety of their employees, City employees, and the general public during performance of all services under this contract. The Contractor shall ensure that all crews are fully and properly equipped to perform services promptly and safely.
  - 3.4.1. The Contractor shall provide temporary fencing/barricades to be used around the working area to protect the public and COA employees
- 3.5. Be responsible for any hazardous materials brought to the site by the Contractor.



**CITY OF AUSTIN  
SCOPE OF WORK  
REMOVE AND REPLACE WINDOW SEALING AT RLC  
SOLICITATION NO.: RFP JRD0316**

- 3.6. Be responsible for the immediate clean-up of the work area and the removal of debris. Cleaning of the work area shall be subject to the City representative's inspection and approval.
- 3.7. Be responsible for handling, transporting, and disposing of all building material waste, worn/defective parts, oils and solvents, in accordance with all applicable laws, rules and regulations so as to ensure the highest level of safety to the environment and public health at no additional cost to the City.
- 3.8. Immediately notify the City of any suspected hazardous materials encountered before or during performance of work and shall take all necessary precautions to avoid further disturbance of the materials. The City will be responsible for any hazardous material uncovered or revealed at the site which was not shown, indicated or identified.
- 3.9. Be responsible for damage done to property or equipment as a direct result of the Contractor's actions. Should the Contractor and/or his employees cause any damage to City property, the Contractor shall immediately inform the City representative. The Contractor shall make repairs or replacement to the satisfaction of the City representative at no cost to the City. The City may, however, at its sole discretion, elect to make repairs or replacements of damaged property and deduct the cost from any payments owed to Contractor or to recover costs if no payments are owed.
- 3.10. Immediately remove any employee or representative (while providing services on City property or at City facilities) from City property or facilities if the City notifies the Contractor that the employee(s) or representative is incompetent, disorderly, abusive, or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms in contravention of the applicable provisions of Texas law, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall. Furthermore, the Contractor shall not assign such employee to a City work order/job without the City's prior written consent. Contractor shall at all times maintain good discipline while performing services for the City.
- 3.11. Provide documentation of warranty along with the final invoice. Contractor shall provide a written warranty for all parts, labor, and workmanship upon completion of each job. If the manufacturer's warranty is longer for any part(s) provided in repair or in service work performed, the longest warranty shall apply.

**4. SCOPE OF WORK**

The Contractor shall:

- 4.1. Inspect all windows on the North, East, and West elevations of Buildings 1 & 2 and identify existing sealant or gaskets that have failed. Building 1 consists of three (3) floors and Building 2 consists of two (2) floors.
  - 4.1.1. Inspection shall include a water test to help identify compromised seals.
  - 4.1.2. If upon inspection the Contractor discovers additional damage to the flashing, lip, etc. in the window area, the Contractor shall notify the Contract Manager or designee the extent of the damage area. The City may elect to have the Contractor repair this additional damage. The Contract Manager or designee will provide authorization to proceed with additional repairs in writing. If the Contractor makes repairs without written authorization from the Contract Manager or designee, the City will perceive the work as a no charge repair.
- 4.2. Remove existing sealant between glass and metal which appears to be reverted, properly clean the surfaces, and replace with new Dow 795 Silicone Sealant, or a City approved one part silicone sealant that meets or exceeds the specifications. Alternative sealant shall be approved by the City in writing before the start of the project.

**CITY OF AUSTIN  
SCOPE OF WORK  
REMOVE AND REPLACE WINDOW SEALING AT RLC  
SOLICITATION NO.: RFP JRD0316**

- 4.3. Remove any existing window gaskets, properly clean the surfaces, and install new Dow 795 Silicone Sealant, or a City approved one part silicone sealant that meets or exceeds the specifications. Alternative sealant shall be approved by the City in writing before the start of the project.
- 4.4. Complete a final water test to ensure proper application of the sealant.

**5. CITY RESPONSIBILITIES**

The City will:

- 5.1. Provide an on-site contact list for the various departments.
- 5.2. Verify no hazardous material will be disturbed
- 5.3. Be responsible for the review and approval of equipment and material and supplies list Contractor shall use on this contract
- 5.4. Provide parking on site and provide staging area.
- 5.5. Provide any required permits necessary to complete the repairs.
- 5.6. Select the silicon color for the contractor to use from a standard color list.
- 5.7. Allow work to be performed during normal business hours.

**CITY OF AUSTIN  
PURCHASING OFFICE  
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS  
SOLICITATION NUMBER: RFP 7500 JRD0316**

**A pre-proposal meeting and site visit will be conducted on Thursday, May 4th, at 9:00 AM starting in the Ground level Conference Room in Building 1 at the Rutherford Lane Campus. After the meeting, we will tour the property for visual inspection.**

**Bring any equipment, ladders, tools, etc. necessary to properly sample the windows for quoting purposes. Contractor is responsible for all measurements and quantities based on site visit.**

**1. PROPOSAL FORMAT:**

Submit one (1) original and one (1) flash drive that contain an exact electronic replica of the Proposal. The original Proposal shall contain original ink signatures by a person authorized to sign on behalf of the Offerer. Proposals shall be typed on standard paper and have consecutively numbered pages. Proposals shall be organized in the following format and information sequence. Use tabs to divide each part of your Proposal and include a Table of Contents. Proposers should provide all details in the Proposal as required in the Section 0500 - Scope of Work and any additional information you deem necessary to evaluate your Proposal.

**Tab 1 – Executive Summary**

Provide an Executive Summary of one (1) page or less, which gives in brief concise terms, a summation of the Proposal.

**Tab 2 – City of Austin Purchasing Documents:**

Complete and submit the following documents:

- A. Offer and Award Sheet
- B. Section 0605 - Local Business Presence Identification Form
- C. Section 0700 - Reference Sheets (minimum of 3)
- D. Section 0800 - Non-Discrimination and Non-Retaliation Certification
- E. Section 0815 - Living Wages Contractor Certification
- F. Section 0835 - Non-Resident Bidder Provisions
- G. Section 0900 - Subcontracting/Sub-Consulting Utilization Form
- H. Section 0905 - Subcontracting/Sub-Consulting Utilization Plan (if applicable)
- I. Addendums

**Tab 3 – Authorized Negotiator:**

Include name, address, and telephone number of person in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.

**Tab 4 – Experience & Qualifications:**

Provide the information below:

**A. Company Information**

- i. Full name and address of your company; identify parent company if you are a subsidiary. Indicate whether you operate as a partnership, corporation, or individual. Include the State(s) in which incorporated or licensed to operate and how long your company has been in business
- ii. Number of years the Offeror has provided services related to the Scope of Work.
- iii. Description of Offeror's past experience performing services related to the Scope of Work.

**CITY OF AUSTIN  
PURCHASING OFFICE  
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS  
SOLICITATION NUMBER: RFP 7500 JRD0316**

**B. Company Single Point of Contact / Site Manager**

Provide the name and qualifications of the individual who will serve as the primary point of contact under the Contract. At minimum, include:

- i. Number of years' experience managing crews that provided services related to the Scope of Work.
- ii. Description of the types of services managed by the individual.
- iii. Description of the size of contracts managed by the individual.

**C. Key Personnel**

Include names and contact information for key personnel that will be assigned to the awarded Contract. Include OSHA 10 training documentation for personnel listed or when the training will be completed. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor.

**Tab 5 – Mobilization Plan & Schedule:**

It is the City's intention for the Contractor to provide services at least three (3) weeks after the Contract execution date or within an approved date mutually agreed to between the Contractor and City. Describe your mobilization and staffing plan for providing services described in the Scope of Work.

At minimum, include:

- A. A schedule and description of the preparatory work necessary for you to begin performing services. Include any time considerations necessary for your readiness, if you are unable to begin performing services three weeks after the Contract execution date.
- B. Estimated timeframe to complete the work using City recognized business days.
- C. Provide a mockup of work plan and schedule to complete the repair services.

**Tab 6 – Cost Proposal:**

Provide a quote breaking down the cost to perform the services described in the Scope of Work. Include a breakdown of costs for each building.

For Building 1, be sure to include separate lines for the following (see Attachment A):

- East side including the lobby/atrium
- West side including lobby for west employee parking lot
- North side
- Breezeway

**Tab 7 – Warranty Proposal:**

Indicate the length of warranty offered for the repair services. Written documentation of warranty shall be included with the final invoice.

**Tab 8 – Exceptions to the Proposal: Include this form in your Proposal package (Attachment B)**

The Proposer shall clearly indicate each exception taken and indicate the alternative language along with the business need for the alternative language. The failure to identify exceptions or proposed changes with a full explanation will constitute acceptance by the Proposer of the Solicitation as proposed by the City. The City reserves the right to reject a Proposal containing exceptions, additions, qualifications or conditions not called for in the Solicitation.

**CITY OF AUSTIN  
PURCHASING OFFICE  
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS  
SOLICITATION NUMBER: RFP 7500 JRD0316**

**2. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING:**

- i. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2-7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- ii. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- iii. If a Respondent has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Respondent is given written notice and a hearing in advance of the debarment.
- iv. Offerors submitting Offers and signing the Cover Sheet on this Solicitation agree to Section 0810, Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: <http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

**3. PROPOSAL ACCEPTANCE PERIOD:**

All Proposals are valid for a period of one hundred and eighty (120) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the Proposal.

**4. PROPRIETARY INFORMATION:**

All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt. If a Proposer does not desire proprietary information in the Proposal to be disclosed, each page shall be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information shall be disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

**5. PROPOSAL PREPARATION COST:**

All costs directly or indirectly related to preparation of a response to the RFP or any oral presentation required to supplement and/or clarify a Proposal which may be required by the City shall be the sole responsibility of the Proposer.

**6. EXCEPTIONS:**

Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.

**7. EVALUATION FACTORS AND AWARD:**

- A. **Competitive Selection:** This procurement will comply with applicable City Policy. The successful Proposer will be selected by the City on a rational basis. Evaluation factors outlined in Paragraph B below shall be applied to all eligible, responsive Proposers in comparing proposals and selecting the Best Offeror. Award of a Contract may be made without discussion with Proposers after proposals are received. Proposals should, therefore, be submitted on the most favorable terms.

**CITY OF AUSTIN  
PURCHASING OFFICE  
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS  
SOLICITATION NUMBER: RFP 7500 JRD0316**

**B. Evaluation Factors: Maximum 100 points.**

All Proposals will be evaluated based on the following criteria and rankings.

- |   |                  |
|---|------------------|
| 1. <b>Experience/Qualifications:</b>        | <b>20 points</b> |
| 2. <b>Mobilization Plan &amp; Schedule:</b> | <b>20 points</b> |
| 3. <b>Proposed Cost:</b>                    | <b>40 points</b> |
| 4. <b>Proposed Warranty</b>                 | <b>10 points</b> |
| 5. <b>Local Business Presence:</b>          | <b>10 points</b> |

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

Points will be awarded through a combination of the Proposer's Local Business Presence and/or the Local Business Presence of their subcontractors. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of work as reflected in the Proposer's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. Specify if and by which definition the Proposer or Subcontractor(s) have a local business presence. Local Business Presence shall be scored according to this table:

| <b>Team's Local Business Presence</b>  | <b>Points Awarded</b> |
|--|-----------------------|
| Local business presence of 90% to 100% | 10                    |
| Local business presence of 75% to 89%  | 8                     |
| Local business presence of 50% to 74%  | 6                     |
| Local business presence of 25% to 49%  | 4                     |
| Local presence of between 1 and 24%    | 2                     |
| No local presence                      | 0                     |

6. **Optional Presentations and Demonstrations.** The City will score Proposals on the basis of the criteria listed above. The City may select a "short list" of Offerors based on those scores. "Short-listed" Offerors may be invited for presentations, or demonstrations with the City. The City reserves the right to re-score "short-listed" Proposals as a result, and to make award recommendations on that basis.



# ATTACHMENT B



## CITY OF AUSTIN PURCHASING OFFICE EXCEPTIONS

**Solicitation Number:** 7500 JRD0316

The City will presume that the Offeror is in agreement with all sections of the solicitation unless the Offeror takes specific exception as indicated below. The City, at its sole discretion, may negotiate exceptions to the sections contained in the solicitation documents or the City may deem the Offer non-responsive. The Offeror that is awarded the contract shall sign the contract with the accepted or negotiated sections.

Place this attachment in Tab 8 – Exceptions to your Proposal. Copies of this form may be utilized if additional pages are needed.

☐ Accepted as written.

☐ Not accepted as written. See below:

**Indicate:**

- ☐ **0300 Standard Purchase Terms & Conditions**
- ☐ **0400 Supplemental Purchase Provisions**
- ☐ **0500 Scope of Work**

**Page Number**

**Section Number**

**Section Description**

**Alternative Language:**

**Justification:**

**Section 0605: Local Business Presence Identification**

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

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

|  |     |    |
|--|-----|----|
| Name of Local Firm   |     |    |
| Physical Address   |     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)  | Yes | No |
| or   |     |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years?   | Yes | No |
|  |     |    |
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | Yes | No |
|  |     |    |

**SUBCONTRACTOR(S):**

|   |     |    |
|---|-----|----|
| Name of Local Firm  |     |    |
| Physical Address  |     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)               | Yes | No |
| or  |     |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years | Yes | No |
|   |     |    |

|  |     |    |
|--|-----|----|
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | Yes | No |
|  |     |    |

**SUBCONTRACTOR(S):**

|  |     |    |
|--|-----|----|
| Name of Local Firm   |     |    |
| Physical Address   |     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)  | Yes | No |
| or   |     |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years  | Yes | No |
|  |     |    |
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | Yes | No |
|  |     |    |

**Section 0700: Reference Sheet**

Responding Company Name \_\_\_\_\_

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Project Name \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_ Fax Number (\_\_\_\_) \_\_\_\_\_

Email Address \_\_\_\_\_

2. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Project Name \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_ Fax Number (\_\_\_\_) \_\_\_\_\_

Email Address \_\_\_\_\_

3. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Project Name \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_ Fax Number (\_\_\_\_) \_\_\_\_\_

Email Address \_\_\_\_\_

**City of Austin, Texas**  
**Section 0800**  
**NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

**City of Austin, Texas**

**Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (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, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office 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, 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 City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

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

**City of Austin**  
**Minimum Standard Non-Discrimination and Non-Retaliation 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.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

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 and non-retaliation 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 THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy 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 and the Non-Retaliation Policy.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, 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 payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Title \_\_\_\_\_

**City of Austin, Texas**  
**Section 0805**  
**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. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

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

**CITY OF AUSTIN, TEXAS  
SECTION 0810  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION**

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

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:

- a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
- b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.

2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.

5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.

6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:

- a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$100 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror. and
  - c. does not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.
7. As required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7th) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:

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

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

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation with any solicitation responses on separate pages to be annexed hereto.

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

**Section 0815: Living Wages Contractor Certification**

Company Name \_\_\_\_\_

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.50 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.50 per hour.

| Employee Name | Employee Job Title |
|---------------|--------------------|
|               |                    |
|               |                    |
|               |                    |
|               |                    |
|               |                    |
|               |                    |

**\*USE ADDITIONAL PAGES AS NECESSARY\***

- (1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.50 per hour.
- (2) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each affected employee the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision or fraudulent statements made on this certification may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment, or result in legal action.

**Section 0835: Non-Resident Bidder Provisions**

Company Name \_\_\_\_\_

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

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

Answer: \_\_\_\_\_

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.  
(2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_ Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_

**Section 0900: SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM**

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form**

SOLICITATION NUMBER: JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation. However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

**Instructions:**

- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.  
b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. **Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.**

☐ **NO, I DO NOT intend to use Subcontractors/Sub-consultants.**

**Instructions:** Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

☐ **YES, I DO intend to use Subcontractors /Sub-consultants.**

**Instructions:** Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

| Offeror Information                                  |  |               |  |
|--|--|---------------|--|
| Company Name   |  |               |  |
| City Vendor ID Code                                  |  |               |  |
| Physical Address                                     |  |               |  |
| City, State Zip                                      |  |               |  |
| Phone Number   |  | Email Address |  |
| Is the Offeror<br>City of Austin M/WBE<br>certified? | <div><input type="checkbox"/> NO</div> <div><input type="checkbox"/> YES      Indicate one: <input type="checkbox"/> MBE    <input type="checkbox"/> WBE    <input type="checkbox"/> MBE/WBE Joint Venture</div> |               |  |

**Offeror Certification:** I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed **Subcontracting/Sub-Consulting Utilization Form**, and if applicable my completed **Subcontracting/Sub-Consulting Utilization Plan**, shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the **Request For Change** form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form.

\_\_\_\_\_  
Name and Title of Authorized Representative (Print or Type)

\_\_\_\_\_  
Signature/Date



**Section 0905: SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN**

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan**

SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

INSTRUCTIONS: Offerors who DO intend to use Subcontractors may utilize M/WBE Subcontractor(s) or perform Good Faith efforts when retaining Non-certified Subcontractor(s). Offerors must determine which type of Subcontractor(s) they are anticipating to use (CERTIFIED OR NON-CERTIFIED), check the box of their applicable decision, and comply with the additional instructions associated with that particular selection.

- ☐ I intend to use City of Austin CERTIFIED M/WBE Subcontractor/Sub-consultant(s).

Instructions: Offerors may use Subcontractor(s) that ARE City of Austin certified M/WBE firms. Offerors shall contact SMBR (512-974-7600 or [SMBRComplianceDocuments@austintexas.gov](mailto:SMBRComplianceDocuments@austintexas.gov)) to confirm if the Offeror's intended Subcontractor(s) are City of Austin certified M/WBE and if these firm(s) are certified to provide the goods and services the Offeror intends to subcontract. If the Offeror's Subcontractor(s) are current valid certified City of Austin M/WBE firms, the Offeror shall insert the name(s) of their Subcontractor(s) into the table below and must include the following documents in their sealed Offer:

- Subcontracting/Sub-Consulting Utilization Form (completed and signed)
- Subcontracting/Sub-Consulting Utilization Plan (completed)

- ☐ I intend to use NON-CERTIFIED Subcontractor/Sub-Consultant(s) after performing Good Faith Efforts.

**Instructions:** Offerors may use Subcontractors that ARE NOT City of Austin certified M/WBE firms ONLY after Offerors have first demonstrated Good Faith Efforts to provide subcontracting opportunities to City of Austin M/WBE firms.

STEP ONE: Contact SMBR for an availability list for the scope(s) of work you wish to subcontract;

STEP TWO: Perform Good Faith Efforts (Check List provided below);

STEP THREE: Offerors shall insert the name(s) of their certified or non-certified Subcontractor(s) into the table below and must include the following documents in their sealed Offer:

- Subcontracting/Sub-Consulting Utilization Form (completed and signed)
- Subcontracting/Sub-Consulting Utilization Plan (completed)
- All required documentation demonstrating the Offeror's performance of Good Faith Efforts (see Check List below)

**GOOD FAITH EFFORTS CHECK LIST –**

When using NON-CERTIFIED Subcontractor/Sub-consultants(s), **ALL** of the following **CHECK BOXES MUST** be completed in order to meet and comply with the Good Faith Effort requirements and all documentation must be included in your sealed Offer. Documentation CANNOT be added or changed after submission of the bid.

- ☐ **Contact SMBR.** Offerors shall contact SMBR (512-974-7600 or [SMBRComplianceDocuments@austintexas.gov](mailto:SMBRComplianceDocuments@austintexas.gov)) to obtain a list of City of Austin certified M/WBE firms that are certified to provide the goods and services the Offeror intends to subcontract out. (Availability List). Offerors shall document their contact(s) with SMBR in the "SMBR Contact Information" table on the following page.
- ☐ **Contact M/WBE firms.** Offerors shall contact all of the M/WBE firms on the Availability List with a Significant Local Business Presence which is the **Austin Metropolitan Statistical Area**, to provide information on the proposed goods and services proposed to be subcontracted and give the Subcontractor the opportunity to respond on their interest to bid on the proposed scope of work. When making the contacts, Offerors shall use at least two (2) of the following communication methods: email, fax, US mail or phone. Offerors shall give the contacted M/WBE firms at least seven days to respond with their interest. Offerors shall document all evidence of their contact(s) including: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan**

SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

- ☐ **Follow up with responding M/WBE firms.** Offeror shall follow up with all M/WBE firms that respond to the Offeror's request. Offerors shall provide written evidence of their contact(s): emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.
  
- ☐ **Advertise.** Offerors shall place an advertisement of the subcontracting opportunity in a local publication (i.e. newspaper, minority or women organizations, or electronic/social media). Offerors shall include a copy of their advertisement, including the name of the local publication and the date the advertisement was published.
  
- ☐ **Use a Community Organization.** Offerors shall solicit the services of a community organization(s); minority persons/women contractors'/trade group(s); local, state, and federal minority persons/women business assistance office(s); and other organizations to help solicit M/WBE firms. Offerors shall provide written evidence of their Proof of contact(s) include: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, organization contacted, phone number, email address and contact person.

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan**

SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

*(Offerors may duplicate this page to add additional Subcontractors as needed)*

| Subcontractor/Sub-consultant                        |  |
|---|--|
| City of Austin Certified                            | <input type="checkbox"/> MBE <input type="checkbox"/> WBE Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED |
| Vendor ID Code                                      |  |
| Contact Person                                      | Phone Number:  |
| Additional Contact Info                             | Fax Number: E-mail:  |
| Amount of Subcontract                               | \$   |
| List commodity codes & description of services      |  |
| Justification for not utilizing a certified MBE/WBE |  |

| Subcontractor/Sub-consultant                        |  |
|---|--|
| City of Austin Certified                            | <input type="checkbox"/> MBE <input type="checkbox"/> WBE Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED |
| Vendor ID Code                                      |  |
| Contact Person                                      | Phone Number:  |
| Additional Contact Info                             | Fax Number: E-mail:  |
| Amount of Subcontract                               | \$   |
| List commodity codes & description of services      |  |
| Justification for not utilizing a certified MBE/WBE |  |

| SMBR Contact Information |              |   |                    |
|--------------------------|--------------|---|--------------------|
| SMBR Contact Name        | Contact Date | Means of Contact  | Reason for Contact |
|                          |              | <input type="checkbox"/> Phone<br><b>OR</b><br><input type="checkbox"/> Email |                    |

**FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:**

Having reviewed this plan, I acknowledge that the Offeror ☐ HAS or ☐ HAS NOT complied with these instructions and City Code Chapters 2-9A/B/C/D, as amended.

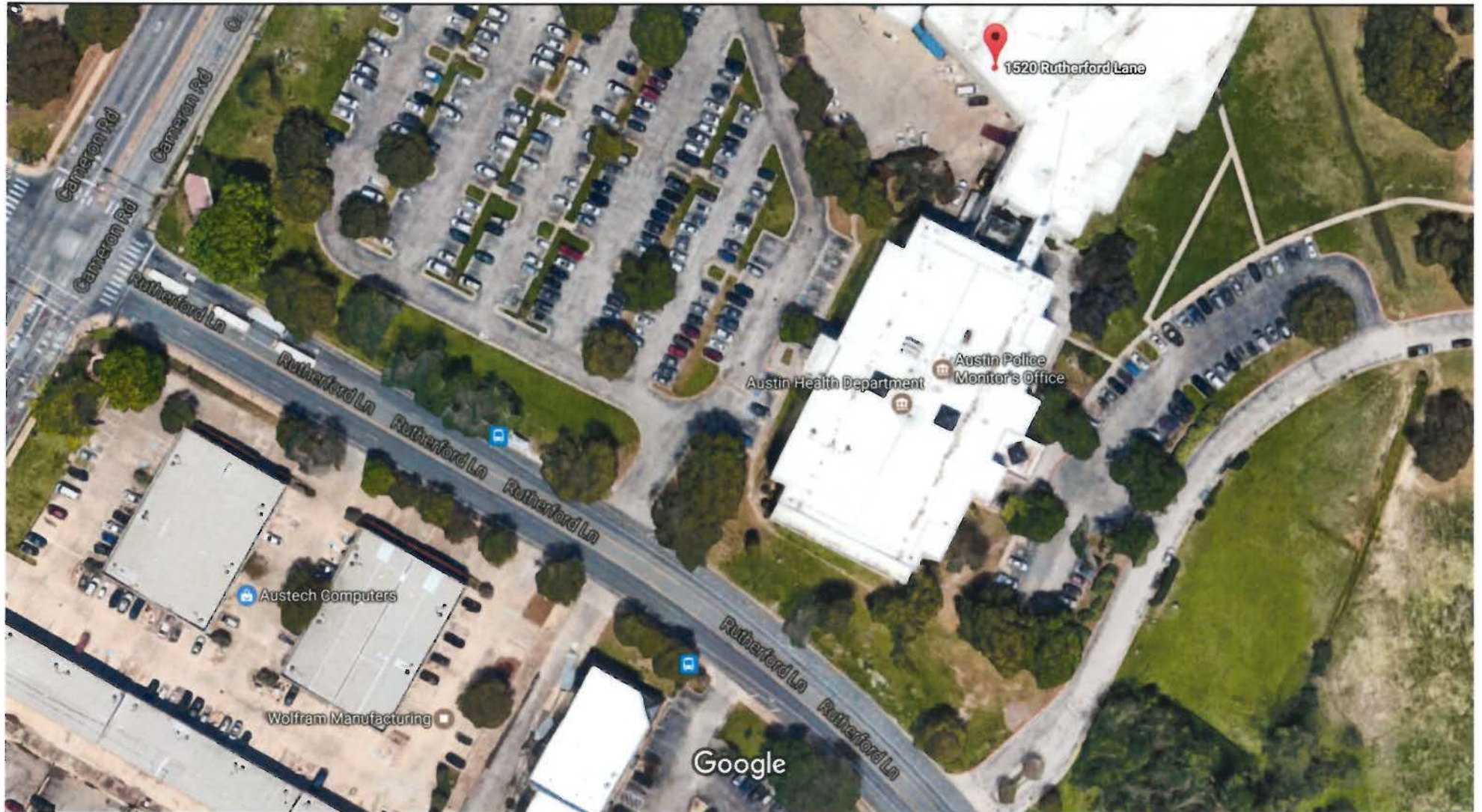
\_\_\_\_\_  
Reviewing Counselor

\_\_\_\_\_  
Date

I have reviewed the completing the Subcontracting/Sub-Consultant Utilization Plan and ☐ Concur ☐ Do Not Concur with the Reviewing Counselor's recommendation.

\_\_\_\_\_  
Director/Assistant Director or Designee

\_\_\_\_\_  
Date





ITEM #3  
NORTH  
ELEVATION

ITEM #2  
WEST  
ELEVATION

ITEM #4  
BRECKENWAY

ITEM #1  
EAST ELEVATION

Austin Health Department

Austin Police  
Monitor's Office

Austech Computers

Wolfram Manufacturing

ITEM # 1





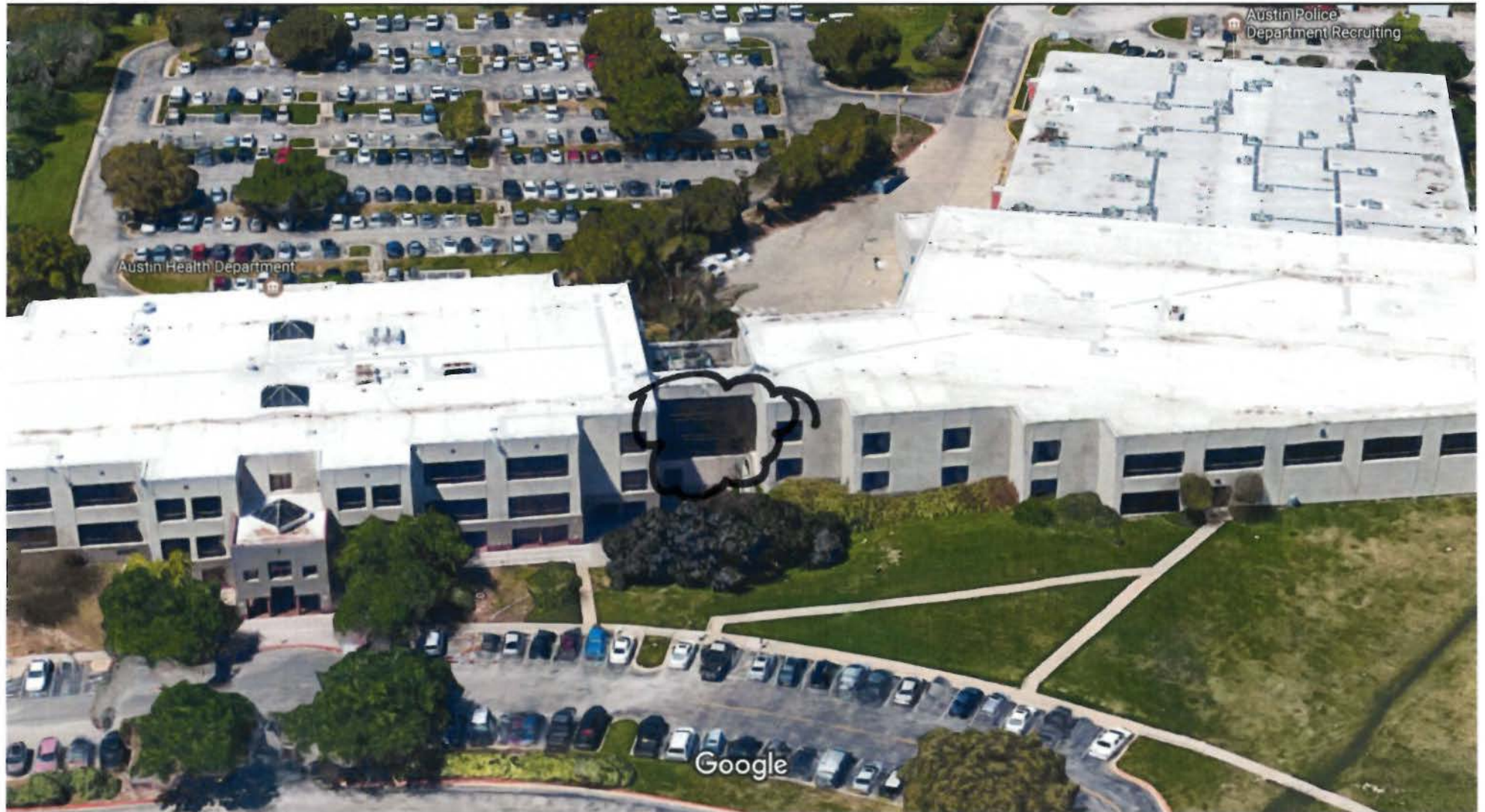




ITEM # 3







# ATTACHMENT B



## CITY OF AUSTIN PURCHASING OFFICE EXCEPTIONS

**Solicitation Number:** 7500 JRD0316

The City will presume that the Offeror is in agreement with all sections of the solicitation unless the Offeror takes specific exception as indicated below. The City, at its sole discretion, may negotiate exceptions to the sections contained in the solicitation documents or the City may deem the Offer non-responsive. The Offeror that is awarded the contract shall sign the contract with the accepted or negotiated sections.

Place this attachment in Tab 8 – Exceptions to your Proposal. Copies of this form may be utilized if additional pages are needed.

☐ Accepted as written.

☐ Not accepted as written. See below:

**Indicate:**

- ☐ **0300 Standard Purchase Terms & Conditions**
- ☐ **0400 Supplemental Purchase Provisions**
- ☐ **0500 Scope of Work**

**Page Number**

**Section Number**

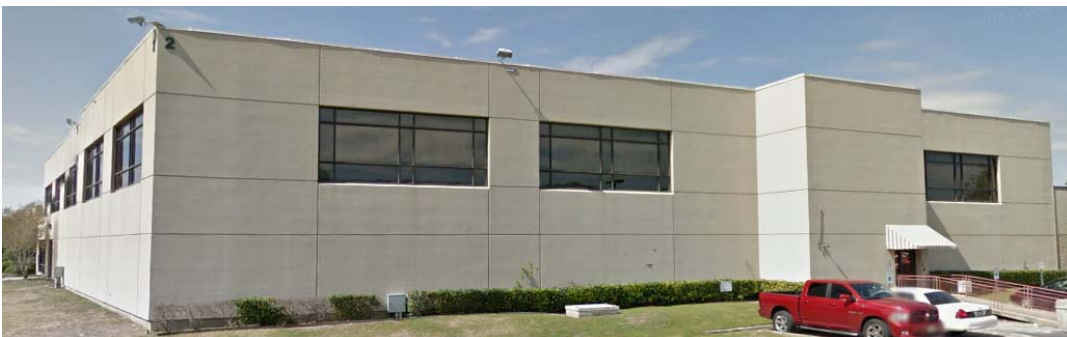
**Section Description**

**Alternative Language:**

**Justification:**



## Attachment C – Building 2 Images



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| <b>TAB 3</b> | <b>AUTHORIZED NEGOTIATOR</b>                   |
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| <b>TAB 5</b> | <b>MOBILIZATION PLAN &amp; SCHEDULE</b>        |
| <b>TAB 6</b> | <b>COST PROPOSAL</b>                           |
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**Tab 1      Executive Summary**

**To comply with the specifications of the City of Austin for the window repairs at 1520 Rutherford Lane, Bldgs 1 & 2. Our proposal is for 100% of all windows at both Bldgs 1 & 2 which includes the window glazing, window perimeters, and the metal to metal details at all windows. We will access all work by using a manlift. Test will be done by manufacturer to insure proper installation and warranty. Warranty period for this scope is twenty (20) years.**

### INTERESTED PARTIES DISCLOSURE

In addition, Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 "Certificate of Interested Parties" that is signed and notarized for a contract award requiring council authorization. The "Certificate of Interested Parties" form must be completed on the Texas Ethics Commission website, printed, signed and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution.

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: Western Specialty Contractors of America  
Company Address: 9468 Corporate Drive  
City, State, Zip: Selma, TX 78154  
Federal Tax ID No.                       
Printed Name of Officer or Authorized Representative: Dan Wicht  
Title: Branch Manager  
Signature of Officer or Authorized Representative:   
Date: 5/16/2017  
Email Address: danw@westerngroup.com  
Phone Number: 210-340-2264

\* Proposal response must be submitted with this Offer sheet to be considered for award



**Section 0605: Local Business Presence Identification**

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

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

|  |  |    |
|--|--|----|
| Name of Local Firm   | Western Specialty Contractors of America |    |
| Physical Address   | 9468 Corporate Drive Selma, TX 78154     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)  | X Yes                                    | No |
| or   |  |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years?   | X Yes                                    | No |
|  |  |    |
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | X Yes                                    | No |
|  |  |    |

**SUBCONTRACTOR(S):**

|   |     |    |
|---|-----|----|
| Name of Local Firm  |     |    |
| Physical Address  |     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)               | Yes | No |
| or  |     |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years | Yes | No |
|   |     |    |



|  |     |    |
|--|-----|----|
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | Yes | No |
|  |     |    |

**SUBCONTRACTOR(S):**

|  |     |    |
|--|-----|----|
| Name of Local Firm   |     |    |
| Physical Address   |     |    |
| Is your headquarters located in the Corporate City Limits? (circle one)  | Yes | No |
| or   |     |    |
| Has your branch office been located in the Corporate City Limits for the last 5 years  | Yes | No |
|  |     |    |
| Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?) | Yes | No |
|  |     |    |

**Section 0700: Reference Sheet**Responding Company Name Western Specialty Contractors of America

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name Erwin Center  
Name and Title of Contact Jimmy Earl     Director  
Project Name Erwin Center  
Present Address 1701 Red River St  
City, State, Zip Code Austin, TX     78701  
Telephone Number ( 512 ) 471-4716 Fax Number (     )  
Email Address jimmy.earl@erwin.utexas.edu
  
2. Company's Name Transwestern  
Name and Title of Contact Kathryn Swift     General Manager  
Project Name Research Park Plaza Bldg III, IV & PG  
Present Address 12301 Research Blvd     Bldg IV Ste 190  
City, State, Zip Code Austin, TX     78759  
Telephone Number ( 512 ) 336-9376 Fax Number (     )  
Email Address kathryn.swift@transwestern.com
  
3. Company's Name Garland Company  
Name and Title of Contact Clayton Daniels     Territory Manager  
Project Name ACC Northridge  
Present Address 3800 E. 91 ST  
City, State, Zip Code Cleveland, OH     44105  
Telephone Number ( 512 ) 994-5544 Fax Number ( 216 ) 641-0633  
Email Address cdaniels@garlandind.com

**City of Austin, Texas**  
**Section 0800**  
**NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

**City of Austin, Texas**  
**Equal Employment/Fair Housing Office**

To City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (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, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office 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, 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 City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

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

**City of Austin**  
**Minimum Standard Non-Discrimination and Non-Retaliation 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.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

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 and non-retaliation 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 THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy 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 and the Non-Retaliation Policy.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, 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 payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 16th day of May, 2017

CONTRACTOR Western Specialty Contractors

Authorized Signature

Title

Branch Manager

**Section 0815: Living Wages Contractor Certification**

Company Name Western Specialty Contractors of America

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.50 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.50 per hour.

| Employee Name  | Employee Job Title |
|----------------|--------------------|
| Kandace Mann   | Foreman            |
| Alfred Soriano | Caulker            |
| John Smith     | Caulker            |
|                |                    |
|                |                    |
|                |                    |

**\*USE ADDITIONAL PAGES AS NECESSARY\***

- (1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.50 per hour.
- (2) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each affected employee the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision or fraudulent statements made on this certification may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment, or result in legal action.

**Section 0835: Non-Resident Bidder Provisions**

Company Name Western Specialty Contractors of America

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

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

Answer: Resident Bidder

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.  
(2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

- B If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_ Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_



**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form**

**SOLICITATION NUMBER:** JRD0316

**SOLICITATION TITLE:** REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation. However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

**Instructions:**

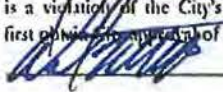
- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.  
b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.

☒ **NO, I DO NOT** intend to use Subcontractors/Sub-consultants.

Instructions: Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

☐ **YES, I DO** intend to use Subcontractors/Sub-consultants.

Instructions: Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

| Offeror Information  |   |                |                       |
|--|---|----------------|-----------------------|
| Company Name   | Western Specialty Contractors of America  |                |                       |
| City Vendor ID Code  | Western Group V00000925194  |                |                       |
| Physical Address   | 9468 Corporate Drive  |                |                       |
| City, State Zip  | Selma, TX 78154   |                |                       |
| Phone Number   | 210-340-2264  | Email Address  | danw@westerngroup.com |
| Is the Offeror City of Austin M/WBE certified?   | <input checked="" type="checkbox"/> NO<br><input type="checkbox"/> YES Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture |                |                       |
| <p><b>Offeror Certification:</b> I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed Subcontracting/Sub-Consulting Utilization Form, and if applicable my completed Subcontracting/Sub-Consulting Utilization Plan, shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the Request For Change form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my Subcontracting/Sub-Consulting Utilization Plan, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my Request for Change form. I understand that, if a Subcontractor is not listed in my Subcontracting/Sub-Consulting Utilization Plan, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my Request for Change form.</p> <p><u>Dan Wicht Branch Manager</u>  5/16/2017</p> |   |                |                       |
| Name and Title of Authorized Representative (Print or Type)  |   | Signature/Date |                       |

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM**

**Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan**

SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

*(Offerors may duplicate this page to add additional Subcontractors as needed)*

| Subcontractor/Sub-consultant                        |  |
|---|--|
| City of Austin Certified                            | <input type="checkbox"/> MBE <input type="checkbox"/> WBE Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED |
| Vendor ID Code                                      |  |
| Contact Person                                      | Phone Number:  |
| Additional Contact Info                             | Fax Number: E-mail:  |
| Amount of Subcontract                               | \$   |
| List commodity codes & description of services      |  |
| Justification for not utilizing a certified MBE/WBE |  |

| Subcontractor/Sub-consultant                        |  |
|---|--|
| City of Austin Certified                            | <input type="checkbox"/> MBE <input type="checkbox"/> WBE Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED |
| Vendor ID Code                                      |  |
| Contact Person                                      | Phone Number:  |
| Additional Contact Info                             | Fax Number: E-mail:  |
| Amount of Subcontract                               | \$   |
| List commodity codes & description of services      |  |
| Justification for not utilizing a certified MBE/WBE |  |

| SMBR Contact Information |              |  |                    |
|--------------------------|--------------|--|--------------------|
| SMBR Contact Name        | Contact Date | Means of Contact   | Reason for Contact |
|                          |              | <input type="checkbox"/> Phone<br>OR<br><input type="checkbox"/> Email |                    |

**FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:**

Having reviewed this plan, I acknowledge that the Offeror ☐ HAS or ☒ HAS NOT complied with these instructions and City Code Chapters 219A/B/C/D as amended.

\_\_\_\_\_  
Reviewing Counselor Date

I have reviewed the completing the Subcontracting/Sub-Consultant Utilization Plan and ☐ Concur ☒ Do Not Concur with the Reviewing Counselor's recommendation.

\_\_\_\_\_  
Director/Assistant Director or Designee Date



**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
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SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

**INSTRUCTIONS:** Offerors who DO intend to use Subcontractors may utilize M/WBE Subcontractor(s) or perform Good Faith efforts when retaining Non-certified Subcontractor(s). Offerors must determine which type of Subcontractor(s) they are anticipating to use (CERTIFIED OR NON-CERTIFIED), check the box of their applicable decision, and comply with the additional instructions associated with that particular selection.

- ☐ I intend to use City of Austin CERTIFIED M/WBE Subcontractor/Sub-consultant(s).

**Instructions:** Offerors may use Subcontractor(s) that ARE City of Austin certified M/WBE firms. Offerors shall contact SMHR (512-974-7600 or [SMHRComplianceDocuments@austintexas.gov](mailto:SMHRComplianceDocuments@austintexas.gov)) to confirm if the Offeror's intended Subcontractor(s) are City of Austin certified M/WBE and if these firm(s) are certified to provide the goods and services the Offeror intends to subcontract. If the Offeror's Subcontractor(s) are current valid certified City of Austin M/WBE firms, the Offeror shall insert the name(s) of their Subcontractor(s) into the table below and must include the following documents in their sealed Offer:

- Subcontracting/Sub-Consulting Utilization Form (completed and signed)
- Subcontracting/Sub-Consulting Utilization Plan (completed)

- ☐ I intend to use NON-CERTIFIED Subcontractor/Sub-Consultant(s) after performing Good Faith Efforts.

**Instructions:** Offerors may use Subcontractors that ARE NOT City of Austin certified M/WBE firms ONLY after Offerors have first demonstrated Good Faith Efforts to provide subcontracting opportunities to City of Austin M/WBE firms.

**STEP ONE:** Contact SMHR for an availability list for the scope(s) of work you wish to subcontract;

**STEP TWO:** Perform Good Faith Efforts (Check List provided below);

**STEP THREE:** Offerors shall insert the name(s) of their certified or non-certified Subcontractor(s) into the table below and must include the following documents in their sealed Offer:

- Subcontracting/Sub-Consulting Utilization Form (completed and signed)
- Subcontracting/Sub-Consulting Utilization Plan (completed)
- All required documentation demonstrating the Offeror's performance of Good Faith Efforts (see Check List below)

**GOOD FAITH EFFORTS CHECK LIST -**

When using NON-CERTIFIED Subcontractor/Sub-consultant(s), **ALL** of the following **CHECK BOXES MUST** be completed in order to meet and comply with the Good Faith Effort requirements and all documentation must be included in your sealed Offer. Documentation **CANNOT** be added or changed after submission of the bid.

- ☐ **Contact SMHR.** Offerors shall contact SMHR (512-974-7600 or [SMHRComplianceDocuments@austintexas.gov](mailto:SMHRComplianceDocuments@austintexas.gov)) to obtain a list of City of Austin certified M/WBE firms that are certified to provide the goods and services the Offeror intends to subcontract out. (Availability List). Offerors shall document their contact(s) with SMHR in the "SMHR Contact Information" table on the following page.
- ☐ **Contact M/WBE firms.** Offerors shall contact all of the M/WBE firms on the Availability List with a Significant Local Business Presence which is the Austin Metropolitan Statistical Area, to provide information on the proposed goods and services proposed to be subcontracted and give the Subcontractor the opportunity to respond on their interest to bid on the proposed scope of work. When making the contacts, Offerors shall use at least two (2) of the following communication methods: email, fax, US mail or phone. Offerors shall give the contacted M/WBE firms at least seven days to respond with their interest. Offerors shall document all evidence of their contact(s) including: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan

SOLICITATION NUMBER: RFP JRD0316

SOLICITATION TITLE: REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS

- ☐ Follow up with responding M/WBE firms. Offeror shall follow up with all M/WBE firms that respond to the Offeror's request. Offerors shall provide written evidence of their contact(s): emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.
- ☐ Advertise. Offerors shall place an advertisement of the subcontracting opportunity in a local publication (i.e. newspaper, minority or women organizations, or electronic/social media). Offerors shall include a copy of their advertisement, including the name of the local publication and the date the advertisement was published.
- ☐ Use a Community Organization. Offerors shall solicit the services of a community organization(s); minority persons/women contractors'/trade group(s); local, state, and federal minority persons/women business assistance office(s); and other organizations to help solicit M/WBE firms. Offerors shall provide written evidence of their Proof of contact(s) include: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, organization contacted, phone number, email address and contact person.



**ADDENDUM  
REQUEST FOR PROPOSAL  
REMOVE AND REPLACE WINDOW SEALING AT RUTHERFORD LANE CAMPUS  
CITY OF AUSTIN, TEXAS**

**RFP: JRD0316**

**Addendum No: 1**

**Date of Addendum: May 8, 2017**

This addendum is to incorporate the following changes to the above-referenced solicitation.

**1.0 Delete the original Section 0600 – (RFP) Proposal Preparation Instructions and replace with Section 0600 – (RFP) Proposal Preparation Instructions – UPDATED 5/8/2017.**

**2.0 Questions and Answers.**

**(Q1) Are there any images available for Building 2?**

**(A1) Attachment C – Building 2 Images was added showing the different windows on Building 2, which consist of four windows over the docks on the west side; four multi floor windows, five elevated windows, one ground level, and one door on the east side; and three elevated windows and a door on the north side of the building.**

**(Q2) Do the windows on the south side of Building 1 need to be repaired?**

**(A2) No, these windows have already been repaired within the past few years.**

**(Q3) The gaskets on the window may be an integral part of the window, if so, do we need to remove?**

**(A3) The City is seeking the best proposal for sealing the windows for an extended length of time. In your proposal, please explain your repair approach and why you think it is the best alternative for the City.**

**(Q4) Are the doors on the buildings included?**

**(A4) Yes, repairs should be made to all glass areas including doors.**

**(Q5) I am not sure if I need to subcontract right now, can I decide to subcontract after the contract award?**

**(A5) Yes, if you decide you want to subcontract after the contract is award, you can contact the Small and Minority Business Resources department (SMBR) at (512) 974-7600 and follow the Good Faith Efforts at that time.**

**(Q6) I think I want to subcontract, but not sure of the dollar amount I will subcontract since it will be job specific, do I need to put the subcontracting values on the 0900 form?**

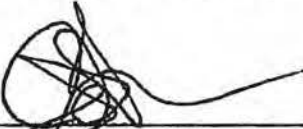
**(A6) Section 0900 – No Goals Form was developed by SMBR. It is our understanding that an estimated subcontracting amount should be included on the form. However, please contact SMBR at (512) 974-7600 for assistance in correctly completing Section 0900 – No Goals Form.**



3.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURES affixed below, this Addendum is hereby incorporated into and made a part of the above-referenced Invitation for Bid.

APPROVED BY:

  
Jonathan Dalchau, Procurement Specialist IV  
Purchasing Office

5/8/2017  
Date

ACKNOWLEDGED BY:

Western Specialty Contractors of America  
Vendor Name

  
Authorized Signature

5/16/2017  
Date

**RETURN A COPY OF THIS ADDENDUM**  
to the Purchasing Office, City of Austin, Texas with your bid.  
Failure to do so may constitute grounds for rejection of your bid.

**Authorized Negotiator**

**Mackey Welch      Department Manager**  
**10421 Old Manchaca Road Ste 520**  
**Austin, TX 78748**  
**512-745-6427**

**Tab 4**

**Experience and Qualifications**

**A. Company Information**

- i. Western Specialty Contractors of America**  
9468 Corporate Drive  
Selma, TX 78154  
Corporation  
Texas
- ii. 103 Years**
- iii. Waterproofing business for 103 years**

**B. Company Single Point of Contact/Site Manager**

- Mackey Welch 512-745-6427 [mackeyw@westerngroup.com](mailto:mackeyw@westerngroup.com)**
- i. 30 years**
  - ii. Exterior building maintenance and Waterproofing**
  - iii. 2 million to two thousand**

**C. Key Personnel**

**Mackey Welch Department Manager 512-745-6427**  
**Steve Lindley Superintendent 512-718-1347**  
**Kandace Mann Foreman 512-433-6655**  
**Alfred Soriano Caulker 512-433-6655**  
**John Smith Caulker 512-433-6655**

## **TAB 5 MOBILIZATION PLAN & SCHEDULE**

**We will mobilize at the Northwest corner of the project moving in a clockwise direction with a 40' manlift. All work areas will be barricaded off to keep pedestrians out of work areas. We will provide a schedule to show owners of weekly progress. All work areas to be kept clean daily. Lift will be secured at the end of each day for public safety. Two month completion.**



## GENERAL TERMS OF THE CONTRACT

**1. CHANGES IN THE WORK.** It is understood that the type of work called for in this Agreement may require changes as the work progresses. Contractor will perform changes in the work (including changes requested by Customer) only after consultation with the Customer, and execution of a written agreement covering the changes in the scope of the work including any changes in Contract Price and time for performance.

**2. PAYMENT TERMS.** Payment of the Contract Price, shall be made monthly upon receipt of an invoice for portion of the Work performed during that month. If any invoice remains unpaid to the 20th day following receipt by Customer, Customer agrees to pay Contractor interest at the rate of ten percent (10%) per annum from the due date until paid.

**3. TAXES.** Contractor's price includes applicable taxes imposed on the work or materials included in this contract, to the extent required by law to be collected by Contractor. Such taxes may be separately itemized on invoices.

**4. SECURITY FOR PAYMENT.** Customer understands that if Contractor is not paid it can assert a lien against the property. Contractor will issue waivers of its lien rights only to the extent it receives payment.

**5. DELAYS AND CLAIMS.**

**A. Liability Only for Acts Within Contractor's Control.** Contractor will be excused and will not be liable for any damages, whether direct, incidental or consequential, for any delay or failure in performance (including but not limited to delays due to strikes, fires, accidents, acts of God and delays in performance by Contractor's suppliers and carriers) except to the extent caused by, or within the direct control of Contractor.

**B. Notice of Claims, When.** Any claims by Customer against Contractor must be presented in writing with particulars to Contractor within twenty days after they arise; otherwise Contractor shall have no responsibility or liability for such claims.

**6. INSURANCE AND INDEMNIFICATION.**

**A. Customer shall purchase and maintain property insurance on its property and liability insurance to cover the acts or omissions of its agents and employees at the Site.**

**B. Contractor maintains insurance as shown on the attached Insurance Addendum. A certificate showing coverage limits and Carriers will be issued to Customer prior to beginning work at the Site.**

**C. Contractor agrees to indemnify Customer from any loss, damage or expense which Customer suffers as a result of claims asserted against Customer by third parties (including Contractor's employees) which arise out of Contractor's work at the Site, to the extent caused by the negligent acts or omissions of Contractor or anyone for whom Contractor is responsible. Customer agrees to indemnify Contractor for any loss, damage or expense, which Contractor suffers as a result of claims asserted against Contractor by third parties (including Customer's employees) which arise out of Customer's activities at the Site, to the extent caused by the negligent acts or omissions of Customer or anyone for whom Customer is responsible.**

**7. LIMITED WARRANTY AND EXCLUSIVE REMEDIES.**

**A. Workmanship.** For a period of one year from the date of substantial completion of Contractor's Work covered hereby, Contractor warrants that it will promptly repair or replace any improper or defective workmanship performed by Contractor under this contract; provided that Contractor has been paid for all work performed, and Contractor has received written notice from Customer of any such defective workmanship within 20 days after Customer first becomes aware thereof (provided such is within the aforesaid one-year period). Contractor will not pay for any inspections or repairs performed by others prior to receipt of notice and a reasonable opportunity to make repairs, if warranted.

**B. Warranty on Materials.** Contractor warrants that it will use only new materials unless specified otherwise in this Contract, and will deliver to Customer standard warranties as issued by the manufacturer of the materials, if available. Contractor shall have no obligation under any such manufacturer's warranty, and shall not be required to seek changes to terms of such standard warranties.

**C. Disclaimer of Other Warranties.** THE PROVISIONS IN PARAGRAPHS A AND B ARE THE EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER AND ARE EXPRESSLY IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

**D. Mold Exclusion.** Contractor specifically excludes from any and all warranties connected with this Work any warranty against the growth, infestation or spread of mold, mildew, or other fungal, bacterial or biological substance however caused.

**8. OBLIGATIONS OF CUSTOMER AT SITE OF WORK**

**A. Site Conditions.** For work performed by Contractor at the site, Customer shall provide without charge to Contractor (i) sufficient and proper space for handling and storing the materials and equipment of Contractor;; (ii) sufficient power and water for the performance of the Work; (iii) removal of all obstructions to performing the Work as economically as possible.

**B. Unanticipated Conditions.** If Contractor encounters unanticipated conditions or structural features, not reasonably ascertainable upon such inspection or testing as was allowed by Customer, Contractor will so advise Customer, and the parties will work out a mutually acceptable adjustment to the Work, the Contract Price, and the time of completion prior to continuation of the work.

**C. Asbestos, Lead, Mold and PCB.** Contractor specifically excludes the abatement of any hazardous material, including but not limited to asbestos, lead, mold or polychlorinated biphenyl ("PCB"). Customer warrants that the Work will not expose Contractor's workers or any other persons to contact with or exposure to such substances. If Contractor encounters material reasonably believed to be asbestos, lead mold or PCB or other hazardous substance which has not been rendered harmless, Contractor shall immediately stop Work in the area affected and report the condition to the Customer. The Work in the affected area shall not thereafter be resumed except by written agreement of the Customer and Contractor. The Work in the affected area shall be resumed in the absence of such hazardous substance, or when it has been rendered harmless and so agreed in writing by the Customer and Contractor. All cost of testing for, removal of, or to render asbestos, lead, mold or PCB harmless, shall be born by Customer.

**9. DEFAULT BY CUSTOMER.** If Customer fails, or is unable for any reason, to make any payment when due, or prevents Contractor from completing its Work in a timely and uninterrupted manner, or fails to comply with any term, condition or provision of this Contract, Contractor may resort to any remedy available to it by this Contract, or by law.

**10. REMEDIES OF CONTRACTOR.** In case of any default by Customer, including but not limited to failure to make timely payment, Contractor may, after reasonable notice and opportunity to cure, which need not exceed seven (7) days; (a) suspend all work at the site (b) demand payment of the contract price, less a sum equal to Contractor's cost of any labor and materials not yet furnished or ordered, (c) remove its equipment and any unused material from the Premises, (d) terminate the contract and demand payments referred to in item (b) above and, (e) pursue such other or additional remedies as may be provided by law.

**11. DISPUTE RESOLUTION.** The parties shall attempt to resolve disputes between themselves, using more senior officials of their respective organizations if necessary, and prior to the institution of any legal action, they agree to meet with a mutually agreeable or, upon mutual application, court appointed mediator for a minimum of one five hour session. In any such dispute resolution, each party shall bear their own expenses. In the event of any legal action to enforce the terms of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees from the other.

**12. HOURS OF WORK.** Contractor is obligated to perform the Work only during its regular working hours and has no responsibility to work beyond such regular hours. All time beyond regular hours which is required by Customer shall be paid for by Customer in addition to the contract price, at applicable premium rates of pay.

**13. ENTIRE AGREEMENT.** This Contract constitutes the entire agreement between the parties. No representations, statements, correspondence or discussions between Contractor and Customer or Customer's Representative shall be a part of this Contract unless specifically referred to in this Contract.

**14. MODIFICATION.** No waiver, alteration or modification of the terms and conditions of this Contract shall be binding unless said waiver, alteration or modification be in writing and signed by a duly authorized representative of each party.



**TAB 7    WARRANTY PROPOSAL**

**Dow twenty (20) year VIP warranty**

DOW CORNING

**Dow Corning**

*Your partner in building the future*  
**CONSTRUCTION SOLUTIONS**



Document Id -

**DOW CORNING® SILICONE BUILDING SEALANTS  
WEATHERSEAL LIMITED WARRANTY**

**Project**

Project Name:

Project Address:

**Dow Corning**

(hereafter referred to as "Dow Corning")

**Warranty Recipient / Contractor**

**Building Owner**

Applicable terms and conditions on the following pages.



Document Id -

**DOW CORNING® SILICONE BUILDING SEALANTS  
WEATHERSEAL LIMITED WARRANTY**

**Warranty Number:**

**Warranty Effective Date:**

**Warranty Duration:**                      years  
hereafter referred to as "Warranty Duration Period"

**Dow Corning® Product(s):**  
  
hereafter referred to as "Dow Corning® Product"

Thank you for selecting DOW CORNING® brand silicone products for your project.

When tested and installed as outlined in Section A below, Dow Corning warrants to you, the Building Owner, that the Dow Corning® silicone building sealants indicated above will provide a watertight weatherseal for the Warranty Duration Period from the Warranty Effective Date.

**A. GENERAL REQUIREMENTS**

In order to obtain this warranty, the building owner is responsible to ensure:

- a. The Dow Corning product is applied in strict compliance with Dow Corning's published or electronic recommended application procedures and in accordance with any project specific recommendations from Dow Corning.
- b. The Dow Corning product is used with compatible materials and substrates (testing/evaluation is required to obtain this warranty if the surface is not recommended in the Dow Corning Surface Preparation Guide which is available in published or electronic form).
- c. The Dow Corning product is applied within its stated shelf life.
- d. Field adhesion tests are made, documented, retained, and submitted to Dow Corning upon written request as outlined in the Dow Corning Field Adhesion Test Procedure in order to confirm adhesion under site conditions.

**B. LIMITATIONS**

This warranty specifically excludes adhesive and/or cohesive failure of the sealant due to:

- a. Use of the sealant as a structural or load-bearing sealant.
- b. Natural causes including but not limited to lightning, earthquake, hurricane, flooding, tornado, and fire.
- c. Improper installation.
- d. Movement of the structure resulting in stresses on the sealant which exceed Dow Corning's published specifications for elongation and/or compression for the sealant, including but not limited to structural settlement, design error, or construction error.
- e. Use on single-family residential structures.

And does not cover damage to, or failure of, the sealant due to:



Document Id -

**DOW CORNING® SILICONE BUILDING SEALANTS  
WEATHERSEAL LIMITED WARRANTY**

- a. Disintegration, deterioration, or failure of the underlying substrates (including but not limited to cracking, blistering, or peeling).
- b. Mechanical damage caused by, including but not limited to, surface abrasion, individuals, tools, vandalism or other outside agents.
- c. Changes in the appearance of the sealant, including but not limited to, natural weathering (whitening, chalking, fading, staining), the accumulation of dirt or other contaminants deposited on the sealant from the atmosphere, or from incompatible substrates.

This warranty excludes costs and damages attributed to mold, mildew and/or fungus.

The warranty also specifically excludes costs and damages resulting from the presence of any hazardous materials in the existing sealants, coatings, substrates, or the environment/location in which the sealant is installed or applied, including but not limited to:

- a. Establishing appropriate safe handling procedures for the removal of sealants and/or coatings.
- b. Removal or disposal of the existing sealants and/or coatings.
- c. Removal or disposal of Dow Corning silicone sealants and/or coatings after installation.

Dow Corning sealants are not intended for encapsulating any hazardous materials.

Dow Corning's warranty does not cover faults attributable to workmanship.

This warranty will be null and void if Dow Corning or the Dow Corning distributor has not received payments for the products used.

**REMEDIES**

In the event of a claim under this warranty, you must notify Dow Corning within 30 days of the claimed defect and provide Dow Corning with the opportunity to inspect. Dow Corning shall, for the Warranty Duration Period from the Warranty Effective Date, be responsible for the cost of replacement sealant to make any warranty-related repairs.

**DOW CORNING SHALL NOT BE LIABLE FOR AND EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY DAMAGE TO THE CONTENTS OF THE STRUCTURE OR FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGE, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE. THIS WARRANTY SUPERSEDES ALL OTHER WRITTEN OR ORAL, EXPRESS OR IMPLIED WARRANTIES AND DOW CORNING SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.**

This warranty agreement is governed by and construed in accordance with Michigan law.

Transfer of this warranty to a new Owner may be made only if the transfer is acknowledged in writing by Dow Corning to the new Owner. Dow Corning must be notified in writing at time of sale to the new Owner. Dow Corning must be satisfied that the intended use of the structure by the new Owner will not cause detriment to the Dow Corning product(s). If these conditions are not met, then this warranty will be rendered null and void.

The product is sold to you upon and subject to Dow Corning's standard Terms and Conditions of Sale or supply agreement, as applicable (collectively, the "Standard Terms"). However, to the extent there may be a conflict





**Dow Corning**  
*Your partner in building the future*  
**CONSTRUCTION SOLUTIONS**



Document Id -

**DOW CORNING® SILICONE BUILDING SEALANTS  
WEATHERSEAL LIMITED WARRANTY**

between the terms of any warranty in the Standard Terms and the provisions of this warranty, the provisions of this warranty shall prevail. This Agreement may be modified only in writing signed by both parties. Note: Warranty not in effect unless signed by Dow Corning Corporation.

**Date :**

For questions on this or any other warranty you have with Dow Corning Corporation, please contact the Warranty Administration Department at 989-496-3295 or Fax: 989-496-5324.

Issue Date:

Job No.:

**EXCLUSIVE LIMITED WARRANTY**

**(Workmanship and Materials)**

Western Waterproofing Company, Inc., dba Western Specialty Contractors a Missouri Corporation with an office at ("Contractor"), warrants to ("Customer") that, upon completion of the work referred to in paragraphs of the [specifications covered by the] contract dated , between the Contractor and the Customer, the surfaces treated by its applications at the project referred to as will remain free from caused by defective workmanship of Contractor or defective materials supplied by Contractor for a period of from the date of substantial completion. If any does occur during such period as a direct result of Contractor's defective workmanship or materials, then Contractor shall repair or correct such defective workmanship, or replace such defective materials at its expense.

**THIS IS THE ONLY WARRANTY COVERING CONTRACTOR'S WORKMANSHIP OR SUPPLIED MATERIALS AND IS IN PLACE OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.**

Contractor's liability is expressly limited to repairing or correcting its own defective workmanship and replacing defective materials which it has supplied, and shall in no event exceed the contract price for the work covered by this warranty.

Contractor shall not be responsible for any consequential damages, including, but not limited to, mold infestation, or for any claim, damage, loss or expense caused by defective work of others, defective material not supplied by Contractor, structural movement or failure, other than normal weather conditions or any other cause except that expressly agreed to in this warranty.

This Warranty is not transferable to any other person or entity, and shall not be valid unless Contractor has been paid for all work completed under the contract first mentioned above.

Date of substantial completion: , .

Western Waterproofing Company, Inc.  
dba Western Specialty Contractors

BY:

TITLE:

Accepted: \_\_\_\_\_, 20\_\_.

CUSTOMER:

BY:

TITLE:



**TAB 8    EXCEPTIONS to the PROPOSAL:    INCLUDE ATTACHMENT B**

**Accepted as written**

## ATTACHMENT B



### CITY OF AUSTIN PURCHASING OFFICE EXCEPTIONS

**Solicitation Number:** 7500 JRD0316

The City will presume that the Offeror is in agreement with all sections of the solicitation unless the Offeror takes specific exception as indicated below. The City, at its sole discretion, may negotiate exceptions to the sections contained in the solicitation documents or the City may deem the Offer non-responsive. The Offeror that is awarded the contract shall sign the contract with the accepted or negotiated sections.

Place this attachment in Tab 8 – Exceptions to your Proposal. Copies of this form may be utilized if additional pages are needed.

☒ Accepted as written.

☐ Not accepted as written. See below:

**Indicate:**

- ☐ 0300 Standard Purchase Terms & Conditions
- ☐ 0400 Supplemental Purchase Provisions
- ☐ 0500 Scope of Work

**Page Number**

**Section Number**

**Section Description**

**Alternative Language:**

**Justification:**

1. We will bring in fencing, barricades, plywood & signage as needed. WE will access work from man lifts operating on plywood as needed. Each morning the crew will have a job toolbox safety meeting to discuss the specifics of the daily duties & to assure that all safety is in place prior to starting work. There will also be a site specific safety plan in place at all times & in the job binder on site with the Foreman. We will start at the N/W corner & move in a clockwise direction around the building. Each Worker will be able to complete approx 172 Lin Ft of glazing per 8 hr day. Running two (2) man lifts, we will complete the project in 72 working days. If that time needs to be less, we could add more crew and equipment. WE feel two (2) lifts working would be less disruptive as opposed to having more. Work areas will always be closed to pedestrians.
2. We cut the existing gaskets flush with the frame, remove debris daily, wipe the glass, metal & gasket area with isopropyl alcohol prior to installing Dow 795 silicone sealant. We will have the manufacturer to test to be able to provide warranty at end of project. All work done as per manufacturers specifications.
3. 2016- Intel building - Seal all windows  
2016 -San Marcos Activity Center - Seal all entry windows  
2017 -Convention Center Hilton - Glaze all windows
4. Best offer 109,154.90  
Material - 40,095.20  
Labor - 36,580.14  
Equipment - 28,720.43  
Admin - 3,759.13

Mackey Welch | Austin Territory | Department Manager  
 Western Waterproofing Company of America  
9468 Corporate Drive | Selma, TX 78154  
Cell: 512-745-6427 | Office 210-340-2264  
[mackeyw@westernwaterproofing.com](mailto:mackeyw@westernwaterproofing.com) | [www.westerngroup.com](http://www.westerngroup.com)

**COMMERCIAL • INDUSTRIAL • HISTORIC • FACADES**  
**MASONRY RESTORATION • CONCRETE RESTORATION • ROOFING • WATERPROOFING**

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Western Specialty Contractors of America  
Selma, TX United States

Certificate Number:  
2017-262907

Date Filed:  
09/20/2017

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

City of Austin

Date Acknowledged:

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

NA170000229  
window sealing at RLC

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest<br>(check applicable) |              |
|---|--------------------------|--|--|--------------|
|   |                          |  | Controlling                              | Intermediary |
|   |                          |  |  |              |
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|   |                          |  |  |              |

**5 Check only if there is NO Interested Party.**



**6 AFFIDAVIT**



I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

*[Signature]*

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Dan Wicht, this the 20th day of September, 2017, to certify which, witness my hand and seal of office.

*[Signature]*

Signature of officer administering oath

Linda Arredondo

Printed name of officer administering oath

Branch Administrator

Title of officer administering oath



## GOAL DETERMINATION REQUEST FORM

|  |                   |                                |                                  |
|--|-------------------|--------------------------------|----------------------------------|
| <b>Buyer Name/Phone</b>  | Jonathan Dalchau  | <b>PM Name/Phone</b>           | Taylor Youngblood / 512-974-3519 |
| <b>Sponsor/User Dept.</b>  | Building Services | <b>Sponsor Name/Phone</b>      | Jill Cogburn / 512-974-9046      |
| <b>Solicitation No</b>   | IFB JRD0316       | <b>Project Name</b>            | RLC Caulking                     |
| <b>Contract Amount</b>   | \$60,000          | <b>Ad Date (if applicable)</b> | 5/1/2017                         |
| <b>Procurement Type</b>  |                   |                                |                                  |
| <input type="checkbox"/> AD – CSP<br><input type="checkbox"/> AD – Design Build Op Maint<br><input type="checkbox"/> IFB – IDIQ<br><input checked="" type="checkbox"/> Nonprofessional Services<br><input type="checkbox"/> Critical Business Need<br><input type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R<br><input type="checkbox"/> AD – JOC<br><input type="checkbox"/> PS – Project Specific<br><input type="checkbox"/> Commodities/Goods<br><input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build<br><input type="checkbox"/> IFB – Construction<br><input type="checkbox"/> PS – Rotation List<br><input type="checkbox"/> Cooperative Agreement<br><input type="checkbox"/> Ratification |                   |                                |                                  |
| <b>Provide Project Description**</b>   |                   |                                |                                  |
| This solicitation seeks to find a contractor that can remove window caulk and gaskets and replace with new caulk at the Rutherford Lane Campus. This is a one time purchase.   |                   |                                |                                  |
| <b>Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.</b>  |                   |                                |                                  |
| No previous contract   |                   |                                |                                  |
| <b>List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)</b>   |                   |                                |                                  |
| 91079 (90%); 63006 (10%)   |                   |                                |                                  |
| Jonathan Dalchau   |                   | 4/17/2017                      |                                  |
| <b>Buyer Confirmation</b>  |                   | <b>Date</b>                    |                                  |

\* Sole Source must include Certificate of Exemption

\*\*Project Description not required for Sole Source

|  |                         |  |           |
|--|-------------------------|--|-----------|
| <b>FOR SMBR USE ONLY</b>   |                         |  |           |
| <b>Date Received</b>   | 4/17/2017               | <b>Date Assigned to BDC</b>                  | 4/17/2017 |
| <b>In accordance with Chapter 2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:</b> |                         |  |           |
| <input type="checkbox"/> Goals   | % MBE                   | % WBE  |           |
| <input type="checkbox"/> Subgoals  | % African American      | % Hispanic                                   |           |
|  | % Asian/Native American | % WBE  |           |
| <input type="checkbox"/> Exempt from MBE/WBE Procurement Program   |                         | <input checked="" type="checkbox"/> No Goals |           |

## GOAL DETERMINATION REQUEST FORM

### This determination is based upon the following:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Insufficient availability of M/WBEs | <input type="checkbox"/> No availability of M/WBEs               |
| <input type="checkbox"/> Insufficient subcontracting opportunities      | <input type="checkbox"/> No subcontracting opportunities         |
| <input type="checkbox"/> Sufficient availability of M/WBEs              | <input type="checkbox"/> Sufficient subcontracting opportunities |
| <input type="checkbox"/> Sole Source                                    | <input type="checkbox"/> Other                                   |

*If Other was selected, provide reasoning:*

### MBE/WBE/DBE Availability

Commodity Code 91079 is 90% of the scopes work and has 3 Available M/WBE companies.  
 Commodity Code 63006 (Supplies) has 2 Available M/WBE companies. These companies may bid as prime vendors. Contract amount is \$60,000.

### Subcontracting Opportunities Identified

No subcontracting opportunities identified.

Counselor Name

SMBR Staff *Kenneth Kahn*

Signature/ Date *Cenarrubia 4/19/2017*

SMBR Director or Designee

*[Signature]*

Date *4-25-17*

Returned to/ Date: