



M E M O R A N D U M

**City of Austin
Financial Services Department
Purchasing Office**

DATE: October 27, 2017
TO: Memo to File
FROM: Roger Stricklin, Procurement Specialist IV
RE: MA 7300 NG170000002

This MA was created as a payment mechanism only. The original contract is administered, maintained and located with the Office of Telecommunications and Regulatory Affairs.



MEMORANDUM

TO: Roger Stricklin, Contract Management Specialist IV
FROM: John Speirs, Telecommunications & Regulatory Affairs Program Manager
DATE: October 12, 2017
SUBJECT: Contract Amount

The purpose of this memorandum is to provide clarification regarding FY17 Grant for Technology Opportunities Program (GTOPs) contracts.

Section 4.1 Contract Amount

The Contractor acknowledges and agrees that, notwithstanding any other provision of this Contract, the maximum amount payable by City under this Contract shall not exceed \$25,000.000 (the "City Contribution"). The City Contribution shall be payable only and solely from funds appropriated and available for the purpose of the GTOPs program.

The actual award amounts for the contracts are detailed herein:

Austin Pathways (HACA) NG170000003 (Dollar Amount \$21,750)
Creative Action NG170000002 (Dollar Amount \$21,515)
Goodwill Industries NG170000001 (Dollar Amount \$24,985)
American Youthworks NG170000004 (Dollar Amount \$21,500)
Latinitas N170000008 (Dollar Amount \$23,500)
UT Foundation N170000007 (Dollar Amount \$24,000)
Meals on Wheels NN170000003 (Dollar Amount \$16,250)
Breakthrough Austin NN170000004 (Dollar Amount \$24,500)
Boys & Girls Club NN170000005 (Dollar Amount \$22,000)

The current version of the boilerplate terms and conditions is scheduled to be reviewed with the Law Department to address this issue.

If you have additional questions, please contact me at 512-974-3510 or email John.Speirs@austintexas.gov.

CC: Melanie Kroll, Financial Analyst IV
Laura Haufler, Accountant II

Creative Action

***GTOPS 2017 - Expanding Technology & Arts
Learning at Lee Lewis Campbell Elementary Media
and Performing Arts Institute***

Program Cover Page

<i>Contract Start Date</i>	7/1/2017	<i>Contract End Date</i>	6/30/2018
<i>Period Start Date</i>	7/1/2017	<i>Period End Date</i>	6/30/2018

Agency Legal Name Creative Action

Agency dba, If Any

Tax ID Number XXXXXXXXXX

Program Name GTOPS 2017 - Expanding Technology & Arts Learning at Lee
Lewis Campbell Elementary Media and Performing Arts Institute

Contract Start Date 7/1/2017

Contract End Date 6/30/2018

Program Payee Address

Street 2921 E 17th Street Box 7
City Austin
State TX
Zip 78702

Program Physical Address

Street 2921 E 17th Street Bldg B
City Austin
State TX
Zip 78702

Program Director

Name Natalie Goodnow

Phone (512)442-8773

Fax (512)386-8994

Email natalie@creativeaction.org

Program Financial Contact Person

Name Cindy Longoria

Phone (512)442-8773

Fax (512)386-8994

Email cindy@creativeaction.org

Created 7/5/2017 2:12:00 PM

Last Modified, If Applicable



**CONTRACT BETWEEN
THE CITY OF AUSTIN
AND
CREATIVE ACTION
FOR**

The Grant for Technology Opportunities Program (GTOPs)

CONTRACT NO: N 6170000002

CONTRACT AMOUNT: \$21,515.00

This Contract is made by and between the City of Austin ("City") acting by and through its Telecommunications And Regulatory Affairs office ("TARA"), a home-rule municipality incorporated by the State of Texas, and Creative Action ("Contractor"), a Texas non-profit corporation, having offices at 2921 E 17th St. Building B, Austin, TX 78702.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1. **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in the Program Work Statement, attached hereto as Exhibit A.1.

1.2. **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Program Work Statement. The Contractor shall assure that all Contract provisions are met by the Subcontractor.

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

1.4. **Designation of Key Personnel.** City's Contract Manager for this Contract shall be responsible for oversight and monitoring of Contractor's performance under this Contract.

1.4.1. City's Contract Manager, John Speirs or designee:

- may meet with Contractor to discuss any operational issues or the status of the services or work to be performed; and

- shall promptly review all written reports submitted by Contractor, determine whether the reports comply with the terms of this Contract, and give Contractor timely feedback on the adequacy of progress and task reports or necessary additional information.

1.4.2. Contractor's Contract Manager, Karen LaShelle, Executive Director, shall represent the Contractor with regard to performance of this Contract and shall be the designated point of contact for the City's Contract Manager.

1.4.3. If either party replaces its Contract Manager, that party shall promptly send written notice of the change to the other party. The notice shall identify a qualified and competent replacement and provide contact information.

SECTION 2. TERM

2.1. **Term of Contract.** The Contract shall be in effect for a term of Twelve (12) months beginning, Saturday, July 01, 2017, and may be extended thereafter for up to One (1) additional One (1) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

SECTION 3. PROGRAM WORK STATEMENT

3.1. **Contractor's Obligations** The Contractor shall fully and timely provide all services described in Exhibit A.1, Program Work Statement in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 4. COMPENSATION AND REPORTING

4.1. **Contract Amount.** The Contractor acknowledges and agrees that, notwithstanding any other provision of this Contract, the maximum amount payable by City under this Contract shall not exceed \$25,000.00 (the "City Contribution"). The City Contribution shall be payable only and solely from funds appropriated and available for the purpose of the GTOPs program.

4.2. **Requests for Payment and Matching Funds Statement** Payment to the Contractor shall be due thirty (30) calendar days following receipt by City's Contract Manager of Contractor's fully completed "Payment Request" and "Monthly Expenditure Report", using the forms shown at <https://www.ckodm.com/austin/>. The payment request and expenditure report must be submitted to the City's Contract Manager no later than fifteen (15) calendar days following the end of the month covered by the request and expenditure report.

Contractor must provide the City with supporting documentation for each monthly Payment Request to include, but not limited to, a report of City contract expenditures generated from the Contractor's financial management system.

Examples of appropriate supporting documentation **MAY** include, but are not limited to:

- * General Ledger Detail report from the contractor's financial management system
- * Profit And Loss Detail report from the contractor's financial management
- * Check ledger from from the contractor's financial management system
- * Payroll reports and summaries, including salary allocation reports and signed timesheets
- * Receipts and invoices
- * Copies of checks and bank statements showing transactions as cleared

The City retains right of final approval of any supporting documentation submitted before a Payment Request is approved for processing. Failure to provide supporting documentation acceptable to the City may result in delay or rejection of the Payment Request. The City reserves the right to modify the required supporting documentation from time to time, as needed.

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

4.2.2. 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.

4.2.3. The organization shall ensure that the matching funds component of this program is fulfilled in compliance with the guidelines document provided by the City. The City requires a one-to-one match for City contributions. Failure to satisfy the minimum match requirement by the termination date of this agreement will be an event of default for which the City may exercise its rights under Section 5 of this agreement.

4.2.4. The organization shall submit a matching funds statement using the forms shown at <https://www.ckodm.com/austin/>, no later than fifteen (15) calendar days following the end of the month covered by the request and expenditure report. Contractor shall provide supporting documentation upon request by City.

4.3. **Payment.**

4.3.1. All proper requests for payment 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. Requests for payment received without all required information cannot be processed and will be returned to the Contractor.

4.3.2. 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.

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

4.3.3.1. delivery of unsatisfactory services by the Contractor;

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

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

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

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

4.3.3.6. failure of the Contractor to submit proper payment requests and expenditure reports with all required attachments and supporting documentation; or

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

4.3.4. 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. Payment will be made by check unless the parties mutually agree to payment by electronic transfer of funds.

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

4.5. **Travel Expenses.** All approved travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the 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. 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.

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

4.6.1. The making and acceptance of final payment will constitute:

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

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

4.7. Financial Terms.

4.7.1. City agrees to pay Contractor for services rendered under this Contract and to reimburse Contractor for actual, eligible expenses incurred and billed in accordance with all terms and conditions of this Contract. City shall not be liable to Contractor for any costs incurred by Contractor which are not reimbursable as set forth in Section 4.8.

4.7.2. City's obligation to pay is subject to the timely receipt of complete and accurate reports as set forth in Section 4.9.1 and any other deliverable required under this Contract.

4.7.3. Payments to the Contractor will immediately be suspended upon the occasion of any late, incomplete, or inaccurate report, audit, or other required report or deliverable under this Contract, and payments will not be resumed until the Contractor is in full compliance.

4.7.4. City shall not be liable to Contractor for any costs which have been paid under other agreements or from other funds. In addition, City shall not be liable for any costs incurred by Contractor which were: a) incurred prior to the effective date of this Contract, or b) not billed to City within sixty (60) calendar days following termination date of this Contract.

4.7.5. Contractor agrees to refund to City any funds paid under this Contract which City determines have resulted in overpayment to Contractor or which City determines have not been spent by Contractor in accordance with the terms of this Contract. Refunds shall be made by Contractor within thirty (30) calendar days after a written refund request is submitted by City. City may, at its discretion, offset refunds due from any payment due Contractor, and City may also deduct any loss, cost, or expense caused by Contractor from funds otherwise due.

4.7.6. Contractor shall deposit and maintain all funds received under this Contract in either a separate numbered bank account or a general operating account, either of which shall be supported with the maintenance of a separate accounting with a specific chart which reflects specific revenues and expenditures for the monies received under this Contract. The Contractor's accounting system must identify the specific expenditures, or portions of expenditures, against which funds under this Contract are disbursed.

4.7.7. Contractor is required to utilize an online contract management system for billing and reporting in accordance with City guidelines, policies, and procedures. Contractor is responsible for all data entered/edited under its unique username, as well as all required but omitted data.

4.8. Allowable and Unallowable Costs.

The City shall make the final determination of whether a cost is allowable or unallowable under this Contract.

4.8.1. Reimbursement Only. Expenses and/or expenditures shall be considered reimbursable if incurred directly and specifically in the performance of this Contract and if in conformance with the Program Work Statement. Contractor agrees that, unless otherwise specifically provided for in this Contract, payment by the City under the terms of this Contract is made on a reimbursement basis only; Contractor must have incurred and paid costs prior to those costs being invoiced and considered allowable under this Contract and subject to payment by the City.

4.8.2. To be allowable under this Contract, a cost must meet all of the following general criteria:

1. Be reasonable for the performance of the activity under the Contract.
2. Conform to any limitations or exclusions set forth in this Contract.
3. Be consistent with policies and procedures that apply uniformly to both government-financed and other activities of the organization.
4. Be determined and accounted in accordance with generally accepted accounting principles (GAAP).
5. Be adequately documented.

4.8.3. The City's prior written authorization is required in order for the following to be considered allowable costs. Inclusion in the budget within this Contract constitutes "written authorization."

1. Alteration, construction, or relocation of facilities

2. Contingency provisions (funds). (Excludes self-insurance reserves and pension funds)
3. Depreciation.
4. Entertainment costs
5. Equipment and other capital expenditures.
6. Fundraising, development, and investment management costs
7. Idle facilities and idle capacity.
8. Interest, other than mortgage interest as part of a pre-approved budget under this Contract
9. Organization costs (costs in connection with the establishment or reorganization of an organization)
10. Public relations costs, except reasonable, pre-approved advertising costs related directly to services provided under this Contract
11. Purchases of tangible, nonexpendable property, including fax machines, stereo systems, cameras, video recorder/players, microcomputers, software, printers, microscopes, oscilloscopes, centrifuges, balances and incubator, or any other item having a useful life of more than one year and an acquisition cost, including freight, of over one thousand dollars (\$1,000)
12. Selling and marketing
13. Travel/training outside Travis County

4.8.4. The following types of expenses are specifically **not allowable** with City funds under this Contract:

1. Alcoholic beverages
2. Bad debts
3. Compensation of trustees, directors, officers, or advisory board members, other than those acting in an executive capacity.
4. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement
5. Deferred costs
6. Donations and contributions including donated goods or space
7. Fines and penalties (including late fees)
8. Goods or services for officers' or employees' personal use
9. Housing and personal living expenses for organization's officers or employees
10. Litigation-related expenses (including personnel costs) in action(s) naming the City as a defendant
11. Lobbying or other expenses related to political activity
12. Losses on other agreements or contracts or casualty losses
13. Taxes, other than payroll and other personnel-related levies
14. City of Austin except utilities (as an administrative expense)
15. Liability insurance for the organization including any coverage needed in order to comply with City requirements (the City will pay for that portion of personnel overhead related to benefits such as an employee's health insurance)
16. Property maintenance expenses such as lawn care, maid service, security system monitoring or pest control
17. Attorney's fees
18. Auditor's fees
19. Preparation of other grant applications; however the City will pay \$100 as a program cost for preparing the GTOPs application
20. Maintenance and repair of equipment as outlined in section 4.13 of this Contract

21. Taxes, other than payroll and other personnel-related levies
22. Technology given to individuals for use in their homes
23. Technology used by staff only
24. General operational expenses not related to your program
25. Expenses made before the program contract is signed

4.9. Reports.

4.9.1. Contractor must submit a fully and accurately completed "Payment Request" and "Monthly Expenditure Report" to the City's Contract Manager using the forms shown at <https://www.ckodm.com/austin/> no later than fifteen (15) calendar days following the end of the month covered by the request and expenditure report. Contractor must provide complete and accurate supporting documentation. Upon receipt and approval by the City of each complete and accurate Payment Request and Monthly Expenditure Report, the City shall process payment to the Contractor of an amount equal to City's payment obligations, subject to deduction for any unallowable costs.

4.9.2. Contractor shall submit a quarterly performance report using the format and method specified by the City no later than fifteen (15) calendar days following each calendar quarter. Contractor shall provide complete and accurate supporting documentation upon request by City. Payment Requests will not be approved if any accurate and complete performance report, including any required documentation, is past due. Performance reports on a frequency other than quarterly may be required by the City based upon business needs.

4.9.3. An annual Contract closeout report using the forms shown at <https://www.ckodm.com/austin/> shall be completed by the Contractor and submitted to the City within sixty (60) calendar days following the expiration or termination of this Contract. Any encumbrances of funds incurred prior to the date of termination of this Contract shall be subject to verification by City. Upon termination of this Contract, any unused funds, unobligated funds, rebates, credits, or interest earned on funds received under this Contract shall be returned to the City.

4.9.4. Contractor shall provide the City with a copy of the completed Administrative and Fiscal Review (AFR) using the forms shown at <https://www.ckodm.com/austin/> and required AFR Attachments, including a copy of the Contractor's completed Internal Revenue Service Form 990 or 990EZ (Return of Organization Exempt from Income Tax) if applicable, for each calendar year no later than May 31st of each year. If Contractor filed a Form 990 or Form 990EZ extension request, Contractor shall provide City with a copy of that application of extension of time to file (IRS Form 2758) within thirty (30) days of filing said form(s), and a copy of the final IRS Form 990 document(s) immediately upon completion.

4.9.5. Contractor shall provide other reports required by the City to document the effective and appropriate delivery of services as outlined under this Contract as required by the City.

4.10. Contractor Policies and Procedures. Contractor shall maintain written policies and procedures approved by its governing body and shall make copies of all policies and procedures available to the City upon request. At a minimum, written policies shall exist in the following areas: Financial Management; Subcontracting and/or Procurement; Equal Employment Opportunity; Personnel and Personnel Grievance; Nepotism; Non-Discrimination of Clients; Client Grievance; Drug Free Workplace; the Americans With Disabilities Act; and Criminal Background Checks.

4.11. Monitoring and Evaluation.

4.11.1. Contractor agrees that the City or its designee may carry out monitoring and evaluation activities to ensure adherence by the Contractor and Subcontractors to the Program Work Statement, Program Performance Measures, and Program Budget, as well as other provisions of this Contract. Contractor shall fully cooperate in any monitoring or review by the City and further agrees to designate a staff member to coordinate monitoring and evaluation activities.

4.11.2. Contractor shall provide City with copies of all evaluation or monitoring reports received from other funding sources during the Contract Term within twenty (20) working days following the receipt of the final report.

4.11.3. Contractor shall keep on file copies of all notices of Board of Directors meetings, Subcommittee or Advisory Board meetings, and copies of minutes of those meetings.

4.12. Financial Audit of Contractor.

4.12.1. In the event Contractor receives combined receipts of federal financial assistance and outstanding federal direct, guaranteed or insured loan balances totaling five hundred thousand dollars (\$500,000) or more for any one-year period, Contractor shall submit to the City a complete set of audited financial statements and the auditor's opinion and management letters in accordance with 24 CFR, Part 44, OMB Circular A-133, the Single Audit Act of 1984, and

the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions

covering Contractor's fiscal year until the end of the term of this Contract. Requirements stated in sections 4.12.1 - 4.12.7 may be waived at the discretion of the City. Contractor may provide City with equivalent documentation at the discretion of the City to satisfy requirements of this Contract.

4.12.2. If Contractor is not subject to the Single Audit Act, and expending five hundred thousand dollars (\$500,000) or more during the Contractor's fiscal year, then Contractor shall have a full financial audit performed. If less than five hundred thousand dollars (\$500,000) is expended, then a financial review is acceptable, pursuant to the requirements of this Contract.

4.12.3. Contractor shall contract with an independent auditor utilizing a Letter of Engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

4.12.4. Contractor must submit one (1) Board-approved, bound hard copy of a complete financial audit report or financial review, to include the original auditor opinion, within one hundred eighty (180) calendar days of the end of Contractor's fiscal year, unless alternative arrangements are approved in writing by the City. The financial audit report/financial review must include the Management Letter if one was issued by the auditor. Contractor may not submit electronic copies of financial audit reports/financial reviews to the City. Financial audit reports/financial reviews must be provided in hard copy, and either mailed or hand-delivered to the City.

4.12.5. City will contact the independent auditor to verify

- i. That the auditor completed the financial audit report/financial review received from the Contractor;
- ii. That the auditor presented the financial audit report/financial review to the Contractor's Board of Directors or a committee of the Board, and;
- iii. The date the financial audit report/financial review was presented to the Contractor's Board of Directors or a committee of the Board.

4.12.6. Contractor must submit a signed copy of the approved Board meeting minutes to the City, indicating the following:

- i. The Board of Directors, or a committee of the Board, has met with the independent auditor;
- ii. The Board of Directors has authorized and accepted the financial audit report/financial review.

Failure to submit the Board minutes will deem the financial audit report/financial review incomplete. Approved and signed Board minutes reflecting acceptance of the financial audit report/financial review will be due to the City within forty-five (45) days after the audit is due to the City. Board minutes regarding approval of the Contractor's financial audit report/financial review will be verified with the Contractor's Board Chair.

4.12.7. The inclusion of any Findings or a Going Concern Uncertainty in a Contractor's audit requires the creation and submission to the City of a corrective action plan formally approved by the Contractor's governing board. The plan must be submitted to the City within 60 days after the audit is due to the City. Failure to submit an adequate plan to the City may result in the immediate suspension of funding. If adequate improvement related to the audit findings is not documented within a reasonable period of time, the City may provide additional technical assistance, refer the Agreement to the City Auditor for analysis, or move to terminate the Agreement as specified in Section 5 of the Agreement.

4.12.8. The expiration or termination of this Contract shall in no way relieve the Contractor of the audit requirement set forth in this Section.

4.12.9. Right To Audit By Office of City Auditor.

4.12.9.1. Contractor agrees that the representatives of the Office of the City Auditor, or other authorized representatives of the City, shall have access to, and the right to audit, examine, and copy any and all records of the Contractor related to the performance under this Agreement during normal business hours (Monday – Friday, 8 am – 5 pm). In addition to any other rights of termination or suspension set forth herein, City shall have the right to immediately suspend the Agreement, upon written notice to Contractor, if Contractor fails to cooperate with this audit provision. The Contractor shall retain all such records for a period of five (5) years after the expiration or early termination of this Agreement or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

4.12.9.2. Contractor shall include this audit requirements in any subcontracts entered into in connection with this Agreement.

4.13. Ownership of Property.

4.13.1. Ownership title to all capital acquisition, supplies, materials or any other property purchased with funds received under this Contract and in accordance with the provisions of the Contract, is vested with the City and such property shall, upon termination of the Contract, be delivered to the City upon request.

4.13.2. Written notification must be given to the City as specified in Section 4 of the Agreement of delivery of nonexpendable property (defined as anything that has a life or utility of more than one (1) year and an acquisition cost, including freight, of over one thousand dollars (\$1,000)) in order for the City to effect identification and recording for inventory purposes. Contractor shall maintain adequate accountability and control over such property, maintain adequate property records, and perform an annual physical inventory of all such property and report this information in the Annual Summary (close out) report due sixty (60) days after the end of the Contract Term.

4.13.3. In the event Contractor's services are retained under a subsequent agreement, and should Contractor satisfactorily perform its obligations under this Contract, Contractor shall be able to retain possession of non-expendable property purchased under this Contract for the duration of the subsequent agreement.

4.13.4. Property purchased with City funds shall convey to Contractor two (2) years after purchase, unless notified by the City in writing.

SECTION 5. TERMINATION

5.1. **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.

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

5.3. **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

5.4. **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

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

SECTION 6. OTHER DELIVERABLE

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

6.1.1. General Requirements.

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

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

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

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

6.1.1.5. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

6.1.1.6. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

6.1.1.7. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the Contractor's email address, and shall be mailed to the following address:

City of Austin, Telecommunications And Regulatory Affairs office
ATTN: Grant for Technology Opportunities
P. O. Box 1088
Austin, Texas 78767

6.1.1.8. 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 Contractor, shall be considered primary coverage as applicable.

6.1.1.9. If insurance policies are not written for amounts specified, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

6.1.1.10. 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.

6.1.1.11. 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 Contractor.

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

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

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

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

6.1.2.1. **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.

6.1.2.1.1. Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project

6.1.2.1.2. Independent Contractor's Coverage

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

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

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

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

6.1.2.1.7. If care of a child is provided outside the presence of a legal guardian or parent, Contractor shall provide coverage for sexual abuse and molestation for a minimum limit of \$500,000 per occurrence.

6.1.2.1.8. The policy shall be endorsed to cover injury to a child while the child is in the care of the Contractor or Subcontractor.

* Supplemental Insurance Requirement. If eldercare, childcare, or housing for clients is provided, the required limits shall be \$1,000,000 per occurrence.

6.1.2.2. Business Automobile Liability Insurance.

Minimum limits: \$500,000 combined single limit per occurrence for all owned, hired and non-owned autos

a. If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$1,000,000 per occurrence.

b. If no client transportation is provided but autos are used within the scope of work, and there are no agency owned vehicles, evidence of Personal Auto Policy coverage from each person using their auto may be provided. The following limits apply for personal auto insurance: \$100,000/\$300,000/\$100,000.

All policies shall contain the following endorsements:

6.1.2.2.1. Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage

6.1.2.2.2. Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage

6.1.2.2.3. The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage

6.1.2.3. 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:

6.1.2.3.1. The Contractor's policy shall apply to the State of Texas

6.1.2.3.2. Waiver of Subrogation, Form WC 420304, or equivalent coverage

6.1.2.3.3. Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage

6.1.2.4. Professional Liability Insurance.

6.1.2.4.1. Contractor 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.

6.1.2.4.2. 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 twenty-four (24) months following the completion of the Contract.

6.1.2.5. **Blanket Crime Policy Insurance.** A Blanket Crime Policy shall be required with limits equal to or greater than the sum of all Contract funds allocated by the City. Acceptance of alternative limits shall be approved by Risk Management.

6.1.2.6. **Directors and Officers Insurance.** Directors and Officers Insurance with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Contract and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Contract and for not less than twenty-four (24) months following the end of the Contract. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the Contract or evidence of prior acts or an extended reporting period acceptable to the City may be provided. The Contractor shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

6.1.2.7. **Property Insurance.** If the Contract provides funding for the purchase of property or equipment the Contractor shall provide evidence of all risk property insurance for a value equivalent to the replacement cost of the property or equipment.

6.1.2.8. **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.

6.1.2.9. **Certificate.** The following statement must be shown on the Certificate of Insurance.

"The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies."

6.2. **Equal Opportunity.**

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

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

6.3. **Inspection of Premises.** City has the right to enter Contractor's and Subcontractor's work facilities and premises during Contractor's regular work hours, and Contractor agrees to facilitate a review of the facilities upon reasonable request by the City.

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

6.5. **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 7. **WARRANTIES**

7.1. **Authority.** Each party warrants and represents to the other that the person signing this Contract on its behalf is authorized to do so, that it has taken all action necessary to approve this Contract, and that this Contract is a lawful and binding obligation of the party.

7.2. **Performance Standards.** Contractor warrants and represents that all services provided under this Contract shall be fully and timely performed in a good and workmanlike manner in accordance with generally accepted community standards and, if applicable, professional standards and practices. Contractor may not limit, exclude, or disclaim this warranty or any warranty implied by law, and any attempt to do so shall be without force or effect. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source. Contractor agrees to participate with City staff to update the performance measures.

SECTION 8. MISCELLANEOUS

8.1. **Criminal Background Checks.** Contractor and Subcontractor agree to perform a criminal background check on every employee or volunteer whose duties place him or her in contact with children under eighteen (18) years of age. Contractor shall not assign or allow any employee or volunteer to be in direct contact with children if the employee or volunteer would be barred from contact with children under the rules established for child care facilities by the Texas Department of Family and Protective Services.

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

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

8.4. Indemnity.

8.4.1. Definitions:

8.4.1.1. "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:

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

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

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

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

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

8.6. **Business Continuity** Contractor warrants that it has adopted a business continuity plan that describes how Contractor will continue to provide services in the event of an emergency or other unforeseen event, and agrees to maintain the plan on file for review by the City. Contractor shall provide a copy of the plan to the City's Contract Manager upon request at any time during the term of this Contract, and the requested information regarding the Business Continuity Plan shall appear in the annual Administrative and Fiscal Review document. Contractor also agrees to participate in the City's Emergency Preparedness and Response Plan and other disaster planning processes.

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

To the City:
City of Austin,
Telecommunications And
Regulatory Affairs office
Grant for Technology Opportunities
ATTN: Rondella Hawkins
TARA Officer
124 West 8th Street
Austin TX 78702

To the Contractor:
Creative Action

ATTN Karen LaShelle
Executive Director
2921 E 17th St. Building B
Austin TX 78702

With copy to:
City of Austin,
Telecommunications And
Regulatory Affairs office

ATTN: Melanie Kroll
Financial Analyst IV
124 West 8th Street
Austin TX 78702

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

8.9. Mandatory Publicity Statement. Contractor shall prominently include described in Exhibit A.4, Mandatory Publicity Statement (in / on all printed and internet materials relating to City funded program under this agreement disseminated by the Contractor, including promotion for events.

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

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

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

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

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

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

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

8.17. **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.

8.18. **Dispute Resolution**

8.18.1. 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.

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

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

MBE/WBE goals do not apply to this Contract.

8.20. **Subcontractors**

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

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

8.20.2.1. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract. The City may require specific documentation to confirm Subcontractor compliance with all aspects of this Contract.

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

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

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

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

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

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

8.21. **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.

8.22. **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.

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

HOLIDAY	DATE OBSERVED
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.

8.24. **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.

8.25. **Non-Suspension or Debarment Certification.** The City 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 Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the Exclusions records at SAM.gov, the State of Texas, or the City of Austin.

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

Creative Action

Signature: 

Name: Karen LaShelle

Title: Executive Director

Date: 7/27/17

EXHIBITS

CITY OF AUSTIN

Signature: 

Name: ~~John Hilburn~~ Roger Strickland

~~Procurement~~ Contract Management Specialist IV

Purchasing Office

Date: 10-16-17

Exhibit A – Program Forms

A.1. Program Work Statement

A.2. Program Performance Measures

A.3. Client Eligibility Guidelines

A.4. Mandatory Publicity Statement

Exhibit B – Program Budget Forms

B.1. Program Budget and Narrative

B.2. Program Subcontractors (If Applicable)

Exhibit C – Equal Employment/Fair Housing Office/Non-Discrimination Certification

Program Work Statement

Contract Start Date

7/1/2017

Contract End Date

6/30/2018

Program Goals And Objectives

Our goal is to enhance the quality and rigor of digital media and technology education at Campbell Elementary, Austin ISD's most under-enrolled school, through creative arts learning. Our project will 1) help hundreds of Campbell scholars build the critical 21st Century skills they need for long-term academic, career, and personal success as thoughtful, creative, engaged citizens; 2) support Campbell Elementary in creating a robust, sustainable model as AISD's Media and Performing Arts Institute; and 3) bridge Austin's digital divide and promote long-term digital inclusion among youth and educators in East Austin's Chestnut neighborhood by renewing parent and community engagement around technology access and education for Campbell scholars. Our project will create a pathway for low-income, at-risk youth at Campbell to connect with and contribute to Austin's digital and creative economy now and into the future.

SHORT-TERM PROJECT OUTCOMES

Youth will:

- Develop increased technology literacy skills and knowledge of various digital platforms through hands-on projects, including: computer and internet use, word processing, and developing multimedia products and presentations.
- Express their ideas, gather and analyze information, explore diverse perspectives, work as a team, and solve problems using technology and the arts.
- Build confidence and self-esteem while creating with technology.
- Use technology to gain new perspectives on global/social issues and engage with other learners on multiple digital platforms.

Educators will:

- Develop new knowledge and skills in technology to enhance their work as educators.
- Learn new applications for technology in the arts, education, and community engagement.
- Build confidence in their ability to integrate and apply technology in their daily professional lives.

LONG TERM IMPACT

- Youth develop skills for academic and career success through creative technology applications, such as: critical thinking, collaboration, creative problem-solving, project management, research and data analysis, effective communication, cultural/ethical awareness, personal responsibility, and leadership.
- Participants of all ages develop more positive attitudes and comfort using technology in effective, collaborative, and productive ways.
- Youth have the knowledge and skills to succeed as Austin's next great thinkers and innovators, supporting Austin's status as one of the nation's most vibrant cultural and technology hubs.

Program Clients Served

The program will serve approximately 200 youth grades pre-K through 5th at Lee Lewis Campbell Elementary Media & Performing Arts Institute. The program will serve every student on campus. 88% of youth are economically disadvantaged, 59% are at-risk of dropping out, and 20% have limited English proficiency. 57% of students are African American, 36% are Latino, 4% are White, and 3% are Multi-Racial. The program will also serve 20 classroom teachers who participate in professional development workshops and 50 adults/families of Campbell students who attend quarterly campus arts exploration nights and sharings.

Program Services And Delivery

By purchasing new technology equipment, choosing equipment with consideration to creative applications, quality, durability and longevity, we will deliver a suite of activities during the 2017-2018 school year at Campbell, including:

- Three 9-week residencies focused on core academic instruction through digital media learning and creation. Residencies include Radio/Television/Film, Music Production, and Digital Arts. Students receive programming 1-2 times per week during each unit, developing original, hands-on digital media projects using professional-quality equipment with professional Creative Action teaching artists working in partnership with Campbell classroom teachers and fine arts specialists. Projects explore topics related to school-day content as well as age-specific social and community issues, such as racism, bullying, diversity, poverty, and more.

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Program Work Statement

Contract Start Date 7/1/2017 *Contract End Date* 6/30/2018

- 20+ hours of professional development for Campbell Fine Arts Specialists (Art, Music teachers) focused on integrating digital media and arts-based strategies into the curriculum across subject areas. This also includes training teachers on how to use new equipment, giving teachers time to practice with equipment and ask questions, and developing lesson plans and project ideas using technology equipment to enhance academic lessons.
- Ongoing maintenance and support for Campbell's digital media lab by a Creative Action staff member, ensuring equipment is kept in working order and that teachers have the help they need to troubleshoot issues using new equipment.
- Daily after school programming from 2:45-6pm, year-round for 25 select Campbell students at the Center for Creative Action for just \$25/month. After school lessons incorporate filmmaking, animation, audio production, and more.
- The creation of the Blue Dragon Film Crew, which will meet at Campbell twice per week after school for advanced learning in filmmaking and animation. The Blue Dragon minis will meet concurrently to further develop introductory skills in these mediums as well.
- Two campus-wide showcases of student work for teachers, staff, parents, and friends, including performances, film screenings, art exhibits, and more, giving youth the opportunity to celebrate their hard work from the year and build their confidence as artists using digital media.
- Two Family Arts Nights in which family members get to experience the creative process and try using digital media technology alongside their children.
- Approximately 30 guest artist visits from professionals in the community with careers in the arts and technology sectors throughout the school year, helping youth experience a broader range of arts performances and exhibitions, expand their horizons, and learn about real-world applications and career opportunities for their knowledge and skills with digital media.

System for Collecting and Reporting Program Data

The Spark Schools Program Director and School-Based Program Coordinator will support data collection and evaluation throughout the year, including pre- and post-surveys to teachers and students before and after each Artist-In-Residence Unit, focus groups with youth, faculty, and families, and Youth Program Quality Assessments. We will also receive general student data, including youth demographics, overall attendance rates, and MOY and EOY test scores, from the school administration. The Grants Manager will complete all program and performance-level reporting in CTK with support from the School-Based Program Coordinator as needed. Our Grants Manager currently oversees CTK reporting for three other COA contracts and agreements and is experienced in this process.

Performance Evaluation

We will evaluate the impact of the program using:

- Post-surveys to classroom teachers to measure student growth and learning, teacher development, and program effectiveness and satisfaction, delivered after each residency
- Pre- and post-surveys to students to assess student growth and learning around specific academic, social, and emotional learning outcomes. This will include the validated Mindsets, Essential Skills, and Habits (MESH) tool which we are delivering for the first time this year to assess long-term student outcomes around social and emotional learning, delivered at the beginning and end of the school year. We will also develop a post-survey specifically to assess student outcomes around digital media and technology learning for the purpose of this grant.
- Middle and end of year surveys to various Campbell staff and Creative Action teaching artists to gain feedback on program quality, effectiveness, and needs.
- Professional development workshops and coaching surveys to teachers to measure teachers' capacity to implement arts and technology teaching strategies in their classroom.

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Program Work Statement

Contract Start Date 7/1/2017 *Contract End Date* 6/30/2018

- Artist-In-Residency observational assessments of Creative Action teaching artists by the Director of School-Based Programs, completed at least once per semester to provide feedback to teaching artists for program improvement.

- Validated Youth Program Quality Assessments from the national Weikart Center for Youth Program Quality to assess our residencies on safety, support, engagement, and interaction for youth in the classroom.

- End of year surveys to parents to gather feedback on student outcomes, program quality, and ways to improve communication and engagement with families.

- Focus groups with youth and teachers to receive anecdotal and qualitative feedback about the project.

Quality Improvement

Creative Action's School-Based Program Director and supporting staff continually assess and improve program quality through: qualitative surveys to campus staff and youth throughout the year; monthly team meetings for all Campbell teaching artists in addition to Friday trainings at Creative Action every other week; Youth Program Quality (YPQ) internal assessments and improvement processes, led by trained YPQ assessors on staff; ongoing lesson plan review and curriculum development in partnership with classroom teachers, Teaching Artists, and program directors; observational assessments of Teaching Artists by program directors during the year.

Service Coordination with Other Agencies

The project is delivered in close coordination with the Austin ISD Fine Arts Department, the Creative Learning Initiative (CLI), MINDPOP, and Campbell Elementary. AISD provides funding, professional development coaching through CLI to Campbell teachers, and ongoing resource sharing and support through monthly meetings with Creative Action and Campbell staff.

We also partner with guest artists and other organizations such as KLRU, KOOP radio, KUT radio, and Alamo Drafthouse Cinemas to provide other kinds of special opportunities for youth and teachers throughout the year.

Service Collaboration with Other Agencies

Campbell's Principal, Mr. Keith Moore, is a key collaborator in designing program goals and delivery on campus in alignment with his strategic vision of making Campbell Elementary Austin's premier campus for performing arts and digital media education. In addition to working closely with Creative Action and CLI staff to develop and implement project activities, Campbell has three lead arts-integration teachers who help to mentor other teachers and support arts-based instruction on campus. Campbell also provides ample classroom space to support hands-on, small group learning for every grade level. Facilities include a dedicated digital media lab and broadcast center, a black box theatre, and a dance studio, in addition to the art and music classrooms.

Community Planning Activities

We will collaborate with the Campbell Elementary PTA to continue bringing guest artists to PTA events at the school, and to support "Family Arts Nights," which will merge our quarterly showcases with PTA family events. This is based on feedback we received from last year that it was a challenge for many families to attend so many events during the year. By increasing our collaboration with the PTA, our goal is to build relationships with families and ultimately include more parent representatives into our Master Program Steering Committee at Campbell. We seek to increase parent engagement in program planning and implementation, just as we worked closely with teacher representatives this year to create the 2017-2018 Master Schedule of Programs for the school.

Campbell students will also have opportunities to share their work for the larger community at our free, monthly Community Art Sundays. These are community-wide events for all ages delivered in partnership with a variety of other Austin area organizations that include hands-on arts activities, interactive workshops, live music and performances, and food and drinks. Past partners have included Sustainable Food Center, KLRU, Austin Area Urban League, LiveMom.com, Capital Metro, Google Fiber, H-E-B, Armstrong Community Music School, All Rhythms, Forklift Danceworks, Literacy Coalition, and many more. We are excited to offer opportunities for Campbell students to showcase their work for the public and connect with other artists in the community at these ongoing events.

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Creative Action

*GTOPS 2017 - Expanding Technology & Arts
Learning at Lee Lewis Campbell Elementary Media
and Performing Arts Institute*

Program Work Statement

Contract Start Date 7/1/2017 *Contract End Date* 6/30/2018

Creative Action will provide (2) pitch style presentations to the DECA community of practice as directed by the City. Creative Action will collaborate with the City to generate stories of impact and outcomes for this program.

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Program Performance Measures

		<i>Contract Start</i>	<i>Contract End</i>	<i>Period Performance Start</i>	<i>Period Performance End</i>			
				<i>Outputs</i>				
<i>OP</i>	<i>Output Measure</i>					<i>Period Goal</i>		
<i>#</i>	<i>Description</i>					<i>City</i>	<i>Other</i>	<i>Total</i>
1	Total Number of Unduplicated Clients Served.					54	216	270
2	Total number of unduplicated youth participating in technology and arts education programming.					40	160	200
3	Total number of hours of digital media lessons delivered to youth.					42	168	210
4	Total number of hours of professional development in digital media delivered to teachers.					15	60	75

Program Performance Measures

	<i>Contract Start</i>	<i>Contract End</i>	<i>Period Performance Start</i>	<i>Period Performance End</i>	
Outcomes					Total Program Goal
OC Item	Outcome Measure Description				
1 Num	Number of participants in digital inclusion programs that improved their basic digital skills				165
1 Den	Number of participants in digital inclusion programs				220
1 Rate	Percent of participants in digital inclusion programs that improved their basic digital skills				75
2 Num	Number of youth who demonstrate increased confidence working with technology equipment.				150
2 Den	Total number of youth participants in digital inclusion programming.				200
2 Rate	Percentage of youth who demonstrate increased confidence working with technology equipment.				75
3 Num	Number of youth who demonstrate increased soft skills related to technology use, such as critical thinking, problem solving, perspective taking, and communication skills.				150
3 Den	Total number of youth participants in digital inclusion programming.				200
3 Rate	Percentage of youth who demonstrate increased soft skills related to technology use, such as critical thinking, problem solving, perspective taking, and communication skills.				75
4 Num	Number of teachers who report increased skill development or confidence with technology and arts integration in the classroom.				15
4 Den	Total number of teachers receiving professional development training in technology and arts integration.				20
4 Rate	Percentage of teachers who report increased skill development or confidence with technology and arts integration in the classroom.				75

City of Austin, Telecommunications & Regulatory Affairs
Grant for Technology Opportunities Program

Client Eligibility Requirements

Adopted from: City of Austin Health and Human Services Social Service Contracts

UNLESS OTHERWISE STATED IN THE CONTRACT WORK STATEMENT, THESE REQUIREMENTS APPLY TO ALL CLIENTS SERVED WITH CITY SOCIAL SERVICES FUNDING.

GENERAL

- ◆ Eligibility requirements for clients served under grant contracts will be determined by the grantor.
- ◆ Agency must maintain a record of client eligibility (e.g. client file or electronic record) that includes documentation of:
 - Annual certification of client eligibility
 - Services provided to client
- ◆ Agency must recertify client when notified of a change in family circumstances (e.g. family income, residence, and/or family composition)
- ◆ Unless specified by Grant/Funding Source, re-certification of clients is required not less than once every 12 months (unless required earlier by a change in family circumstances)
- ◆ Homeless clients:
 - If the program eligibility requires homeless status, the residency requirements and income requirements do not apply
 - Homeless status must be documented by a signed (1) Homeless Eligibility Form or Homeless Self-Declaration Form and (2) entry into Homeless Management Information System (HMIS) database. These forms must be developed by the agency and be approved by the City contract manager.
- ◆ Other Client populations:
 - Clients in programs serving victims of violence are not subject to residency or income requirements
 - Eligibility exceptions for any other type of clients and/or documentation situations must be described in Contract Work Statement
- ◆ Date of receipt by agency must be indicated on all documentation in client file

IDENTITY

- ◆ Client must provide proof of identity in order to receive City-funded services, documented by:
 - A government –issued identification; or
 - A signed Self-Declaration of Identity supported by client residency documentation

City of Austin, Telecommunications & Regulatory Affairs
Grant for Technology Opportunities Program

Client Eligibility Requirements

RESIDENCY

- ◆ City-funded clients must be a resident of the City of Austin (Full Purpose Jurisdiction) and/or Travis County
 - Residence must be documented by proof of address that includes client name (e.g. City utility bill, lease, letter from landlord, etc.)
 - Residency eligibility must be verified by one or more of the following sources:
 - Austin GIS Development Web Map (<http://www.austintexas.gov/GIS/DevelopmentWebMap>)
 - Travis County Appraisal District website (<http://www.traviscad.org>)
 - U.S. Postal Service website (verification of County only) (www.usps.com)

INCOME

- ◆ Client intake form must reflect wages/income of all family members 18 years old or older living in the household
- ◆ Determination of Family Size:
 - For the purposes of determining eligibility for City-funded services, a family unit consists of:
 - A person living alone:
 - An adult living alone
 - A minor child living alone or with others who are not responsible for the child's support
 - Two or more persons living together who are wholly or partially responsible for the support of the other person/people:
 - Two persons in a domestic partnership, or legal or common-law marriage
 - One or both legal parents and minor children
 - One or both adult caretakers of minors and the caretaker(s)'s minor children. Note: a caretaker is one or both adults(s) who performs parental functions (provision of food, clothing, shelter, and supervision) for a minor.
- ◆ Family income must be 200% or less of current Federal Poverty Income Guidelines (FPIG) to be eligible for City-funded services; agency must update its FPIG categories when Federal figures change. Income inclusions and exclusions are based on Texas Administrative Code §5.19 and are as follows:
 - (1) **Included Income:**
 - (A) Temporary Assistance for Needy Families (TANF);
 - (B) Money, wages and salaries before any deductions;
 - (C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);
 - (D) Regular payments from social security, including Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI);

City of Austin, Telecommunications & Regulatory Affairs
Grant for Technology Opportunities Program

Client Eligibility Requirements

- (E) Railroad retirement;
- (F) Unemployment compensation;
- (G) Strike benefits from union funds;
- (H) Worker's compensation;
- (I) Training stipends;
- (J) Alimony;
- (K) Military family allotments;
- (L) Private pensions;
- (M) Government employee pensions (including military retirement pay);
- (N) Regular insurance or annuity payments; and
- (O) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) Excluded Income:

- (A) Capital gains; any assets drawn down as withdrawals from a bank;
- (B) The sale of property, a house, or a car;
- (C) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
- (D) Tax refunds, gifts, loans, and lump-sum inheritances;
- (E) One-time insurance payments, or compensation for injury;
- (F) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
- (G) Food or housing received in lieu of wages;
- (H) The value of food and fuel produced and consumed on farms;
- (I) The imputed value of rent from owner-occupied non-farm or farm housing;
- (J) Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
- (K) Housing assistance and combat zone pay to the military;
- (L) Veterans (VA) Disability Payments;
- (M) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill); and
- (N) Child support payments.

- ◆ Client income amounts must reflect Gross Income, before any deductions
- ◆ If any adult family member has no income, a Self-Declaration of No Income form is required for that individual
- ◆ Client file must include primary eligibility sources; declaration of eligibility for another program (e.g., TANF, Free/Reduced/School Lunch Program) is not adequate documentation of eligibility

Any question about eligibility criteria not addressed here or for which the contractor needs clarification must be referred to the contractor's City contract manager. The City has final authority to declare an individual eligible or not eligible for City-funded services based on the criteria in this document.

City of Austin, Telecommunications & Regulatory Affairs
Grant for Technology Opportunities Program

Mandatory Publicity Statement

The following statement must be prominently included in / on all printed materials relating to the City of Austin Grant for Technology Opportunities Program materials disseminated by the Contractor, including promotions for events. For further information or clarification, please contact your Contract Administrator:



The following line must be included in all promotional materials along with the logo above:

This program is funded and supported in part by the City of Austin through the Grant for Technology Opportunities Program.

Program Start 7/1/2017
Program End 6/30/2018

	<i>City Share</i>	<i>Other</i>	<i>Total</i>
Salary plus Benefits	\$6,550.00	\$21,515.00	\$28,065.00
General Operations Expenses	\$0.00	\$0.00	\$0.00
Consultants / Contractual	\$0.00	\$0.00	\$0.00
Staff Travel	\$0.00	\$0.00	\$0.00
Conferences	\$0.00	\$0.00	\$0.00
Operations SubTotal	\$0.00	\$0.00	\$0.00
Food and Beverages for Clients	\$0.00	\$0.00	\$0.00
Financial Direct Assistance to Clients	\$0.00	\$0.00	\$0.00
Other Assistance	Equipment	Equipment	Equipment
Other Assistance Amount	\$14,965.00	\$0.00	\$14,965.00
Direct Assistance SubTotal	\$14,965.00	\$0.00	\$14,965.00
Capital Outlay Amount	\$0.00	\$0.00	\$0.00
Total	\$21,515.00	\$21,515.00	\$43,030.00

Detailed Budget Narrative

Salaries plus Benefits

Spark Schools Program Director (15% FTE): \$7,950
Spark Schools Program Coordinator (25% FTE): \$8,000
Teaching Artists-in-Residence (100% PTE): \$12,115

Total Salaries & Benefits: \$28,065

General Op Expenses

Consultants / Contracutal

Staff Travel

Conferences

Food and Beverage

Financial Assistance

Other Assistance

15 iPads including Animation, music production, and film and photo editing apps: \$ 6,615.00;
Equipped for individual learning with
photography, filmmaking, animation, music production, illustration, graphic design, etc.
IPAD SPECS: iOS10; 32GB Storage; Wifi
9.7-inch LED-backlit Multi-Touch display with IPS technology
2048-by-1536-pixel resolution at 264 ppi; 8-megapixel camera; 1080p HD video recording;
Wi‑Fi (802.11a/b/g/n/ac); dual band (2.4GHz and 5GHz); HT80 with MIMO; Bluetooth 4.2
technology; Apple Care 2 year coverage; Soft Child Shockproof Cases; iPad Tripod Mount
Adaptor; Slim Hard Shell Cases for Mounting

Software Licences & Apps:

Stop Motion Animation; Photo Editing; Graphic Design; Film Editing; Music Production;
Illustration

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D I V I S I O N

4 Macbook Pro Workstations: \$ 8,350.00

Equipped for group learning with photography, filmmaking, animation, music production, illustration, graphic design, etc.

MacBook Pro SPECS:

macOS Sierra

2.3GHz dual-core 7th-generation Intel Core i5 processor

Turbo Boost up to 3.6GHz

8GB 2133MHz LPDDR3 memory

256GB SSD storage; Intel Iris Plus Graphics 640; Two Thunderbolt 3 ports; Apple Care - 3 year coverage; 27" Monitors; Bluetooth Keyboards; Bluetooth Mouse; Laptop Carrying Bag; ProCase Hard shell Protective Case; USB-C HUB Adaptors

Software Licences & Apps: Stop Motion Animation; Photo Editing; Graphic Design; Film Editing; Music Production; Illustration

TOTAL EQUIPMENT EXPENSE: \$ 14,965.00

Capital Outlay

**City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION
SOLICITATION NO.**

**City of Austin, Texas
Human Rights Commission**

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

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

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

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

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

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

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

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

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

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

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

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

Sanctions:

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

Term:

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

Dated this 27th day of July, 2017

CONTRACTOR

Authorized Signature

Title

K. LaShelle
Creative Action
Executive Director