



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 09/06/2017

DEPT: Human Resources - Employment Services

TO: Purchasing Officer or Designee

FROM: Cindy Henson

BUYER: Roger Stricklin

PHONE: (512) 974-1727

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

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

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

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

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

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

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

The Human Resources Department has identified Affion Public to conduct the professional search for the Austin Energy Chief of Staff for the City of Austin. This firm has conducted a number of successful executive searches for the City of Austin in the past nine years. Affion Public has a proven track record for recruiting highly qualified and diverse candidates for executive positions in municipal and local government.

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

The firm was selected because they specialize in identifying and placing exceptionally qualified executive level candidates in municipal government and public sector. They have a unique understanding of the complexities of municipalities and the Central Texas region especially Austin. They have a proven track record for recruiting seasoned and diverse executives.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Affion Public which will cost approximately \$ 28,000.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification

Cindy Hansen 9-6-17
Originator Date

Approved
Certification

[Signature] 9/6/17
Department Director or designee Date

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

Purchasing Review
(if applicable)

[Signature] _____
Buyer Date Manager Initials

Exemption Authorized
(if applicable)

Purchasing Officer or designee Date

02/26/2013

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Affion Public LLC
For
Recruitment Services**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Affion Public LLC ("Consultant"), having offices at 2120 Market Street, Suite 100, Camp Hill, PA 17011.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Consultant.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Consultant is engaged to provide the services set forth in Section 2, Scope of Work.

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

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

1.4 **Designation of Key Personnel.** The Consultant's Contract Manager for this engagement shall be Scott Reilly, Phone: (717) 576-9847, Email Address: reilly@affionpublic.com. The City's Contract Manager for the engagement shall be Cindy Henson, Phone: (512) 974-9304, Email Address: Cindy.Henson@austintexas.gov. The City and the Consultant resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Consultant to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Consultant will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 **Consultant's Obligations.** The Consultant shall fully and timely provide all deliverables described herein and in the Consultant'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.

2.2 **Objective.** The objective of the work to be performed hereunder is to identify and recruit a diverse pool of candidates to fill the chief of staff position for Austin Energy. All applicants should have a well-rounded knowledge of municipal government and of working with the mayor, council and city manager form of government. Qualified candidates should have broad experience with the administrative and operational functions of public utilities. Specific emphasis in developing the applicant pool shall be placed on searching for qualified minority and female candidates.

2.3 **Tasks.** In order to accomplish the work described herein, the Consultant shall perform each of those tasks listed below, as detailed in Exhibit A, Consultant's Proposal.

The Consultant shall:

2.3.1 Phase I – Establish the Timeline

- Meet with City to determine start date for new employee
- Work with City staff to identify all target dates and activities to support the start date

2.3.2 Phase II – Input from Stakeholders

- Convene with all City stakeholders for input on job environment and requirements
- Assist City in setting up any needed public forums

2.3.3 Phase III – Develop Profiles

- Use input from City staff and any other stakeholders to develop a Position Profile detailing the expectations, duties and requirements of the position
- Craft a Candidate Profile to use to identify/filter candidates based on the City's organizational culture, goals for the position, budget and staff environment
 - Interview City staff at peer level of the vacant position as well as subordinate staff to identify the qualities needed in a successful candidate

2.3.4 Phase IV – Candidate Search/Identification

- Use internal and external databases, targeted recruiting and personal/professional contacts as search methods
- Obtain any publications written by, or regarding, candidates
- Advertise the position as determined by City (print, online, etc.)
- Identify resulting candidate pool

2.3.5 Phase V – Candidate Screening

- Conduct individual interviews with candidates
- Perform background checks on candidates (includes criminal background, education verification and credit)

2.3.6 Phase VI – Selection for Review

- Prepare portfolios of candidates for consideration (each portfolio includes resumes, applications, publications if available, and examples of work product)
- Present candidate portfolios to City, incorporating detailed background on each candidate's skills and qualifications and a candidate-provided biography as well as Consultant's appraisal of competencies compared to the Position Profile
- Recommend finalist candidates

2.3.7 Phase VII – Choose/Interview Finalists

- Coordinate selection of finalists with City staff
- Work with City to schedule any travel/lodging required by candidates
- Arrange and facilitate interview of finalists with City
- Collaborate with City to develop interview format and questions

2.3.8 Phase VIII – Hiring

- Pre-qualify candidates on salary range/benefits
- Assist in preparation of offers and negotiation of employment agreements

2.4 **Consultant's Estimated Timeline for Recruitment Process**

2.4.1 Days 1-9 after contract execution

- Facilitate a meeting to discuss timelines, recruitment process and plan for completing the Position and Candidate Profiles
- Meet with identified stakeholders to begin the due diligence process
- Conduct public forums if needed
- Simultaneously conduct industry research

2.4.2 Days 10-15 after contract execution

- Present drafts of Position and Candidate Profiles to City
- Finalize Position and Candidate Profiles

2.4.3 Days 16-46 after contract execution

- Conduct recruitment, to include:
 - Journals, personal contacts, websites, etc.
 - Placement of advertisements
 - Review of candidate resumes
 - Identification and qualifications verification of all potential candidates (approximately 15-20)

2.4.4 Days 47-65 after contract execution

- Finalize candidate selection to be presented to City
- Contact references for finalists
- Complete background checks
- Conduct Internet and media searches on finalists

2.4.5 Days 66-90 after contract execution

- Present approximately six (6) to eight (8) finalists to City
- Facilitate City's review of the finalists
- Conduct first round (and second round if needed) of candidate interviews together with City staff and any assigned stakeholders
- Finalize candidate selection
- Negotiate employment agreement with successful candidate
- Successful candidate accepts offer

2.5 Consultant Guarantee. If, within the first 24 months of employment, the candidate hired by City as a result of Consultant's services is terminated by City for non-performance, or voluntarily leaves the position, Consultant shall conduct a search for a new candidate using the existing Position and Candidate Profiles. Consultant shall provide these services at no additional cost to City except for applicable Consultant travel, lodging and job advertisement expenses.

2.6 Progress Reports. Consultant shall provide weekly progress reports to City throughout the search process. The report shall summarize the number of candidates identified, search strategies used and associated yields, as well as such other information as may be requested by City. The reports shall detail all significant activities undertaken during the reporting period, progress made toward completing the project objectives, and any significant problems encountered.

SECTION 3. COMPENSATION

3.1 Contract Amount. The Consultant will be paid as indicated herein upon the successful completion of the Scope of Work. In consideration for the services to be performed under this Contract, the Consultant will be paid an amount not-to-exceed \$28,000 (Recruitment Fee) for all fees and expenses (excluding travel and lodging for candidates).

Three partial payments will be made by City to Consultant as follows, subject to the provisions of Paragraphs 3.2 and 3.3 herein.

<u>Description</u>	<u>Timing of Consultant's Invoices</u>
One-third of the Recruitment Fee	Following contract execution
One-third of the Recruitment Fee plus expenses incurred to date	Following Consultant's recommendation of finalist candidates
One-third of the Recruitment Fee plus all remaining expenses	Following City's announcement of appointment

All expenses shall be itemized in detail.

3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Consultant's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Consultant's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Consultant's invoice. Invoices received without all required information cannot be processed and will be returned to the Consultant. Invoices shall be mailed to the below address:

	City of Austin
Department	Human Resources
Attn:	Accounts Payable
Address	P. O. Box 1088
City, State, Zip Code	Austin, TX 78767

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

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

3.3 **Payment.**

3.3.1 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.

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

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

3.3.3.1 delivery of defective or non-conforming deliverables by the Consultant;

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

3.3.3.3 failure of the Consultant to pay Subconsultants, or for labor, materials or equipment;

3.3.3.4 damage to the property of the City or the City's agents, employees or consultants, which is not covered by insurance required to be provided by the Consultant;

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

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

3.3.3.7 failure of the Consultant to comply with any material provision of the Contract Documents.

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

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Consultant agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

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

3.5 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Consultant subject to the following provisions of this section.

3.5.1 **Administrative.** The Consultant will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

3.5.2 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Consultant under the terms of the Contract will be reviewed against the City's Travel Policy 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>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of 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 Regulation.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:

3.6.1.1 a waiver of all claims by the City against the Consultant, 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 Consultant to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Consultant's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

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

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** This Contract shall become effective on the date executed by the City ("Effective Date") and shall remain in effect until the earliest of when the deliverables set forth in the Scope of Work are complete or the City terminates the Contract.

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

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

4.4 **Termination For Cause.** In the event of a default by the Consultant, 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 Consultant, 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 Consultant on probation for a specified period of time within which the Consultant 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 Consultant has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Consultant, the City may suspend or debar the Consultant in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Consultant from the City's vendor list for up to five (5) years and any Offer submitted by the Consultant 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 Consultant's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Consultant 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 Consultant, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

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

SECTION 5. OTHER DELIVERABLES

5.1 **Insurance:** The following insurance requirements apply.

5.1.1 General Requirements.

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

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

5.1.1.3 The Consultant 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.

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

5.1.1.5 The City may request that the Consultant submit certificates of insurance to the City for all Subconsultants prior to the Subconsultants commencing work on the project.

5.1.1.6 The Consultant's and all Subconsultants' 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.

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

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

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

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Consultant 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.

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

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

5.1.1.12 The Consultant 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.

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

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

5.1.2 **Specific Coverage Requirements.** The Consultant 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 Consultant.

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

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

5.1.2.1.2 Consultant/Subcontracted Work.

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

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

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

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

5.1.2.2 **Business Automobile Liability Insurance.** The Consultant 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. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

5.1.2.3 **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. The policy shall contain the following provisions and endorsements:

5.1.2.3.1 The Consultant's policy shall apply to the State of Texas.

5.1.2.3.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

5.1.2.3.3 Thirty (30) calendar days' Notice of Cancellation, Form WC420601, or equivalent coverage.

5.1.2.4 **Professional Liability Insurance.** The Consultant shall provide coverage, at a minimum limit of \$500,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission arising out of the performance of professional services under this Contract.

If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.

5.1.2.5 **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.

5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Consultant, or Consultant'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 Consultant's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.2 **Americans With Disabilities Act (ADA) Compliance.** No Consultant, or Consultant'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.

5.3 **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 Consultant 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 Consultant.

5.4 **Delays.**

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

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

5.5 Ownership And Use Of Deliverables. The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

5.5.1 Patents. As to any patentable subject matter contained in the deliverables, the Consultant agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Consultant agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

5.5.2 Copyrights. As to any deliverables containing copyrightable subject matter, the Consultant agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Consultant for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this paragraph shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Consultant hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Consultant agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

5.5.3 Additional Assignments. The Consultant further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Consultant's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this paragraph shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Consultant agrees to treat the same as Confidential Information under the terms herein.

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

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

SECTION 6. WARRANTIES

6.1 Warranty – Price.

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

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

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

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

6.2.1 The Consultant may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Consultant 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 Consultant. The City shall endeavor to give the Consultant written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

SECTION 7. MISCELLANEOUS

7.1 Workforce.

7.1.1 The Consultant shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.1.2 The Consultant, its employees, Subconsultants, and Subconsultant'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:

7.1.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 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.

7.1.3 If the City or the City's representative notifies the Consultant 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 Consultant 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.

7.2 **Compliance with Health, Safety, and Environmental Regulations.** The Consultant, its Subconsultants, 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 Consultant 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 Consultant's obligations under this paragraph.

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

7.3.1 disposal of major assets;

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

7.3.3 any significant termination or addition of provider contracts;

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

- 7.3.5 strikes, slow-downs or substantial impairment of the Consultant's facilities or of other facilities used by the Consultant in the performance of this Contract;
- 7.3.6 reorganization, reduction and/or relocation in key personnel;
- 7.3.7 known or anticipated sale, merger, or acquisition;
- 7.3.8 known, planned or anticipated stock sales;
- 7.3.9 any litigation against the Consultant; or
- 7.3.10 significant change in market share or product focus.

7.4 **Audits and Records.**

7.4.1 The Consultant 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 Consultant related to the performance under this Contract. The Consultant 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 Consultant are resolved, whichever is longer. The Consultant agrees to refund to the City any overpayments disclosed by any such audit.

7.4.2 Records Retention:

7.4.2.1 Consultant 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 Consultant in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contactor's internal administration.

7.4.2.2 All Records are the property of the City. The Consultant 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.

7.4.3 The Consultant shall include sections 7.4.1 and 7.4.2 above in all Subconsultant agreements entered into in connection with this Contract.

7.5 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Consultant 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 Consultant will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Consultant shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.6 **Indemnity.**

7.6.1 Definitions:

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

7.6.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Consultant, their respective agents, officers, employees and Subconsultants; the officers, agents, and employees of such Subconsultants; and third parties); and/or;

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

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

7.6.2 **THE CONSULTANT 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 CONSULTANT, OR THE CONSULTANT'S AGENTS, EMPLOYEES OR SUBCONSULTANTS, IN THE PERFORMANCE OF THE CONSULTANT'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONSULTANT (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

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

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

To the City:

City of Austin, Purchasing Office

ATTN: Roger Stricklin, Contract Management
Specialist IV

P O Box 1088

Austin, TX 78767

To the Consultant:

Affion Public LLC Consultant

ATTN: Scott Reilly, CEO

2120 Market Street, Suite 100

Camp Hill, PA 17011

7.9 **Confidentiality.** In order to provide the deliverables to the City, Consultant 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"). Consultant 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 Consultant (including its employees, Subconsultants, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Consultant promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Consultant agrees to use protective measures no less stringent than the Consultant uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

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

7.11 **No Contingent Fees.** The Consultant 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 Consultant 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 Consultant, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

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

7.13 **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 Consultant shall render the Contract voidable by the City.

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

7.15 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Consultant 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 Consultant without the prior written consent of the City. Any attempted assignment or delegation by the Consultant shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.16 **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 Consultant or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

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

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

7.19 **Dispute Resolution.**

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

7.19.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Consultant 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 Consultant will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

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

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

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

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

7.21 Subconsultants.

7.21.1 If the Consultant identified Subconsultants in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Consultant 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 Consultant shall not initially employ any Subconsultant except as provided in the Consultant's Plan. The Consultant shall not substitute any Subconsultant 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 Subconsultant shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subconsultant. If a Plan has been approved, the Consultant is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

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

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

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

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

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

7.21.2.5 require that the Subconsultant indemnify and hold the City harmless to the same extent as the Consultant is required to indemnify the City.

7.21.3 The Consultant shall be fully responsible to the City for all acts and omissions of the Subconsultants just as the Consultant is responsible for the Consultant's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subconsultant any contractual relationship between the City and any such Subconsultant, 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 Subconsultant except as may otherwise be required by law.

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

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

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

7.24 **Holidays.** The following holidays are observed by the City:

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

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

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

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

7.27 **Incorporation of Documents.** Section 0100, **Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:

https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf

7.28 **Order of Precedence.** The Contract includes, without limitation, the Offer, the Contract and exhibits, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.28.1 the body of this Contract, including exhibits, and any exceptions to the Offer accepted in writing by the City;

7.28.2 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

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

AFFION PUBLIC LLC

By: [Signature]
Signature

Name: Scott Reilly
Printed Name

Title: CEO

Date: 9/20/17

CITY OF AUSTIN

By: [Signature]
Signature

Name: Robert Stricklin
Printed Name

Title: Procurement Specialist IV

Date: 9/20/17

List of Exhibits

Exhibit A	Consultant's Proposal
Exhibit B	Non-Discrimination and Non-Retaliation Certification

EXHIBIT A
CONSULTANT'S PROPOSAL



We deliver leaders. Our executive recruiting specialists have national contacts within the public sector and professional organizations – allowing us to find a broad range of talent. We rigorously qualify and investigate each candidate. We won't just pull names out of a database. When we are finished, you will have candidates that meet or exceed your expectations.



EXHIBIT A CONSULTANT'S PROPOSAL

Corporate Office:
2120 Market Street, Suite 100
Camp Hill, Pennsylvania 17011

www.affionpublic.com
888.321.4922 toll free
717.214.8004 fax



09/01/2017

Jackie Sargent
General Manager
Austin Energy
721 Barton Springs Road
Austin, TX 78704

Dear Jackie:

Thank you for the opportunity to submit our offer of executive search services for the Chief of Staff position.

As you may know, Affion Public is an executive search firm that specializes in identifying and placing exceptional executive level candidates within the public sector. We have built a successful practice on placing public sector executives and have a reputation for developing excellent working relationships with the clients we serve.

Our partnership approach and high quality of work fosters the level of comfort our clients value and deserve. With our high touch style, we'll be able to provide you with the attention that you warrant and deserve for this very important search. Our search process and collaborative approach has enabled Affion Public to conduct multiple searches for the majority of the clients we serve.

We differentiate ourselves from our competition by seeking out passive, as well as, active candidates that will best meet the needs of our clients. By conducting searches in this manner we are able to provide a tailored pool of candidates rather than recycling the same candidates search after search. Our commitment to diversity and success at targeting minority candidates has also helped to set us apart from other firms.

Affion has placed multiple City Manager, Assistant City Managers, and Executive Directors across the nation with similar skillsets to the Chief of Staff position. In addition, we are quite familiar with Austin Energy having worked with your staff on the Chief Technology Officer (CTO) search in 2016.

On behalf of Affion Public, we will be thrilled to be your firm of choice! Please feel free to contact me directly at 717-576-9847 or via email at reilly@affionpublic.com. I look forward to speaking with you in the near future.

Best Regards,

Scott Reilly
CEO, Affion Public

Delivering Leaders.



Company Profile

Affion Public is deeply rooted in the public sector, providing technology consulting and human resources consulting and strategies for state and local government, education and non-profit organizations since 2000.

Affion Public brings extensive experience and expertise to every assignment by providing comprehensive human resource and technology consulting strategies. Whether it's finding the perfect candidate for a key position, providing classification and compensation or assembling a seasoned team of technology operations people to tackle a tough problem, Affion Public has the solution.

Our executive search division specializes in identifying the nation's best and brightest executives, and delivering those individuals to our public sector clients. Our partners are typically state, county, city, and government organizations as well as non-profits. Recognized as a leader in public sector executive searches, Affion has attained "preferred" vendor status or an exclusive relationship with the majority of its client partners.

Affion's corporate headquarters is located at 2120 Market Street, Suite 100, Camp Hill, PA 17011.

Why Affion?

We are different. As a company, our strengths lie in our people, our passion, and our commitment. Affion employs an extremely talented group of professionals that bring a diverse set of skills and an average of over 10 years of experience in government and private sector venues. Extraordinary, trusted client partnerships have separated us from others in the industry. Embracing a small business approach has enabled the entrepreneurial spirit of Affion, while also ensuring a personalized approach and customized solution for our partners.

It is our unique understanding of the complexities of the public sector that gives us an edge. We know what to challenge potential candidates on, and we know how to discern and qualify the very specific set of skills an executive needs in order to succeed within the public realm. Our particular expertise lies in our ability to reach out to and ultimately attract the best and the brightest into the public executive domain. Short and long term, Affion is looking for valued, long lasting partnerships, where we can have a real and positive effect for our client.

Our public sector team provides a full range of customized executive recruiting and management consulting services. Particular areas of expertise lie within strategy, human resources, process and solutions. We have served in an advisory capacity to state, city, and municipal governments across the country.

Historically, our specialized executive recruitment services have been client driven. By building strong client partnerships, and practicing due diligence, we gain an invaluable understanding of the mission, motivation and culture of our client. This has allowed us to successfully recruit across all departmental disciplines and ultimately to provide top executives to an array of governmental agencies and authorities (e.g. Information Systems, Public Safety, Engineering, Health and Human Services, Water Utilities, Economic Development, Assistant City Managers, City Managers, etc.).



What We Do Differently

Our executive search goal is to specify, identify, qualify and deliver candidates that meet or exceed your expectations. After consulting with client executives and stakeholders, we utilize a systematic search methodology to customize and tailor the ideal candidate and position profile to meet the specified need.

Targeting organizations that are similar to our client, we set out to find individuals that meet and exceed the background, education, experience, and personal characteristics required. This is done in a highly confidential manner and in compliance with applicable legal standards. Once a potential candidate has been identified, they will enter into a rigorous qualifying process to further establish the “fit”. A comprehensive confidential report on each of the selected candidates is prepared to include pertinent information relative to the candidates work history and background. A professional appraisal of the candidates’ competencies compared to the specific requirements will be provided as a continuum to the report. In the form of a portfolio presentation, we meet with the stakeholders to make our recommendations. We deliver individuals that are competent, qualified, and capable. We deliver solutions.



Relevant Recruitment History

City of Ann Arbor, MI

- City Administrator (2011, 2016)

City of Austin, TX

- City Manager (2008)
- Assistant City Manager (2013)

City of Broken Arrow, OK

- City Manager (2009, 2012, 2015)
- Assistant City Manager (2014)

City of Columbia, MO

- City Manager (2011)

City of Dallas, TX

- Assistant City Manager (2014)
- City Manager (2016)

City of East Lansing, MI

- City Manager (2012)

City of El Paso, TX

- City Manager (2014)

City of Galveston, TX

- City Manager (2012)

City of Hollywood, FL

- City Manager (2012)

City of Kirkwood, MO

- Chief Administrative Officer (2014)

City of Leander, TX

- City Manager (2011)

City of Marshall, TX

- City Manager (2014)

City of McKinney, TX

- City Manager (2008)
- Assistant City Manager (2009, 2014)

City of Plano, TX

- City Manager (2011)

City of Port Arthur, TX

- Assistant City Manager (2016)

City of Round Rock, TX

- City Manager (2011)

City of Shawnee, OK

- City Manager (2015)

City of Tamarac, FL

- Assistant City Manager (2017 – present)

City of Thornton, CO

- City Manager (2017)

Incorporated Village of Garden City, NY

- Village Administrator (2014)

E-470 Public Highway Authority, Aurora, CO Executive Director (2015)

Housing Authority of the City of El Paso, TX Chief Operating Officer (2010)

Round Rock Chamber of Commerce, TX President/Chief Executive Officer (2014)

Williamson-Burnet County Opportunities, Inc. (WBCO)

Executive Director (2013)

Misc. Electric Utility Search Experience

Austin Energy, City of Austin, TX

- Chief Technology Officer - CTO (2016)

City of Gardner, KS

- Utility Director (2015)

City of Fort Collins, TX

- Light & Power Operations Manager (2015)



Objectives and Approach

1. **Establishing the Timeline** – we will work closely with you to determine your ideal start date for your executive and then work to make sure that we agree on all target dates and activities.
2. **Input from Key Decision Makers** – we will meet with all parties who will be impacted by this executive to seek input, which will also help us understand the company, the people and the working environment. This can include setting up public forums to engage the community in assisting in the process.
3. **Developing the Candidate Profile** – through extensive interviews we will gain a complete understanding of the mission and goals of the company and begin to create the profile of the executive you are seeking.
4. **Candidate Pool and Search Techniques** – we will use our own extensive internal database, our personal and professional connections, competitor intelligence, targeted recruiting, industry specific sourcing and other recruiting tools to begin to identify the perfect candidate.
5. **Screening Process** – we will conduct interviews to qualify each candidate, whether it is an internal candidate or an external one, prior to presentation to you, and will conduct an extensive background check on each potential candidate.
6. **Selecting Candidates for Client Review** – we will present the key decision makers with a portfolio of candidates for consideration and will discuss each candidate's skills and qualifications in detail.
7. **Choosing the Finalists and the Interview** – once the client has reviewed the candidates and has selected the finalists, interviews with the key decision makers or the selection committee will begin.
8. **Hiring** – all candidates will have been pre-qualified on the salary range, benefits and we will assist in all final employment matters.

Developing the Candidate Profile

Affion's approach to executive searches is a very personal and systematic one. Our success is dependent on the access and information granted to us by the client organization, so that we can gather all the information possible to have a true understanding of the client's needs. Only if we know the organization intimately and develop a very thorough and detailed profile of the ideal candidate, can we be assured of the right match for the organization and the individual who is ultimately selected.

We pride ourselves in the value we bring to the table by working with the client to develop the profile of the ideal candidate from which to conduct our search. We do this by spending a great deal of time with the chief decision makers, elected officials, etc. at the very beginning, learning the history of the position, the mission and goals of the organization, the past successes and failures of the position, staff, budget and virtually everything the selected candidate would need to have experience and success addressing. In order for us to locate the ideal leader for an organization, we must know where that organization wants to go and what it will take to get it there.

Each search is different and we invest as much time in getting to know the style and organizational culture of our client as we do getting to know each candidate under consideration. We develop a strong relationship with the decision makers and people with whom the potential candidates would be working to ensure the right match. We spend time with the decision maker(s) to understand their idea of the "ideal" candidate, their own management style, and what the position means to them and to the organization. We learn and adopt the organization's vision, so that we are able to recruit candidates who will embrace those goals and lead a strategy that will support that vision.

We prefer to interview other successful executives at the peer level of the vacant position to get an understanding of the kind of leaders who are successful in the organization. We also find it valuable to interview some subordinate level staff, if possible, to assess some of the challenges or strengths within the current resources that the incoming executive would find.

These early stages of the search are, in our mind, the most important. Our entire search team, including our assigned recruiter(s), is involved in this information gathering/ relationship process from the beginning so we all know exactly what our client is seeking in applicants and are qualifying candidates on the client's organizational culture.

For national searches, our team also investigates the community in which the position resides. We investigate the public and private school options, and even spend time with a realtor to get a feel of the local housing market for relocation. All of this helps us when we screen and sell candidates on the position.

From the interviews and fact gathering, we will prepare a comprehensive candidate recruitment profile for the position, with the desired qualifications and characteristics, for approval by the client's designee(s). It is from this customized profile that we conduct our systematic search.

Input from Stakeholders

The first steps in any search begin with our onsite stakeholder meetings. The purpose of the stakeholder interviews is to allow Affion an intimate understanding of the organization, the people and the environment. These interviews are how we develop the two key profiles in which the search is built around. The first profile is the position profile. The position profile includes not only the requirements the successful individual will possess but also what they will be doing on a daily, weekly and monthly basis. This profile is critical in analyzing the potential candidate's previous experience. The second profile is the candidate profile in which we spoke previously about. This profile allows Affion to define the type of individuals that will be successful in your organization.

The stakeholder meetings begin with developing the list of individuals that will be working directly with this person. This list should include whomever the individual is responsible for reporting to and anyone who may be directly involved with the hiring and interview process. Affion is committed to spending as much time as necessary on the stakeholder meeting to ensure a successful placement.

The stakeholder meetings are approximately one-hour interview session in which our team will ask probing questions to what will make the candidate successful. These are generally done on an individual basis.

Additional stakeholder meetings including public input will be scheduled at the discretion of the selection team. We have a long history of being very inclusive with our stakeholder process and often meet with community leaders, business leaders, civic and religious leaders as well as neighborhood associations.

Candidate Pool

Affion is a relationship driven, select targeting firm. We use our own internal database to draw upon potential candidates with whom we have built relationships and/or referrals. We use the telephone to reach out to referrals and candidates initially. We use the Internet as well as select research firms to investigate credit, criminal and other background checks and to obtain any written publications authored by, or regarding, the candidates. Beyond this limited use of technology, our efforts are all carried out in person. We post the job on the Internet or advertise in print as required by the client organization. Even our utilization of networks of professional or trade associations, is done in person. This personal approach is how we have been most successful in targeting and attracting the best and most diverse selection of candidates.

Each Affion recruitment effort is customized specifically to the client organization's needs and preferences. One of the additional values achieved from the time we spend in the beginning is getting to know the client organization and its culture and obtaining mutual agreement on a process that works for both of us. While we have a very strict and systematic internal qualifying/screening process, it is only visible to the client in the result it produces. Any processes external to our qualifying/screening process may be modified to accommodate the client's organizational needs.

Affion Process in Screening

While the general steps outlined herein are the basis of the Affion search, flexibility is built into our model to accommodate a particular client's preferences. Our search is customized to best meet the needs of our client and as long as we are not asked to forego steps to ensure quality, modifications or additions can be made.



Sourcing/Recruiting Candidates

Our senior executive recruiters (100% dedicated to this search) will identify candidates who have been successful in like organizations in similar positions. We search from a variety of sources to ensure development of a broad representative pool in terms of affirmative action efforts and experience; including our own network of contacts and files; public or private entities, professional and other associations and organizations related to the position and referrals. We do targeted advertising in publications specific to the position.

Targeted Recruiting

Affion maintains a national database through extensive networks in industry specific business groups, trade and professional organizations. To further ensure a diverse candidate pool, we also source candidates from professional organizations and networks that are ethnic and gender specific. We reach out to a variety of sources to collectively find the best talent available.

As a result of our previous and ongoing recruiting efforts within government and quasi-government organizations, (local, city, county, and state) Affion has, and continues to build, an expansive network of candidates that includes the best and the brightest in the public sector. That network of candidates exemplifies our professional commitment to building valued relationships, knowing the individuals' experience and leadership styles, and understanding their needs and career goals. By operating within these guidelines, our deliverable to our client results in being a known and trusted entity.

Screening/Qualifying Candidates

Our senior executive recruiter conducts preliminary screening interviews of all candidates and the most promising candidates to determine their qualifications, pertinent accomplishments, experience, ability to meet special needs of the position and their interest in being considered. Preliminary screening will be based on a resume rating developed from criteria contained in the customized Candidate Recruitment Profile, information contained in the resumes submitted to Affion, and Affion's knowledge of the people and organizations with whom and in which we work. At this point in the search, our recruiter is also securing preliminary, confidential reference information on the most promising candidates (as available and appropriate) to verify experience and qualifications; i.e., to ensure that it is worthwhile proceeding with them.

After qualifying the best candidates into our process, those individuals are subjected to further rounds of interviews by additional Affion executive staff. The same criteria are used, but the emphasis here, is on organizational and cultural fit, and political acumen. This process assures the quality we demand of the short list of semi-finalists that are selected.

All candidates are met face-to-face when possible. If the face-to-face interviews cannot be arranged then video conferencing is arranged to ensure that the recruiters and executives within Affion are comfortable with the candidates they are presenting for consideration.

Background Investigation

When all members of the Affion qualifying team have agreed that the candidate fits the desired profile we begin extensive background checks to include: criminal, education, and financial investigations. Reference calls are completed. Internet and media searches are conducted. This entire procedure is intended to further eliminate unqualified candidates, and to validate the credentials of the final candidates in process.

Selecting Finalists for Promotion to Client

From our rigorous qualifying process and investigation, Affion typically narrows the field of qualified candidates to the top 6-8. We present all of the client's designated representatives with a comprehensive book of material on each of the selected individuals. These books contain summary profiles, resumes, applications, articles by or regarding the candidate, pertinent work product, and photographs of those candidates whose qualifications, work experience, achievements, and/or other special qualities qualify them for the position. This comprehensive confidential report on each candidate covers not only the candidate's working career and those personal aspects that are relevant to the position, but also our appraisal of how the candidate's competencies compare to your specific needs and environment. Affion and the client's representatives will meet to review the detailed contents of the book.

Internal Candidates

Affion always screens and evaluates those applications and resumes received by the client from in-house or outside applicants to insure, on the client's behalf, that the process is considered fair to all applicants and to determine if any of these individuals are qualified, viable candidates. Often, at the client's preference we keep all in-house applicants in process until the final qualifying phases of the search process, unless it is clearly established that certain individuals are not qualified.

We review, evaluate and acknowledge in writing all applications and resumes received. Additionally, we ask that all solicitations for consideration made directly to the client be forwarded to Affion immediately to avoid duplication of efforts and take work off the client's shoulders.

Client Selection of Candidates for Interview

Affion would work closely with the hiring team for selecting the finalist. Affion will make a portfolio presentation to the key stakeholders which will include; the resume, a brief bio written by the candidate, a description of the candidate's strengths and weaknesses, and an answer to the questions "Why Should I be the Next..." Upon our face-to-face presentation of the finalists, with our recommendations and comprehensive background information, we require that the client select the number and names of the candidates it wishes to interview in person.

Upon the client's direction, Affion personnel will coordinate with client personnel to arrange interviews with the top candidates selected for consideration. Affion will work with the client to coordinate any travel or accommodation details that may be needed for each outside candidate.

Client Interviews and Final Selection

The finalist interviews would be conducted in conjunction with the wishes of the hiring team. Affion typically suggests that the hiring team utilize panel interviews and also perhaps a candidate presentation. The candidate presentation would be an oral presentation accompanied by a visual presentation. We typically ask all candidates to prepare a twenty-minute presentation in a power-point format. This presentation can be on a topic agreed upon by Affion and the client. The purpose of this presentation is to allow the selection committee to see how the candidates communicate their thought process and the candidate's ability to effectively express those thoughts to their audience.

The formal interview would involve the same set questions asked to each candidate by the same panel member. This allows the selection committee to evaluate each candidate on a fair and equal field. These questions are agreed upon in advance with Affion and the selection committee. Affion will be involved throughout the entire interview process to facilitate the interviews.

Hiring

Once it is time for a hiring decision, Affion will provide assistance on final employment matters, such as the negotiation process with successful candidates and notification to unsuccessful candidates.

Any candidate that is presented for consideration will have been pre-qualified on the salary range, benefits and relocation package. Once the finalist has been selected it is our standard practice that the client sends a formal offer letter to Affion on behalf of the successful candidate. Affion will facilitate the signature and closing of the process.



Statement of Diversity

Diversity is one of our core values, as well as part of our heritage. It acknowledges and celebrates the richness and value created by the differences among our employees, our customers, our service offerings, and our businesses. It is about people, backgrounds, lifestyles, ideas and balance between our work and personal lives. It is about maximizing the contributions from all members of our team so that we deliver greater value to our customers. It is about valuing differences. It is not a code word for affirmative action. It is much larger than that. It is about valuing differences. It is about inclusion. It relies on standards of performance and behavior, which lead to mutual respect. Diversity is about effectively using our collective talent to create a competitive advantage that leads to success – both for our internal support staff and contract workforce. Affion is truly committed to effectively recruiting and maintaining a diverse workforce.

Affion maintains an Affirmative Action Program and policy to afford equal employment opportunity to all without regards to race, color, religion, sex, national origin, sexual orientation, handicap or disability or status as a disabled veteran or a veteran of the Vietnam War era. We take affirmative action to ensure applicants for employment and employees are treated without regard to these characteristics. The sole basis for decisions regarding employment status has been, and will continue to be, an individual's qualifications, and based only on valid, non-biased job requirements in positions being filled. To carry out our policy, the commitment includes, but is not limited to: recruitment, hiring, promotions, transfers, compensation, benefits, layoffs, terminations, educational tuition assistance and company sponsored training and recreational programs.

Affion employs responsible reporting and monitoring procedures to ensure that all personnel actions are in strict compliance with the Equal Opportunity Policy and our Affirmative Action program. We are further committed to being an Equal Opportunity Employer by various federal, state and city laws on fair employment practices. All of Affion's advertising reflects these same important standards.

We are proud of our success in ensuring a diverse candidate pool and thrilled to have placed multiple women and minority candidates in executive level municipal positions, nationwide.



Individuals Assigned to Search:

Scott Reilly
CEO, Affion Public
reilly@affionpublic.com
717-576-9847

Scott will be the lead on this search and responsible for quality assurance during the length of your project. During the engagement, he will be responsible for ensuring the success of the process.

Scott, previously the Vice President of Arcus Public, has more than 20 years experience in Sales, Executive Recruiting and Technology. His depth of knowledge and experience placing top executives and technology professionals enables him to lead the talented group of professionals at Affion Public. Throughout his tenure in the public sector, he has been responsible for leading the engagement process and successfully placing more than 100 professionals in key roles. He's worked in the trenches performing the searches, as well as in leadership roles guiding his team and building relationships with clients while at the helm. He truly understands and appreciates the intricacies of the market, and as CEO for Affion Public, he is responsible for the strategic direction and approach of each of the firm's key service areas.

Scott has been a speaker/presenter on various topics nationally working with leading government officials; to help identify opportunities for technology research and share best practices as well as executive search forums. He was named a founding Honorary Alumni to the Harrisburg University of Science and Technology first graduating class. He currently serves as the vice-chairman of the Derry Township Municipal Authority and has been an active member on the Hershey Country Club Board of Governors. Scott was also recognized by the Central Penn Business Journal as one of the region's Top 40 Under 40. He holds a Bachelor of Science degree in Marketing from Rider University.

Scott has been directly involved with all executive level searches through Arcus Public and Affion Public since 2003.

Gina Sprowls, Recruiting Manager
sprowls@affionpublic.com
717-763-1987

Gina will manage the recruitment efforts of your executive search. During the engagement, she will provide the direction and coordination for the recruitment to ensure the profile of the ideal candidate is adhered to so the best candidate is hired for the job.

Gina will be responsible for identifying, profiling, and screening the candidates. Her role will include qualifying potential candidates and conducting interviews of candidates. Additionally, she will assist in coordinating interviews, soliciting feedback, and conducting professional reference checks. She may be involved in the presentation of the final candidates to the stakeholders for consideration.

Gina brings over ten years of diverse experience in recruitment, sales and management. She offers a strong background in Human Resources with an emphasis on executive level recruitment and training. Her recruitment career has crossed over several industries including Public Sector, Technology, Finance, Healthcare, Sales and Education. She has worked on multiple executive level searches for clients across the nation and is known for building and maintaining excellent relationships with our clients and candidates. She holds a Bachelor of Science degree in Business Administration from Capella University and an Associate of Arts degree in Human Resources.

Gina has been directly involved with all executive level searches through Arcus Public and Affion Public since January, 2008.



Proposed Project Timeline:

Timeframe	Activity
Upon Selection	<ul style="list-style-type: none"> Affion to negotiate and finalize contract
Day 1	<ul style="list-style-type: none"> Facilitate a meeting to discuss timelines, recruitment process and plan for completing the Position and Candidate Profiles Affion to meet with identified stakeholders to begin the due diligence process Conduct Public Forums if needed Simultaneous industry research taking place
Day 10	<ul style="list-style-type: none"> Affion presents draft of Profile
Day 15	<ul style="list-style-type: none"> Finalize Profile
Day 16	<ul style="list-style-type: none"> Search Firm conducts recruitment to include: <ul style="list-style-type: none"> Journals, personal contacts, Websites, etc. Place advertisements Review resumes
Conducted on a weekly basis	<ul style="list-style-type: none"> Progress Report—check for quality and diversity of applicants. Determine need to target any specific group or area. Review and qualify all potential candidates
Day 46	<ul style="list-style-type: none"> Affion concludes the recruitment campaign
Day 65	<ul style="list-style-type: none"> Review and finalize candidate selection to be presented References for finalists are contacted Background checks completed Internet and media searches conducted on finalists
Day 76	<ul style="list-style-type: none"> Presentation of 6-8 candidates to the Selection Panel Affion will facilitate a review of the final candidates Conduct first round of candidate interviews with the Search Committee and key stakeholders Finalize decision on the candidate of choice and negotiate employment agreement with the candidate
Day 90	<ul style="list-style-type: none"> Successful Candidate accepts offer of employment



Cost

Full Executive Search:

Affion executive searches are full-service searches conducted by senior executives within our firm. The fee we have outlined herein is all inclusive of all phases of the search including stakeholder meetings, profile development, job postings, sourcing, recruitment, interviewing, reference checking, background checks, media checks, and candidate offer negotiation.

Fee for Chief of Staff search (all inclusive): \$28,000

Additional expenses, which are not included in the overall fee but are expected to be reimbursed by the Austin Energy include all candidate travel expenses for the purpose of interviews with the Austin Energy. This will vary depending on the location of the finalist selected.

While invoice procedures can be adjusted, our typical billing practice is to spread the fee payment over three equal installments. (One-third to be billed when the contract is signed, one-third to be billed upon presentation of the Final Candidates, and the last one-third to be billed upon the hiring of the desired Candidate.) Adjustments to our payment and billing processes are negotiable in order to best accommodate our clients' needs.

Guarantee:

As with all of our executive searches, we are prepared to offer our standard professional service guarantee. If the hired candidate is asked to leave for reasons of non-performance, or leaves of his/her own volition in the first 24 months of employment, we will re-launch a search for a new candidate, under the original position specifications. In such a case, we will do so for no additional professional fee, though charging expenses that may incur to include all Affion travel, hotel, and re-posting of job advertisements. It is our commitment to partner with you from the initial signing of the contract until the candidate accepts and offer and begins employment.



Reference List

City of Dallas, TX

Molly Carroll

Director of Human Resources
1500 Marilla Street, Room 6A South
Dallas, TX 75201
214-243-1153
molly.carroll@dallascityhall.com

Affion worked with the City of Dallas on the placement of two Assistant City Managers (2014), the Director of the Department of Trinity Watershed Management (2015), their Fire Chief search (2016), and we worked with them on their City Manager recruitment (2016). Affion has worked closely with Molly Carroll throughout all the recruitments.

City of Tamarac, FL

Lorenzo Calhoun

Director of Human Resources
7525 NW 88th Ave
Tamarac, FL 33321
954-597-3609
Lorenzo.Calhoun@tamarac.org

Affion had the pleasure of working with the City of Tamarac on their Fire Chief search in 2009, their Director of Community Development recruitment in 2013, and we are currently working with them on their Assistant City Manager search. Lorenzo has worked closely with us on the Assistant City Manager search.

City of Thornton, CO

Tricia Hinton-Potter

Human Resources Director
9500 Civic Center Drive
Thornton, CO 80229
303-538-7243
Tricia.Hinton-Potter@cityofthornton.net

Affion just finished working with the City of Thornton on their City Manager recruitment (2017). We had the pleasure of working with Tricia Hinton-Potter throughout the search process.



Client List

Cities:

Borough of State College, PA

- Director of Public Works (2016)

City of Ann Arbor, MI

- Parks and Recreation Services Manager (2008)
- Parks and Recreation Services Deputy Manager (2008)
- City Administrator (2011)
- Fire Chief (2014)
- Police Chief (2015)
- City Administrator (2016)

City of Arlington, TX

- City Auditor (2014)
- Director of Community Development and Planning (2015)

City of Asheville, NC

- Urban Planning and Design Director (2014)
- Police Chief (2015)

City of Atlanta, GA

- Chief Information Officer (2003)

City of Austin, TX

- City Manager (2008)
- Fire Chief (2008)
- Chief Information Officer (2008)
- Director of Solid Waste Services (2009)
- Chief Sustainability Officer (2010)
- Director of Code Compliance (2011)
- Chief Financial Officer (2012)
- Austin Water Utility (AWU) Assistant Director, Engineering Services (2013)
- Austin Water Utility (AWU) Assistant Director, Pipeline Operations and Maintenance (2013)
- Assistant City Manager (2013)
- Purchasing Officer (2014)
- Deputy Director, Economic Development (2015)
- Redevelopment Division Manager (2015)
- Assistant Director of Water Res Planning & Analysis (2015)
- Austin Energy – CTO (2016)

This city is located in Central Texas and is the capital of Texas as well as the county seat of Travis County. Austin's population has doubled every 20 years and currently sits at just over 757,500.

City of Bellevue, WA

- Director of Planning and Community Development (2010)
- Chief Communications Officer (2012)
- Chief Economic Development Officer (2014)
- Chief Communications Officer (2016)
- Director of Planning and Community Development (2016)

This city of 122,900, is the fifth largest city in Washington.

City of Boulder, CO

- Director of Public Works for Utilities (2011)
- Deputy Director of Community Planning and Sustainability (2011)
- Comprehensive Planning Manager (2012)
- Human Resources Director (2013)

City of Broken Arrow, OK

- Fire Chief (2010)
- Police Chief (2011)
- City Manager (2012)
- Assistant City Manager (2013)
- Director of Engineering/Construction (2014)
- Fire Chief (2014)
- City Manager (2015)

This city of 98,850 residents is the fourth largest city in the state and is the largest suburb of Tulsa.

City of Burbank, CA

- Director of Finance (2009)
- Director of Parks and Recreation (2007)

This city of 108,000 residents is located in Los Angeles County.

City of Chandler, AZ

- Chief Information Officer (2007)
- Director of Economic Development (2008)
- Director of Planning and Development (2008)
- Municipal Utilities Director (2015)

This city of 240,600 residents is located in Maricopa County and is part of the Phoenix Metro Area.

City of College Station, TX

- Assistant Director of Planning & Development (2008)
- Fire Chief (2016)
- IT Director (2017 – present)

This city of 86,000 residents is located in Central Texas and is the home of Texas A&M University.

City of Columbia, MO

- City Manager (2011)
- CIO (2015)

This city of 108,500 is the fifth-largest city in Missouri. Columbia is often referred to as "Collegetown U.S.A." because it is home to the University of Missouri, Stephens College and Columbia College.

City of Corpus Christi, TX

- City Manager (2008)

This city of 285,000 residents is located in South Texas along the Gulf Coast.

City and County of Denver, CO

- Manager of Community Planning and Development (2012)

City of Dallas, TX

- Deputy Director CIS (2005)
- Public Information Officer (2005)
- Assistant Director Dallas Water Utilities (2005)
- Assistant Director CIS (2005)
- Director and Chief Information Officer (2005)
- Director of Housing (2014)
- Assistant City Manager (2014)
- Director of the Department of Trinity Watershed Management (2015)
- Fire Chief (2016)
- City Manager (2016)

City of Dublin, OH

- CIO (2015)
- Planning Director (2015)

City of East Lansing, MI

- City Manager (2012)

City of El Paso, TX

- City Manager (2014)
- Director of Museums and Cultural Arts (2014)
- Managing Director of Public Works (2015)

City of Eugene, OR

- Executive Director of Planning and Development (2010)

This city of 156,185 is the second largest city in the state of Oregon and the seat of Lane County.

City of Fort Collins, CO

- Chief Sustainability Officer (2014)
- Light & Power Operations Manager (2015)
- Chief Human Resources Officer (2016)
- Cultural Services Director (2016)

City of Galveston, TX

- City Manager (2011)

City of Gardner, KS

- Business and Economic Development Director (2015)
- Utility Director (2015)

City of Hollywood, FL

- City Manager (2011)

City of Huntsville, TX

- City Manager (2008)

City of Irving, TX

- City Manager (2006)
- Assistant City Manager (2008)
- Internal Auditor (2008)
- Director of Human Resources (2007)
- Assistant Director of Human Resources (2007)
- City Attorney (2007)
- Fire Chief (2006)
- City Secretary (2010)

City of Kirkwood, MO

- Chief Administrative Officer (2014)
- Police Chief (2017)

City of Leander, TX

City Manager (2011)

City of Los Angeles, CA

- CIO-Los Angeles World Airport (2007)
- General Manager, ITA (2002)
- Information Systems Manager (2002)
- General Manager Department of Aging (2003)
- Director, Bureau of Sanitation (2004)
- Los Angeles Zoo: General Manager (2003)
- City Engineer (2003)

City of Lynwood, CA

- Assistant City Manager (2007)
- Director of Human Resources (2007)
- Assistant Director of Public Works (2007)
- Deputy Director of Development (2007)

This city of 70,000 residents is located in Los Angeles County.

City of Marshall, TX

- City Manager (2014)

City of McKinney, TX

- City Manager (2008)
- Assistant City Manager (2009)
- Director of Finance (2011)
- Director of Water Utilities and Infrastructure (2013)
- Assistant City Manager (2014)
- Director of Public Works (2016)

This city of 121,000 residents is located in the Dallas-Ft. Worth Metroplex and is one of the fastest growing cities in the country.

City of Mesa, AZ

- Deputy City Manager (2007)
- Director of Human Resources (2007)

City of Missouri, City, TX

- Director of Finance (2016)
- Director of Development Services (2016)

City of Morgantown, WV

- City Manager (2010)

This city of 70,000 is the largest city in North-Central West Virginia, and the base of the Morgantown metropolitan area.

City of North Richland Hills, TX

- City Manager (2009)
- General Manager: NRH2O, Water Park (2014)

This city of roughly 60,000 residents is also located in the Dallas-Ft. Worth Metroplex.

City of Phoenix, AZ

- Human Resources Director (2015)
- Human Resources Director (2017 - present)

City of Plano, TX

- City Manager (2010)
- City Attorney (2013)

The city of 222,030 is the ninth-largest city in Texas and is located mostly in Collin County.

City of Port Arthur, TX

- Assistant City Manager (2016)
- Public Works Director (2016)

City of Round Rock, TX

- City Manager (2010)
- Director of Human Resources (2012)
- Police Chief (2013)

This city of 105,412 is part of the Austin–Round Rock–San Marcos metropolitan area.

City of San Antonio, TX

- City Manager (2006)
- Assistant City Manager (2006)

This city of 1.6 million residents is the 7th largest city in the United States.

City of San José, CA

- Deputy Director of Administration (2006)
- Deputy Director of Integrated Waste Management (2006)

This city of roughly 1 million residents is located at the southern end of the San Francisco Bay Area.

City of San Marcos, TX

- City Manager (2008)
- Human Resources Director (2011)
- Chief Building Official (2011)

This city of 50,000 residents is located in Central Texas between San Antonio and Austin.

City of Savannah, GA

- City Manager (2010)

This city of just over 130,000 is the largest city and county seat of Chatham County, in the U.S. state of Georgia.

City of Scottsdale, AZ

- Police Technology Director (2009)

This city of 217,385 is located in the eastern part of Maricopa County, Arizona, adjacent to Phoenix.

City of Shawnee, OK

- City Manager (2015)

City of Springfield, MO

- City Manager (2008)

This city of 156,000 residents is the 3rd largest city in Missouri.

City of Tacoma, WA

- Assistant City Manager (2006)
- Director of Finance (2007)
- Director of Information Technology (2008)
- Assistant Director of Finance (2009)

This city of just under 200,000 residents is the 3rd largest city in Washington.

City of Tamarac, FL

- Fire Chief (2009)
- Director of Community Development (2013)
- Assistant City Manager (2017 – present)

This community of 60,000 residents is located in Broward County located in Southern Florida.

City of Thornton, CO

- City Manager (2017)

Incorporated Village of Garden City, NY

- Village Administrator (2014)

Counties:

County of Los Angeles, CA

- Information Systems Manager (2007)
- CIO-Los Angeles World Airport (2007)

This county is the largest county in the US with a population of 9.8 million and 88 incorporated cities.

City and County of Philadelphia, PA

- Chief Information Officer (2000)
- CIO-Philadelphia Free Library (2001)
- CIO- Philadelphia Police Department (2006)

Philadelphia is known as both the city and the county with a population of 1.4 million.

Laramie County, WY

- Public Works Director (2014)

Milwaukee County, WI

- Director of Parks, Recreation & Culture (2013)

Washtenaw County, MI

- Community Development Director (2007)

This is a county located southwest of Detroit and its largest city is Ann Arbor. The population of this county is over 322,000 residents.

States:

Commonwealth of Pennsylvania-Office of Administration

- Chief Information Officer (2008)
- Chief Technology Officer (2008)
- Deputy Chief Information Officer (2008)

Commonwealth of Pennsylvania-Department of Health

- Deputy Secretary of Quality Assurance (2008)
- Deputy Secretary of Health Promotion (2008)
- Bureau Chief of Drug and Alcohol (2008)

State of Texas, Austin, TX

- Director of Benefits - Employee Retirement System of Texas (2006)
- CTO - Employee Retirement System of Texas (2005)
- Chief Information Officer of DIR (2006)

Education:

Harrisburg University, Harrisburg, PA

- Director of Learning Assessment (2009)
- E-Business Program Director / Faculty (2008)
- Learning Technologies Program Director / Faculty (2008)
- CIS Program Director / Faculty (2007)
- Biotechnology Professor (2008)
- VP for Development (2005)
- Director of Development (2007)
- Controller (2006)
- Network Administrator (2006)

Other:

E-470 Public Highway Authority, Aurora, CO

Executive Director (2015)

Housing Authority of the City of El Paso, TX

Chief Operating Officer (2010)

Minneapolis Parks and Recreation Board, MN

- Assistant Superintendent of Planning (2011)
- Assistant Superintendent of Recreation (2012)
- Deputy Superintendent (2012)
- Assistant Superintendent of Environmental Stewardship (2012)
- Director of Park Safety and Security (2013)
- Human Resources Manager (2013)

Roanoke Redevelopment and Housing Authority

Executive Director (2006)

Round Rock Chamber of Commerce, TX

President/Chief Executive Officer (2014)

San Antonio Water System (SAWS)

Chief Information Officer (2016)

Williamson-Burnet County Opportunities, Inc. (WBCO)

Executive Director (2013)



**Thank you for the opportunity to submit this proposal.
We look forward to assisting you with your
executive search needs!**

EXHIBIT B
City of Austin, Texas
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 Consultant, 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 Consultants 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 Subconsultants 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, Consultant 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 Consultant will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Consultant 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 Consultant 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.

Consultant agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Consultant 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 Consultant's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Consultant's policy, but will also supersede the Consultant's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONSULTANT SHALL PROVIDE THE CITY A COPY OF THE CONSULTANT'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 CONSULTANT FOR ALL PURPOSES WILL BE CONSIDERED THE CONSULTANT'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 Consultant agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Consultant's separate conforming policy, which the Consultant has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Consultant further agrees that, in consideration of the receipt of continued Contract payment, the Consultant's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this September day of 20th, 2017

CONSULTANT
Authorized
Signature

Title

Affion Public / Scott Reilly
[Signature]
CEO