

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)
AND
DANDY PLANNING, LLC alias Gap Strategies (“Contractor”)
for
WQPL Public Perception Research
MA 2200 NA180000142**

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

This Contract is between DANDY PLANNING, LLC alias Gap Strategies having offices at Buda, TX 78610 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number RFQ 2200 MHJ2000.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 The City’s Solicitation, Request for Quotation (RFQ), 2200 MHJ2000 including all documents incorporated by reference
- 1.1.3 DANDY PLANNING, LLC alias Gap Strategies Offer, dated May 18, 2018, including subsequent clarifications

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

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

1.3 Term of Contract.

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

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

- 1.4 **Compensation.** The Contractor shall be paid an estimated amount of \$49,937.50 for the initial Contract term. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.
- 1.5 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order

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

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

DANDY PLANNING, LLC ALIAS GAP STRATEGIES

CITY OF AUSTIN

Jeff Barton

Printed Name of Authorized Person



Signature

Partner

Title:

June 29, 2018

Date:

Marty James

Printed Name of Authorized Person



Signature

Procurement Specialist III

Title:

JUNE 29, 2018

Date:

**A PROPOSAL FOR
COMPREHENSIVE MARKET
RESEARCH AND DYNAMIC
PUBLIC ENGAGEMENT**



GAP STRATEGIES

RECHARGING OUTREACH

**WATER QUALITY
PROTECTION LANDS
PROGRAM**

RFQ 2200 MHJ 2000

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CITY OF AUSTIN PURCHASING DOCUMENTS



- A. Signed Offer Sheet
- B. Reference Sheet
- C. Non-Discrimination Certification
- D. Living Wages Contractor Certification
- E. Non-Resident Bidder Provisions Form

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

Company Name: Gap Strategies (Dandy Planning, LLC)

Company Address: 3470 Jack C Hays Trl.

City, State, Zip: Buda, TX 78610

Federal Tax ID No. [REDACTED]

Printed Name of Officer or Authorized Representative: Jeff Barton

Title: Partner

Signature of Officer or Authorized Representative: 

Date: 05/14/18

Email Address: jeff@gapstrategies.com

Phone Number: (512) 312-9683

*** The files outlined in Section 0600 must be submitted with this signed Offer Sheet to be considered for award**

Section 0700: Reference SheetResponding Company Name Gap Strategies

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

1. Company's Name Alliance Water
Name and Title of Contact Graham Moore, Executive Director
Project Name Public Relations
Present Address 1040 Highway 123
City, State, Zip Code San Marcos, TX 78666
Telephone Number (512) 294-3214 Fax Number ()
Email Address gmoore@alliancewater.org

2. Company's Name Barton Springs Edwards Aquifer District
Name and Title of Contact John Dupnik, Former Executive Director or
Robin Havens Gary, Senior Public Information and Education Coordinator
Project Name Barton Springs Edwards Aquifer District Outreach
Present Address 1124 Regal Row
City, State, Zip Code Austin, TX 78748
Telephone Number (512) 282-8441 Fax Number ()
Email Address john.dupnik@twdb.texas.gov rhgary@bseacd.org

3. Company's Name City of Fair Oaks Ranch
Name and Title of Contact Tobin Maples, City Manager
Project Name Future of Fair Oaks Ranch Comprehensive Plan
Present Address 7286 Dietz Elkhorn Rd
City, State, Zip Code Fair Oaks Ranch, TX 78015
Telephone Number (210) 698-0900 Fax Number ()
Email Address tmaples@fairoaksranchtx.org

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

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

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

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

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

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

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

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

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

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


Sanctions:

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

Term:

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

Dated this 14 day of May, 2018

| | |
|----------------------|---|
| CONTRACTOR | <u>Gap Strategies</u> |
| Authorized Signature |  |
| Title | <u>Partner</u> |

Section 0815: Living Wages Contractor Certification

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees of the Prime Contractor and all tiers of subcontractors directly assigned to this City contract a minimum Living Wage equal to or greater than \$14.00 per hour.

- (1) The below listed individuals are all known employees of the Prime Contractor and its subcontractors who are directly assigned to this contract, and all are compensated at wage rates equal to or greater than \$14.00 per hour:

| Employee Name | Employer | Prime or Sub | Your Normal Rate | Employee Job Title |
|-------------------|----------------|--------------|------------------|--------------------|
| Meridith Prescott | Gap Strategies | Prime | \$17.80 | Associate |
| Todd Phelan | Gap Strategies | Prime | \$20+ | Video Prod. |
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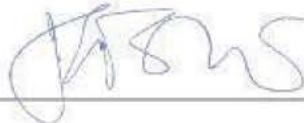
- (2) All future employees of both the Prime Contractor and all tiers of subcontractors directly assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$14.00 per hour.
- (3) Our firm will not retaliate against any employee of either the Prime Contractor or any tier of subcontractors claiming non-compliance with the Living Wage provision.

A Prime Contractor or subcontractor that violates this Living Wage provision shall pay each of its affected employees the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision by either the Prime Contractor or any tier of subcontractor, or fraudulent statements made on this certification, may result in termination of this Contract for Cause, subject the violating firm to possible suspension or debarment, or result in legal action.

I hereby certify that all the listed employees of both the Prime Contractor and all tiers of subcontractors who are directly assigned to this contract are paid a minimum Living Wage equal to or greater than \$14.00 per hour.

Contractor's Name: Gap Strategies

Signature of Officer
or Authorized
Representative:



Date: 05/14/18

Printed Name: Jeff Barton

Title: Partner

Section 0835: Non-Resident Bidder Provisions

Company Name Gap Strategies

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

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

Answer: Resident Bidder

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

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

Answer: _____ Which State: _____

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

Answer: _____

**CITY OF AUSTIN, TEXAS
REQUEST FOR QUOTATION (RFQ) 2200 MHJ2000
PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

1.0 PURPOSE

The Water Quality Protection Lands (WQPL) program is looking to distinguish itself from other City of Austin programs and departments in public perception through research, marketing strategies for public engagement, and the potential renaming of the WQPL program.

The WQPL's purpose is to protect land over the recharge and contributing zone of the Barton Springs segment of the Edwards Aquifer in which tens of thousands of citizens in Hays and Travis County rely upon for their drinking water, livestock, agriculture, and other uses.

The intent of this Request for Quotation (RFQ) is to obtain ways to effectively market the WQPL's mission and make the critical services provided by the program more widely recognized, understood, and supported by residents in Hays County, Travis County, and the City of Austin. Contractors will also have capabilities to provide creative and technical services to develop, design, and possibly produce a new logo and other design elements by providing guidance in outreach, community engagement efforts, and making recommendations for improved connection with the community. The Contractor will provide guidance to increase the distinctiveness and autonomy of WQPL from other programs and departments, such as the City of Austin's Watershed Protection Department, with which it is sometimes confused. Services shall be provided at 3621 FM 620 South, Austin, Texas 78738.

2.0 BACKGROUND AND BUDGET

The WQPL has purchased and protected land since 1998. The WQPL is responsible for over 28,360 acres (or 44.3 square miles) of land and helps protect water quality and water quantity recharging the Barton Springs segment of the Edwards Aquifer.

The WQPL's mission statement is to optimize quantity of high quality water recharging off of project lands into the Barton Springs segment of the Edwards Aquifer.

The WQPL budget for this project is strictly no greater than \$50,000.00.

3.0 CONTRACTOR REQUIREMENTS

3.1. The Contractor shall schedule an initial meeting within five (5) calendar days after award of the contract to meet with WQPL program staff.

3.2. The Contractor shall:

3.2.1 Research public perception of the WQPL in areas where the WQPL owns land.

3.2.2 Help the WQPL program leadership and staff understand the concerns of residents at large in Hays County (primary focus), Travis County (less focus), and

City of Austin (least focus) with respect to perception of the WQPL by both organizing focus group(s) and developing survey(s).

3.3. Minimum Qualifications

The Contractor shall:

3.3.1 Have experience working with outreach to citizens who utilize groundwater (rural or suburban).

3.3.2 Have experience working with environmental messaging to citizens (rural or suburban).

3.3.3 Have experience leading focus groups and developing surveys.

3.3.4 Have experience with developing language that conveys proper messaging without unnecessary technical jargon.

4.0 SCOPE OF WORK

4.1. Phase 1

Take inventory of current and historical WQPL outreach and community engagement efforts and make recommendations for improved connection(s) with residents.

4.2 Phase 2

Utilize focus groups and brief survey results to determine citizen understanding and engagement to sufficiently gauge citizens' perspective about the WQPL program as well as terms and word use that would positively impact understanding, engagement and favorability of the program.

4.3 Phase 3

Evaluate the effectiveness of the program's name ("Water Quality Protection Lands") and make recommendations to rename, if necessary.

Evaluate the effectiveness of the program's logo and mission statement to make recommendations for improvement with same considerations as above.

4.4 Phase 4

The Contractor shall produce a communications/events/social media plan to guide the WQPL's marketing and outreach strategies and methods to better improve perception with the public.

The Contractor shall develop an expanded list of potential stakeholders in Hays County to assist the WQPL in reaching and engaging new audiences.

4.5 **Methods**

4.5.1 To understand the program's mandate, mission, programmatic abilities, constraints, and operational activities, the Contractor will conduct one kick-off meeting with WQPL program leadership within two (2) calendar weeks. At this meeting or at follow-up meetings, the Contractor will meet with WQPL leadership and staff to fully understand the concerns for the project, challenges (including perceived, potential and identified) as well as previous efforts at achieving the tasks.

4.5.2 A tour of the program's protected lands can be conducted with the Contractor and the Project Manager during a pre-proposal meeting.

5.0 **CONSTRAINTS**

5.1.1. The program's mandate, mission, and goals as directed by municipal bonds and the current land management plan as well as land management and ecological restoration activities are not subject to change in response to this project. However, the way in which the mission and goals are worded and communicated is a focus of this project.

5.1.2. Plans and other recommendations accepted by the WQPL must relay scientifically valid and accurate information regarding land management and water, as determined by program leadership and staff.

5.1.3. Access to most of the land that the program protects and manages is restricted and must be arranged in advance with the Project Manager.

6.0 **Deliverables**

| Deliverables/Milestones | Timeline (due/completion date, reference date, or frequency) | Performance Measure/ Acceptance Criteria | Contract Reference/ Section |
|--------------------------------|---|---|--|
| Phase 1 | 30 days from contract start | City Approval | Reference Section 4.1 |
| Phase 2 | 60 days from contract start | City Approval | Reference Section 4.2 |
| Phase 3 | 90 days from contract start | City Approval | Reference Section 4.3 |
| Phase 4 | 120 days from contract start | City Approval | Reference Section 4.4 |

CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQ 2200 MHJ2000

**PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

Section I

PROPOSAL FORMAT

Prefacing the proposal, the Proposer shall provide an Executive Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal. The proposal itself shall be organized in the following format and information sequence. Use tabs to divide each part of the Proposal and include a Table of Contents:

Tab 1 – City of Austin Purchasing Documents - Complete and submit the following documents:

- A. Signed Offer Sheet
- B. Section 0700 – Reference Sheet
- C. Section 0800 – Non-Discrimination Certification
- D. Section 0815 – Living Wages Contractor Certification
- E. Section 0835 - Non-Resident Bidder Provisions Form

Tab 2 – Authorized Negotiator: Include name, address, and telephone number of person in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.

Tab 3 – Exceptions: List any exceptions that your company is making to the solicitation packet. Exceptions not listed may not be considered. Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.

Tab 4 – Executive Summary: Proposer shall provide an Executive Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal.

Tab 5 – Business Organization: This section shall describe the Proposer's understanding of the City's requirements, including result(s) intended and desired, the approach and/or methodology to be employed, and a work plan for accomplishing the results proposed. This section shall include a discussion and justification of the methods proposed for each task identified in the Scope of Work Tasks Required section and the issues that will or may be confronted at each stage of the project. The work plan description shall include a detailed proposed project schedule by task, a list of tasks, activities and/or milestones that will be employed to administer the project, and the task assignments of staff members linked to the Cost Proposal. Specifically indicate:

- i. A description of your work program by tasks. Detail the steps you will take in proceeding from Task A to the final tasks.
- ii. The technical factors that will be associated with the above work.
- iii. The points at which written, deliverable reports will be provided.
- iv. A statement of your compliance with all applicable rules and regulations of Federal, State and Local governing entities. The Proposer must state his/her compliance with terms of this Request for Quotation (RFQ), including experience as described herein.

CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQ 2200 MHJ2000

**PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

Tab 6 – References: Provide customer references equivalent to the size and scope described in this RFQ. All client reference information must be supported and verified. Reference contacts must be aware that they are being used and agreeable to City interview for follow-up. Qualifications shall be fully met before the proposal has been submitted in order for response to be considered.

The City may solicit from previous clients, or any available sources, relevant information concerning Proposer's record of past performance. Provide references to any sources in active use by the user community of the proposed solution.

References shall include the following information:

- Name of Agency
- Contact name / Contract Manager
- Contact telephone number and email address
- Year contract was awarded and length of contract
- Budget/award amount of contract
- Scope and magnitude of contract
- Was contract successfully completed?

Tab 7 – Applicable Experience including Personnel Qualifications: Describe only relevant experience and individual experience for personnel who will be actively assigned to the contract. Do not include experience of personnel who will not be assigned to this contract. Do not include experience prior to 2000.

Include names and qualifications of all professional personnel including the Project Manager who will be assigned to this project. State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title. Provide a brief explanation of each proposed staff's experience and qualifications including years of experience in their current position, educational background, certifications/accreditations they hold, and how resource time, work quality, and other priorities are managed. Provide all resumes.

Tab 8 – Compliance: The Proposer shall state their compliance with terms of this Request for Quotation (RFQ) and with all applicable rules and regulations of Federal, State, and Local governing entities.

Section II

Tab 9 – Work Plan & Approach: This section shall describe the Proposer's understanding of the City's requirements, including the result(s) intended and desired, the approach and/or methodology to be employed, and a work plan for accomplishing the results proposed. Provide evidence that this approach has resulted in successful contracts in the past. Provide all details as required and any additional information that may have been omitted from the Scope of Work that you deem necessary to evaluate your proposal. This section shall include a discussion and justification of the methods proposed for each task identified in the Scope of Work and the technical issues that will or may be confronted at each stage of the project. The work plan description shall include a detailed proposed project schedule by task, a list of tasks, activities and/or milestones that will be employed to administer the contract, and the task assignments of staff members and level of effort for each linked to the Price Proposal.

Tab 10 – Location, Facilities, and Equipment: List out information pertaining to all locations, facilities, and equipment to be utilized under the awarded contract.

Tab 11 – Certifications: Include your licenses and certifications.

CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQ 2200 MHJ2000

**PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

Tab 12 - Price Proposal: In the proposal, provide a price chart. The prices listed in the chart shall be inclusive of all fees, including travel, insurance, equipment, etc. if required. No fees will be paid separately. Include a breakdown of each cost (administrative fees, hourly rates, etc.).

Use of Funds:

Funds are awarded for the purpose specifically defined in the Solicitation and must not be used to supplant local, state, or federal funds. Funds may be used for personnel, fringe benefits, office supplies, staff travel, and other direct costs. Funds may be used for the following project-related expenses:

- A. Personnel costs
- B. Office and administrative supplies
- C. Travel related to the project
- D. Funds may not be used for direct patient care, laboratory services, medical supplies, food (except for use in cooking demonstrations), purchase of equipment, purchase of incentive items for class participants, research projects, grant writing, or administrative staff performing unrelated senior management functions, or lobbying for or against any legislation.

TRAVEL EXPENSES (if required):

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

http://www.gsa.gov/Portal/gsa/ep/content/View.do?contentId=17943&contentType=GSA_BASIC

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

Section III

Part I - Proposal Acceptance Period: All proposals are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFQ closing date unless a longer acceptance period is offered in the proposal

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

CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQ 2200 MHJ2000

**PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

Part III - Authorized Negotiator: Include name, address, and telephone number of person in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.

Part IV- Exceptions: Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.

Part V – Proposal Preparation Costs: All itemized costs directly or indirectly related to the preparation for response to the RFP or any oral presentation required to supplement and/or clarify a proposal which may be required by the City shall be the sole responsibility of the Proposer.

Section IV

4. EVALUATION FACTORS AND AWARD

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

B. **Evaluation Factors:**

i. 100 points.

- | | |
|--|------------------|
| (1) Work Plan & Approach (reference Section II Tab 9): | 40 Points |
| (2) Applicable Experience including Personnel Qualifications (reference Section I Tab 7) | 20 Points |
| (3) Equipment/Facilities (reference Section II Tab 10): | 5 Points |
| | |
| (4) Total Evaluated Price (reference Section II Tab 12) Whichever Proposer offers the City the most competitive price will be awarded the maximum amount of points. Remaining points will be distributed on a pro-rated basis. | 25 Points |
| | |
| (5) LOCAL BUSINESS PRESENCE | 10 Points |

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

CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQ 2200 MHJ2000

**PUBLIC PERCEPTION RESEARCH AND MARKETING OF THE
WATER QUALITY PROTECTION LANDS (WQPL) PROGRAM**

- ii. Interviews may be conducted at the discretion of the City. The City will score proposals based on the items listed above. The City may select a “short list” of Proposers based on those scores. The City reserves the right to rescore short listed proposals because of the interviews and to make an award recommendation on that basis. The City reserves the right to negotiate the actual contract scope of work and price after submission.

AUTHORIZED NEGOTIATOR

JEFF BARTON
PRINCIPAL, GAP STRATEGIES

3470 JACK C. HAYS TRL.
SUITE 1
BUDA, TX 78610

O : (512) 312-9683
C : (512) 964-0918

JEFF@GAPSTRATEGIES.COM

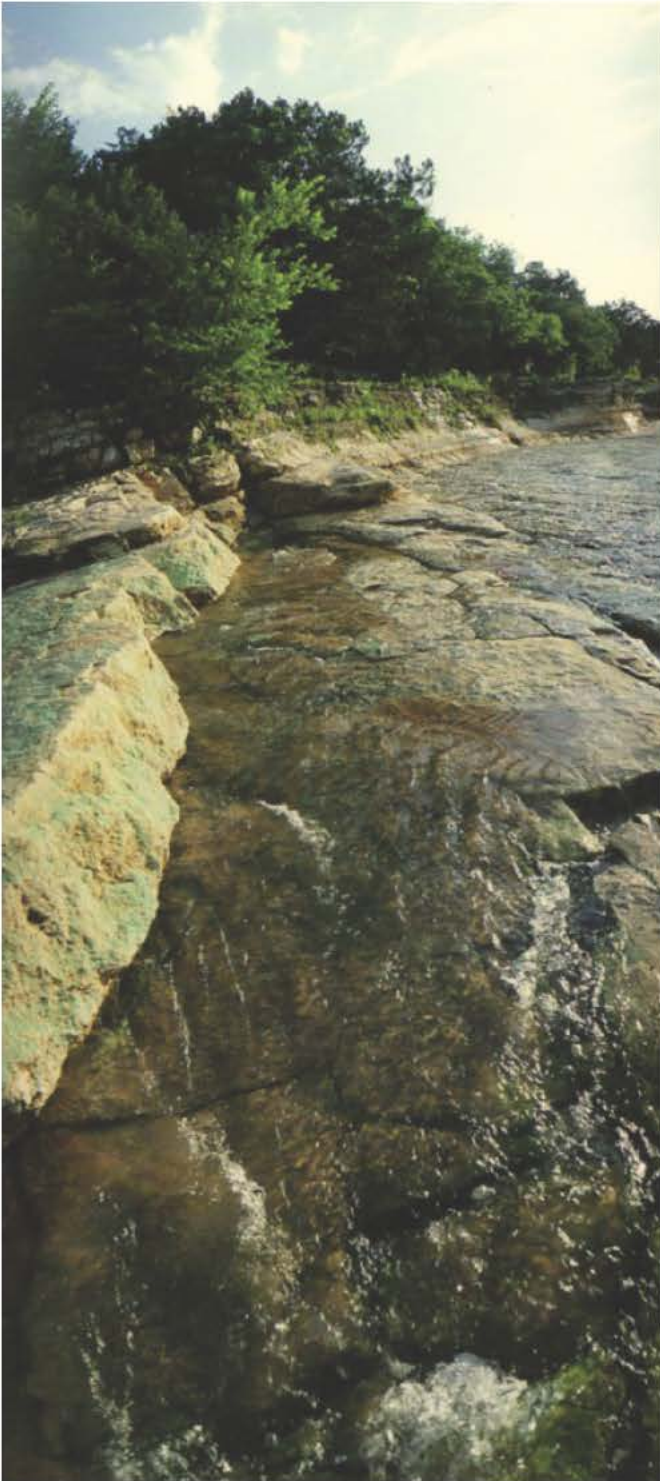




EXCEPTIONS

No exceptions are being made to this RFQ by Gap Strategies.

EXECUTIVE SUMMARY



In 1998, the City of Austin made the prudent decision to begin purchasing land and development rights around Barton Springs. It was a tremendous effort to preserve water quality and the natural habitat of Barton Springs, a treasured gem of the Austin community, and that of the immensely important Edwards Aquifer, the main groundwater source for Central Texas.

Stretching from southwest Austin into Hays County, this was still a hotly contested issue, particularly for those living in Hays County. People were concerned about losing out on tax revenue and the implications of increasing the City of Austin's reach into Hays County. But this was back when Austin's population was a mere 570,000 and Hays County wasn't projecting the sharp increase and development it is experiencing now - Time sure does fly by.

But members of the Gap Strategies team have been here to witness it all. We've seen the region's progression and the arc in public perception and support for this project, the land, Barton Springs, the Edwards Aquifer, and other environmental and natural resource initiatives.



Gap Strategies has a team of qualified individuals that includes planners, project managers, journalists and media experts, and professionals experienced in public outreach and facilitation - All of which have a depth understanding of the history of the Water Quality Protection Lands (WQPL) program and its value to our region.

The Gap Strategies team is submitting this proposal in response to the Request for Qualifications (RFQ) 2200 MHJ 2000 by the Austin Water Utility, WQPL Program. The proposal includes a detailed outline of how Gap Strategies will evaluate public perception of WQPL, the ways in which we will engage and educate the community, and develop a comprehensive outreach plan, utilizing Hays County stakeholders and connections, that sets up WQPL for

long-term engagement success, past the scope of this project.

It is important for us to communicate one sentiment in particular - We see this as a collaborative project. Although we carry out the bulk of the work, it is important for us to explore with WQPL leadership and staff as to how we may best engage and inform those in the WQPL area, as well as the possibility of name, logo, and mission statement changes.

We believe we're ideally suited for this project - uniquely suited, even. Read our proposal and please contact us with any questions. We would be happy to discuss any part of it.





BUSINESS ORGANIZATION

Gap Strategies (Dandy Planning LLC) is a Central Texas consulting firm working across the state at the intersection of public policy, public involvement, and urban planning.

Headquartered in Buda, the firm's key staff have helped deliver water, wastewater, transportation, and building projects – working with affected landowners, building public consensus, explaining complex development issues, overseeing design firms, and helping administer grants (or state guidelines). Partners and key staff have depth experience managing challenging public projects on both the public and private side.

The owners and key staff at Gap Strategies are deeply involved in community issues, transportation, and regional non-profits in Hays County and in the Austin region. A County Commissioner in Hays County for 11 years, Jeff was selected as Outstanding Public or Elected Official for 2010 by the Central Texas Chapters of both the American Planning

Association and the American Society of Public Administration for his planning and public education efforts. With his wife, Cyndy, also a principal at Gap Strategies, he's the recipient of the Envision Central Texas Stewardship Award.

Gap Strategies co-founder Kara Bishop Buffington, is a Travis County resident who has worked on public outreach and public policy jobs in the Austin area for a decade. An Austin native, before joining Gap Strategies Ms. Buffington worked as a county policy aide in Hays County and on a variety of public interest campaigns in Travis County. She also worked community outreach and organizing efforts in seven states as part of a national political campaign, and has handled press relations and neighborhood outreach on projects from Boston to Buda.

Jeff and Kara teamed up, pairing their expertise in planning, policy, and public engagement, to form Gap Strategies in the fall of 2012. Focused on bringing value to clients and projects steeped in strategic thinking and creative public outreach, Gap Strategies has worked on some of the most interesting recent public affairs projects in Central and South Texas.

In 2014, Gap Strategies helped the City of Buda to pass a general bond election by leading a 14-member citizen advisory committee and utilized an extensive education approach, including the facilitation of four public involvement workshops and meetings. And in 2015, Gap Strategies was selected to manage public education, outreach, and community

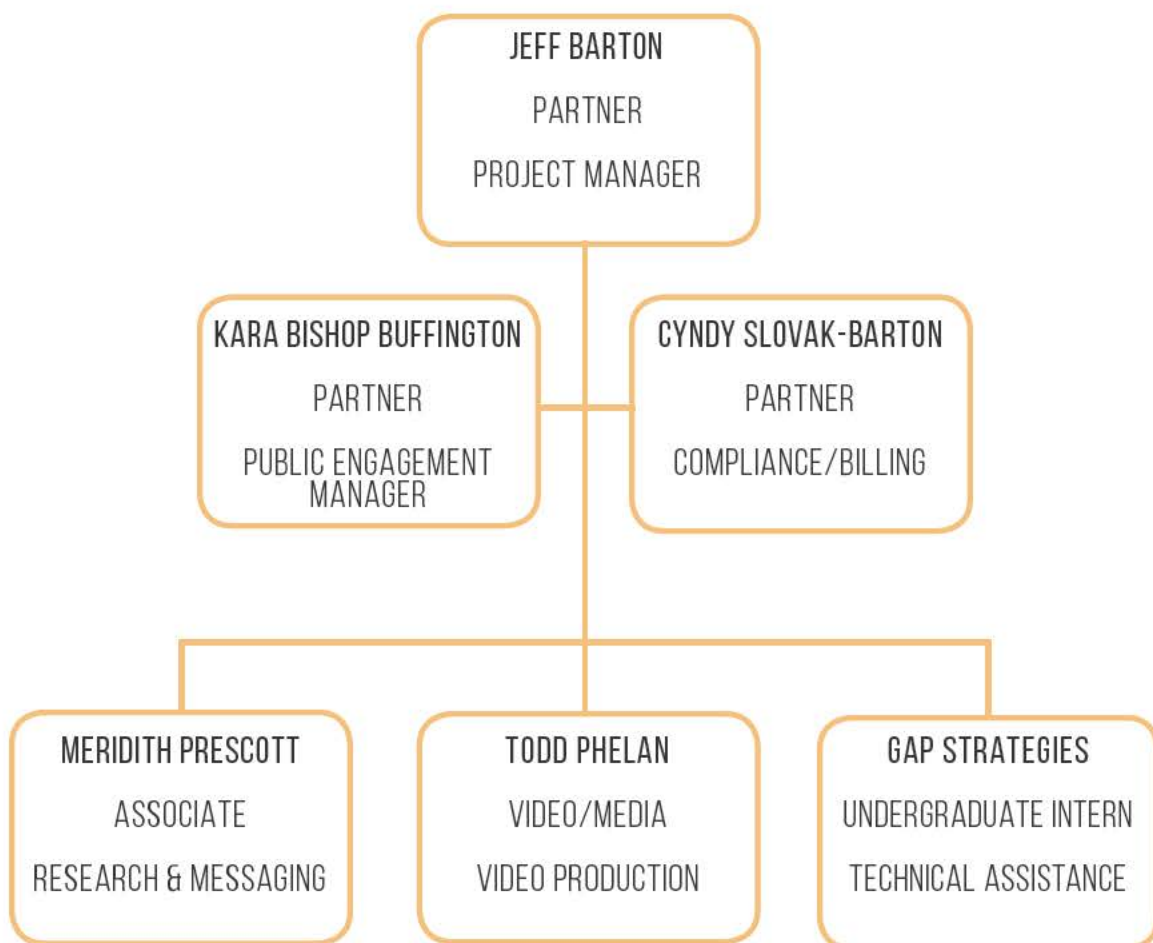


meetings for Barton Springs Edwards Aquifer District after new legislation dramatically changed the district’s boundaries and added responsibilities for additional oversight following a controversial water rights issue.

Gap Strategies is a woman-owned business, certified by the state as a DBE. Staff members are pre-certified by TXDOT in Policy Planning; Land Planning; and Corridor Planning, and have worked on public involvement and/or planning projects in Texas, California, Massachusetts, Ohio, Pennsylvania, New Hampshire, and several other states.



GAP STRATEGIES ORGANIZATIONAL CHART



REFERENCES



Alliance Water

(Formerly Hays Caldwell
Public Utility Agency)

Contact:

Graham Moore, Executive Director
(512) 294-3214
gmoore@alliancewater.org

2012 - Present

Contract Budget: (approx.) \$50,000 per year

Since 2012, Gap Strategies has provided public affairs and media relations for a consortium of cities and water supply corporations seeking to find sustainable, long-term source of water in Central Texas. Duties have included press contact and outreach. Social media development and outreach, web design and enhancement, local government liaison work, coordination with capitol lobby firm on messaging, as well as a re-branding effort to change the name of the organization from the Hays Caldwell Public Utility Agency to Alliance Water.

Barton Springs/Edwards Aquifer Conservation District

Contact:

John Dupnick, Former General Manager
john.dupnik@twdb.texas.gov
or

Robin Havens Gary, Senior Public
Information and Education Coordinator
rhgary@bseacd.org
(512) 282-8441

2015-2016

Contract Budget: \$10,000

Gap Strategies was selected to manage public education, outreach, and community meetings for the water district in 2015 after new legislation dramatically changed the district's boundaries and added responsibilities for additional oversight following a controversial water rights issue. Responsibility included all phases of social media and press outreach, helping develop messaging, and reaching out to key stakeholder groups, as well as organizing community meetings across the district, including the single largest "town hall" meeting in Wimberley.



City of Fair Oaks Ranch

Contact:

Tobin Maples, City Manager
(210) 698-0900
tmaples@fairoaksranchtx.org

2016 - Present

Contract Budget: \$332,095

Gap Strategies was hired by the City of Fair Oaks Ranch to lead efforts to develop a comprehensive plan and town visioning project for this growing small city in the Hill Country. The project includes infrastructure planning and analysis, crafting of an overall land and annexation plan for the City, and extensive community engagement and public outreach. Our team has conducted town halls, public workshops ("charrettes"), and a community survey to engage the residents of Fair Oaks Ranch on all aspects of the comprehensive plan including parks, trails, roads, and zoning.

Gap Strategies assisted the City of Buda with capital improvement reviews and prioritization, including wastewater, drainage, city facilities, roads and parks. Gap led a 14-member citizen advisory committee and facilitated four public involvement workshops and meetings throughout the process. This ultimately led to a two-pronged approach, including a general obligation bond election for roads, facilities, drainage and parks, and revenue-funded Continuing Obligation bonds for wastewater projects. Gap Strategies later led the efforts to get the bonds passed in a November 2014 election.

City of Buda

Contact:

Chance Sparks,
Assistant City Manager/Planning Director
csparks@ci.buda.tx.us
or
Kenneth Williams, City Manager
kwilliams@ci.buda.tx.us
(512) 312-0084

2013-2014

Contract Budget: \$103,095



APPLICABLE EXPERIENCE



The Gap Strategies team has extensive experience in all aspects of developing and executing effective public outreach. We have served in numerous roles within the federal, state, and local government, giving us extensive insight into the inner workings (and associated challenges) of effectively communicating and garnering support among community members and stakeholders. By combining this insight with analytical tools and the latest thinking in workforce training and community-based principles, Gap Strategies creates innovative public engagement strategies. Under Jeff Barton as Project Manager, Kara Bishop Buffington will serve as Public Engagement Manager with the help of Meridith Prescott as Research and Messaging, and Todd Phelan will assist as Video/Media Development.

THIS IS WORK WE'RE EXCITED ABOUT AND IT'S WHAT WE DO BEST.

JEFF BARTON

AICP, PARTNER



PROFESSIONAL AFFILIATIONS & AWARDS

American Institute of Certified Planners,

Pre-Certified in Policy Planning, Corridor Planning, and Land Planning by TXDOT

Building America's Future, national infrastructure advocacy

Envision Central Texas Stewardship Award

2014 AARO McBee Fellow

Outstanding Public or Elected Official of the Year 2010, American Society of Public Administrators; Central Texas Chapter.

Outstanding Elected Official of the Year, 2010, American Planning Association, Central Texas chapter

Founding Member & Past Board President, Central Texas Sustainable Indicators Project

Former Vice Chair, Capital Area Metropolitan Planning Organization

PROFESSIONAL BACKGROUND

Jeff has managed planning and public involvement projects for clients as varied as historic small towns and Fortune 500 companies. He has won awards for his work in planning, government management, and communications.

Early in his career he worked as a speechwriter and legislative press assistant to Congressman Jake Pickle in Washington, D.C., travelling most of the counties in Central Texas and the blackland prairie.

He has also worked as a business manager, a magazine writer, a publisher and editor, and an award-winning newspaper reporter and editorial writer.

A former Hays County Commissioner, Mr. Barton has been active in regional planning, water planning, economic development, growth management and transportation issues along the Interstate 35 Corridor and across the state. He has been a regular instructor for planning seminars and continuing education classes for organizations such as the Texas Conference of Urban Counties, the Texas Association of Counties, Capital Area Council of Governments, and the Houston-Galveston COG, among many others.

Jeff has managed projects ranging from a few thousand to hundreds of millions of dollars, and facilitated or directed more than a dozen successful bond propositions.

He is proficient in spoken Spanish, and has conducted public "town hall" meetings in Spanish.

He majored in communications and history at the University of Texas, and also studied political science and journalism at Baylor University.

KARA BISHOP BUFFINGTON

PARTNER



PROFESSIONAL BACKGROUND

From quaint New England greens to rough and tumble Texas town squares, from social media metrics to managing newspaper and TV interviews, Kara Buffington has spent the past dozen years refining – and pioneering – ways to galvanize public opinion around policy, planning, political, and infrastructure debates.

Kara is passionate about crafting clear messages and using crisp design to tell client stories and bridge communication gaps.

Born in Fort Worth, raised in Austin, Ms. Buffington attended Pine Manor College outside Boston where she was recognized as Margaret Elkins Leadership Scholar. Later she worked for a United States senator and on two presidential campaigns, doing event planning, communications, and fundraising in eight states.

Since returning home, Kara she has added experience in Texas local government – policy work on transportation, parks, public safety, budgeting and project management. In the private sector, she's focused on fast-growth communities, infrastructure development, and place making.

Kara manages events, web, mail, social media, video, and advertising campaigns for Gap Strategies. She is a lead on several water and open space projects, and has worked on road, rail, bond finance, and master-plan development projects. She is active in number of regional planning and charitable efforts near her home in Central Texas.

PROFESSIONAL AFFILIATIONS & AWARDS

American Planning Association

Former Urban Land Institute Young Leader

Past Social Media Co-Chair,
Planning and Women Division, APA

Pine Manor College Center for
Inclusive Leadership and Social
Responsibility, Sustaining Member
(Boston, MA)

2011 Conference Leader on
Internet Accessibility Standards &
Regulations, John Slatin AccessU,
St. Edwards University

Panel Organizer on Internet
Accessibility and New Media, 2011
and 2012 SXSW Interactive Festival

New Leaders Texas, Member

MERIDITH PRESCOTT

ASSOCIATE



PROFESSIONAL BACKGROUND

Born and raised outside of Boston, Ms. Prescott attended Union College studying environmental policy and political science.

After being offered a fellowship to attend The University of Texas at Austin - Lyndon B. Johnson School of Public Affairs, Meridith made her way to Texas. For two years, she studied under prominent economists, influential servicemembers, and local city leaders.

PROFESSIONAL AFFILIATIONS & AWARDS

Public Relations Society of
America

State of Texas Certification of
Mediation Training

Lyndon B. Johnson School
of Public Affairs, Fellowship
Recipient 2015-2017

Union College (NY), Environmental
Policy, Science, and Engineering
Departmental Honors

Eager to use real-world application of the lessons learned from inside the classroom, Meridith balanced working with being a full-time student. First, gaining experience with a downtown lobbying firm and then transitioning into a role within the state legislature, working primarily on natural resources and economic development policy.

Meridith is experienced in traditional and social media outreach, as well as policy research and reporting – She co-wrote a report on criminal justice used by the Texas Legislature on Senate Bill 1338 (2017).

She is most interested in community relations and has taken steps, both professionally and academically, to bolster her skills related to constituent communication, relationship development, and public buy-in. In December of 2016, Meridith received her certificate in Mediation Training.

TODD PHELAN

VIDEO/MEDIA



PROFESSIONAL AFFILIATIONS & AWARDS

Austin Film Society

Editor for the Austin Film Festival

Film has been used in
CBS News story segments

Studied at Lamar University,
Austin Film Works

PROFESSIONAL BACKGROUND

Stories are what motivate Todd Phelan – stories and pictures. Put them together, and you get a film. And putting them together is just what Todd's been doing since he was a communications student at Lamar University.

Todd has been a professional film maker off-and-on since the late 1990s. He has worked as a video and film editor, sound technician, writer, producer, and director.

His directing work includes retrospective shorts, political commercials, and a television pilot, *The Interrogator*, which he also wrote and produced. He was selected by the Austin Film Festival to edit a retrospective on Oliver Stone shown at the festival to a crowd that included Stone.

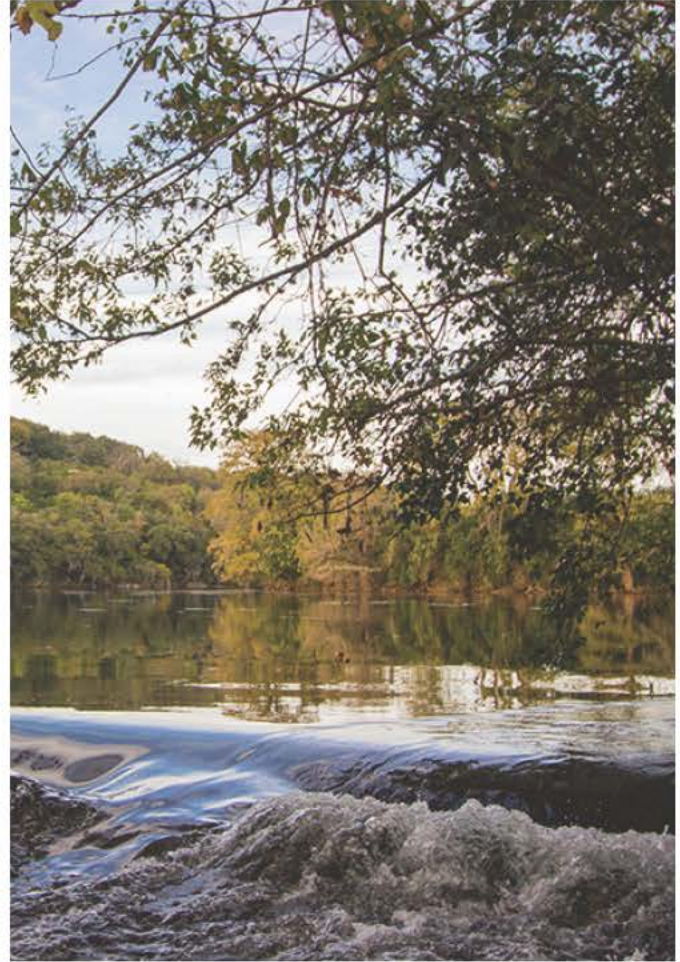
He's worked on a wide range of local commercials in the Austin area, including still photography and film for Barack Obama's Spanish language ad campaign. Todd also works regularly with PictureBox Studios.

Todd co-founded K Street Productions, a documentary film company, in 2005. While at K Street he worked with Academy Award-winning director Alex Gibney on pre-production of a documentary about Jack Abramoff and Tom DeLay.

Since 2005, Todd has worked on documentary and feature film production as well as on industrial and political advertising

He founded Irregular Media in 2008 but continues to work part-time at Gap Strategies, working closely with Kara Bishop Buffington and Jeff Barton.

COMPLIANCE



Gap Strategies complies with the terms of this RFQ and with all applicable rules and regulations of Federal, State, and Local governing entities.

WORK PLAN & APPROACH

PROJECT PHASES & TASKS

| | |
|--|---|
| PHASE 1: RESEARCH AND DEVELOPMENT | <ul style="list-style-type: none">• Initial Meeting• Kick Off Meeting• Tour• Research <p>DELIVERABLE: RECOMMENDATIONS ON IMPROVED CONNECTIONS WITH RESIDENTS AND COMMUNITY SURVEY COMPONENTS (30 DAYS FROM CONTRACT START)</p> |
| PHASE 2: FOCUS GROUPS AND SURVEY | <ul style="list-style-type: none">• Focus Groups• Community Survey• Omnimedia• Pop Up Event <p>DELIVERABLE: REPORT ON FINDINGS FROM SURVEY AND COMMUNITY OUTREACH (60 DAYS FROM CONTRACT START)</p> |
| PHASE 3: PUBLIC PERCEPTION ASSESSMENT | <ul style="list-style-type: none">• Evaluation of Name, Logo, and Mission Statement• (Possible) Development of New Name, Logo, and Mission Statement• Video Production <p>DELIVERABLE: PRESENTATION OF VIDEO CONTENT AND (POSSIBLE) NEW NAME, LOGO, AND MISSION. (90 DAYS FROM CONTRACT START)</p> |
| PHASE 4: COMMUNICATION PLAN | <ul style="list-style-type: none">• Development of a Communication, Events, and Social Media Plan• Establish Stakeholder Connections <p>DELIVERABLE: COMMUNICATION/EVENTS/SOCIAL MEDIA PLAN AND POTENTIAL STAKEHOLDER COMMUNICATION LIST (120 DAYS FROM CONTRACT START)</p> |

PHASE 1: RESEARCH AND DEVELOPMENT

Initial Meeting

Gap Strategies will schedule a meeting within 5 days after award of the contract to meet with WQPL program leadership to discuss scheduling and components/goals for the following kick off meeting.

Kick Off Meeting

Within 2 weeks of the award contract, Gap Strategies will meet with WQPL leadership and staff to discuss the program's mandate, mission, programmatic abilities, constraints, operational activities, concerns for the project, possible challenges, and WQPL's current outreach methods, as well as previous campaigns.

Tour

As part of project's kick off, Gap Strategies is interested in touring WQPL's protected lands. It is important for the Gap Strategies team to have the greatest understanding of the WQPL area as possible. In addition, pictures and video taken during this tour may be used in project deliverables and video production.

Research

Gap Strategies will conduct initial research on the WQPL area, distinguishing the profiles between residents of Hays County, Travis County, and City of Austin and the ways in which they perceive and/or interact with Barton Springs and WQPL.

At the end of Phase 1, Gap Strategies will provide WQPL with recommendations on how to improve public connections and the ways in which they can engage differing members of their community. In combination with these recommendations and utilizing initial market research, Gap Strategies will also present a detailed Phase 2 outreach strategy including a community survey for review.





PHASE 2: FOCUS GROUPS AND SURVEY

Focus Groups

Gap Strategies will conduct between two and three focus groups, each with ten to 12 residents from Hays County, Travis County, and the City of Austin to achieve representation of the affected population. Jeff Barton as Project Manager will facilitate focus group discussion, with Kara Bishop Buffington providing backup. One to 2 scribes will also be on-hand to take notes on verbal and non-verbal feedback. The sessions will utilize engagement and exploration questions to determine community thoughts, understanding, and feelings related to the WQPL program and its mission and branding efforts. Focus Groups will also use dial-testing to measure responses to WQPL logos, slogans, and communication tools.

After each Focus Group meeting, a debriefing session will be held with the scribes and the facilitators to cull feedback, universal themes, overall tone of the meeting, surprising comments and any personal observations worth noting. This information will be shared in a report with WQPL staff and incorporated into the project.

Community Survey

With input of WQPL, Gap Strategies will develop a survey to distribute to stakeholders and residents within the WQPL area. The survey will also be housed on a dedicated program website and promoted via social media.

Omnimedia

Gap Strategies will utilize a multi-channel media strategy that works to reach and engage residents across varied platforms. Lead by Kara Bishop Buffington, Gap Strategies will create a program website and keep it updated throughout the project. Final content will depend on discussions with WQPL staff and leadership but might include: FAQs, videos, and “explainers” letting citizens know how WQPL program components impact them directly. This website will help distinguish further the WQPL program from other City of Austin water divisions and will be utilized past the duration of this project. The site will also be linked from the program’s current City of Austin webpage.

In addition, Gap Strategies will create accounts and generate content for a comprehensive social media strategy to help push information to residents and stakeholders using multiple channels. We plan to use Facebook, Twitter, Instagram, and Snapchat for this project and will cross-post most content ensuring that messaging remains consistent.

Members of the Gap Strategies team also have close ties to traditional media outlets and journalists within the City of Austin and Hays County including the Hays Free Press and Community Impact Newspaper-Hays County. Gap Strategies will write design and place ads promoting the program website and pop-up event.

Pop Up Event

Gap Strategies will set up and staff atleast one “pop-up booth” in Hays County near WQPL lands and at a location likely to have heavy citizen traffic on weekends. The “Pop-up” will provide Gap Strategies an additional opportunity to engage the community offline, as well as introduce education elements to the program’s relationship with the public.

At the end of Phase 2, Gap Strategies will provide WQPL a report detailing the findings from the focus groups, survey, and pop up event.



PHASE 3: PUBLIC PERCEPTION AND ASSESSMENT

Evaluate Name, Logo, and Mission Statement

Gap Strategies, together with WQPL leadership and staff, will evaluate Phase 2 findings and determine the need for a possible new name, logo, and/or mission statement.

Development of Name, Logo, and Mission Statement

Gap Strategies, together with WQPL leadership and staff, will develop a new name, logo, and mission statement utilizing key terminology tested in Phase 2 focus groups and community survey.

Video Production

Under the direction of Kara Bishop Buffington, Todd Phelan, Video/Media for Gap Strategies, will design and produce video shorts, explaining WQPL program, mission, conservation methods, tips, and information about drought and long-term water sustainability. Video footage will be edited for use as one long-form, 3 to 5 minute stand-alone product for civic presentations or posting on the program's website. We will also produce several shorter, 30 to 60 second videos to be used on social media.

At the end of Phase 3, Gap Strategies will provide WQPL finalized video content and the program's new name, logo, and mission statement.

PHASE 4: PUBLIC PERCEPTION AND ASSESSMENT

Develop Communication, Events, and Social Media Outreach Plan

Informed through the market research components of Phases 1 and 2 and using the video, website, and social media deliverables created in Phases 2 and 3, Gap Strategies will develop a communication, events, and social media outreach plan for WQPL. It will also include a rollout engagement strategy for the newly developed program name, logo, and mission statement.

Establish Stakeholder Connections

Combining the previous market research and our own Hays and Travis County connections, Gap Strategies will develop a list of Stakeholders for the program and help establish connections so that the WQPL program can more easily disseminate and engage with its community after the completion of this project.

At the end of Phase 4, Gap Strategies will provide WQPL a comprehensive Communication, Events, and Social Media Outreach Plan informed through data collected in Phases 1, 2, and 3.



LOCATION, FACILITIES, AND EQUIPMENT

Gap Strategies foresees the need for facilities and equipment only as it pertains to the execution of the proposed focus groups and pop-up event. Specific needs will be determined in partnership with WQPL within Phases 1 and 2 of this project.

CERTIFICATIONS

Certifications held by Gap Strategies are presented in the following pages.





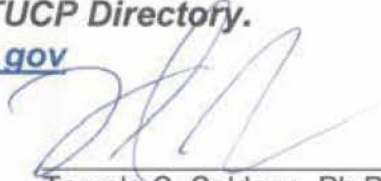
Disadvantaged Business Enterprise Program

This certifies that the following listed firm is certified as a **DBE** in accordance with Federal Regulations 49 CFR, Part 26

DANDY PLANNING, LLC (VN)

This Certificate is subject to suspension or revocation, and DBE information verification annually, upon the anniversary month.

*Current certification information will be listed in the TUCP Directory.
The TUCP Directory website is www.txdot.gov*


Tamela C. Saldana, Ph.D., Director
DBE & SBE Programs
Office of Civil Rights

This certificate hereby qualifies

Jefferson Barton, AICP

as a member with all the benefits of a Certified Planner
and a commitment to the AICP Code of Ethics and Professional Conduct.

Certified Planner Number 025460

Paul Farmer

Paul Farmer, AICP
Chief Executive Officer

Anna M. Breitzick

Anna Breitzick, AICP
President



The American Planning Association's
Professional Institute

**American Institute
of Certified Planners**

Making Great Communities Happen



THE UNIVERSITY OF TEXAS AT AUSTIN
THE LYNDON BAINES JOHNSON SCHOOL OF PUBLIC AFFAIRS

takes great pleasure in recognizing that on this day, December 5, 2016

Meridith Prescott

completed 40 classroom hours in Basic Mediation Training, in accordance with
the Texas Alternative Dispute Resolution Act, Texas Civil Practice and Remedies Code, §154.052.

*This course meets the standards promulgated by the Texas Mediation Trainers Roundtable.
Approved for 40.00 participatory hours and 2.75 ethics hours through the State Bar of Texas.*

A handwritten signature in black ink, appearing to read "D. J. Eaton".

David J. Eaton, Ph.D., Trainer

PRICE PROPOSAL

Gap Strategies prefers to negotiate a final price based on negotiations after selection, to better tailor project details to the specific needs of the City of Austin and the WQPL staff. We're happy to "value engineer" final deliverables before signing a contract and after discussions with the City about the relative benefits and costs of the menu of ideas presented in our proposal. For instance, how to structure media outreach, pop-up meetings, or focus groups – among other things – may vary as we explore the project goals in more depth.

Meanwhile, for the purposes of scoring and selection evaluation, Gap Strategies commits to providing the professional services outlined in this proposal for an amount not-to-exceed the City's published budget of \$50,000. Our price proposal is outlined below:

| | |
|--------------------------|--------------------|
| PROFESSIONAL FEES | \$48,500.00 |
|--------------------------|--------------------|

Includes fees for the work outlined in the attached proposal, including (but not necessarily limited to):

- a. General consulting and meetings with staff
- b. Branding and design
- c. Video scripts, story-boarding, shoot, editing and or/lighting crews if needed, editing and post-production
- d. Public opinion sampling and analysis: survey, pop-up meeting, focus groups
- e. Media engagement: website design and maintenance, social media strategy development and assistance with initial implementation, traditional press outreach and education (including interviews, drafting guest views, editorial meetings with select Hays County and Austin media)
- f. Project management and administrative overhead

| | |
|---|-------------------|
| OFFICE SUPPLIES AND ADMINISTRATIVE FEE | \$1,437.50 |
|---|-------------------|

Includes boards and supplies for pop-up meeting, logo development, design meetings and outreach efforts, website and social media hosting and account expenses.

TRAVEL EXPENSES

\$ -

Our office is located in northern Hays County and our staff members are all either residents of the City of Austin or northern Hays County. Though we work across the state, we are in Austin and throughout Hays County regularly, and have meeting space available in Austin. We will not charge for travel expenses as part of this project, assuming no travel is required outside of Travis and Hays counties for this project.

Referenced within the RFQ, we have included hourly rates for Gap Strategies personnel below:

HOURLY RATE SCHEDULE

| STAFF MEMBER | TITLE | STANDARD RATE | COA RATE |
|----------------------------|--------------|----------------------|-----------------|
| Jeff Barton, AICP | Partner | \$220 | \$209 |
| Kara Bishop Buffington | Partner | \$165 | \$157.75 |
| Cyndy Slovak-Barton | Partner | \$150 | \$142.50 |
| Tom Forrest, MPA ** | Sr. Proj Mgr | \$195 | \$185.25 |
| Meridith Prescott, MPAff | Associate | \$90 | \$85.50 |
| Todd Phelan | Film/Video | \$125 | \$118.75 |
| Sound Crew | - | \$390/day | \$390/day |
| Grad Assistant | - | \$52 | \$49.40 |
| Intern/Technical Assistant | - | \$40 | \$38 |

** Indicates staff member not expected to work on this project

SUBMITTED BY:
GAP STRATEGIES



CONTACT US:
3470 JACK C HAYS TRL. SUITE 1
BUDA, TX 78610

(512) 312-9683
WWW.GAPSTRATEGIES.COM



**ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS**

Solicitation: RFQ 2200 MHJ2000

Addendum No: 1

Date of Addendum: May 11, 2018

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

I. Questions and Answers:

1. (Q) Should Proposals be sent via e-mail or fax?
(A) E-mail is the preferred method of submitting a proposal, but let me know if you would need to mail a proposal in to our office.
Fax is not recommended at this time.
2. (Q) The RFQ proposal provisions reference tabs. Does this mean physical tabs or just section headers.
(A) Section headers are fine for an e-mail response.
Physical tabs should be used for a mail-in response.
3. (Q) On the proposal preparation instructions, specifically Tab 5 – Business Organization and Tab 9 - Work Plan and Approach. The descriptions are almost identical; is this a mistake? If it isn't, would you be able to distinguish for me the differences between them.
(A) Correct, both tab 5 and tab 9 point to the summary of the work plan and the approach to this project in error.

Tab 5. Business Organization should be defined as:

Provide a general explanation and organization chart which specifies project leadership and reporting responsibilities. Include the number of years your company has been in business and a summary of your company's history and experience.

4. (Q) Does the City have any budgetary flexibility with this project to exceed the \$50,000 figure identified in the solicitation documents?
(A) The budget cannot exceed \$50k for this project.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:



Marty James, Procurement Specialist III
Purchasing Office, (512) 974-1727

05/11/2018

Date

ACKNOWLEDGED BY:

JEFF BARTON

Vendor Name



Authorized Signature

05/15/18

Date

RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE, FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.



**ADDENDUM
CITY OF AUSTIN, TEXAS**

Solicitation: RFQ 2200 MHJ2000

Addendum No: 2

Date of Addendum: May 15, 2018

This addendum is to incorporate the following changes to the above referenced solicitation:

- I. **Extension:** The proposal due date is hereby extended until **Tuesday, May 22, 2018 at 2:00 PM.**
- II. **ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

APPROVED BY: _____

Marty James, Procurement Specialist III
Purchasing Office, 512-974-3164

05-15-2018
Date

ACKNOWLEDGED BY: _____

JEFF BARTON

Name

Authorized Signature

05/15/18
Date

RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.

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

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

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

10. WORKFORCE

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

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

12. INVOICES:

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

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13. PAYMENT:

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

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

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

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

17. AUDITS and RECORDS:

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

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18. SUBCONTRACTORS:

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

19. WARRANTY-PRICE:

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

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

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

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

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30. DELAYS:

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

31. INDEMNITY:

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

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

A. General Requirements.

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

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

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

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

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

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Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

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

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

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48. DISPUTE RESOLUTION:

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

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

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

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

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

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

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

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

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

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

54. **EQUAL OPPORTUNITY**

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

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

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

A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

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- iii. "Domestic end product" means-
 - (1) An unmanufactured end product mined or produced in the United States; or
 - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
- v. "Foreign end product" means an end product other than a domestic end product.
- vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office no later than 1:00 PM, Thursday, May 10, 2018. Submissions shall be made via email to Marty.James@austintexas.gov.

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

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

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

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

OR

PURInsuranceCompliance@austintexas.gov

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

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

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- (b) Contractor/Subcontracted Work.
 - (c) Products/Completed Operations Liability for the duration of the warranty period.
 - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
 - (d) The Contractor and any sub-contractors traveling as part of this contract must provide a copy of their current automobile insurance coverage on a semi-annual basis. Traveling costs are the responsibility of the Contractor.
- iv. **Professional Liability Insurance:** The 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 Agreement.

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

- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

3. TERM OF CONTRACT:

- A. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 12 months.
- B. Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract. Any hold over period will not exceed 120 calendar days unless mutually agreed on by both parties in writing.
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.

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- D. Prices are firm and fixed for the first 12 months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

4. **QUANTITIES:** The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

4.1 QUANTITIES AND OMISSIONS

4.1.1 Quantities

Quantities provided in this RFP are estimates and for evaluation purposes only. Actual quantities may be more or less, and no quantities are guaranteed. The City reserves the right to add similar services to this contract.

4.2.1 Omissions

All items and/or services omitted from this document which are clearly necessary to meet the objectives of the services described will be considered requirements, although not directly specified or called for herein.

4.3.1 Out of Scope Services

Services not included hereunder or in a Service Schedule will be provided at prices and on terms mutually agreed to by both parties.

5. **INVOICES and PAYMENT:** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a unique invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

- B. Invoices shall be emailed to Monica.pauliuc@austintexas.gov

If required, invoices may be mailed to the below address:

| | |
|----------------------|-------------------|
| | City of Austin |
| Department | WQPL |
| Attn: | Monica Pauliuc |
| Address | 3621 FM 620 South |
| City, State Zip Code | Austin, TX 78738 |

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

6. **LIVING WAGES:**

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The City's Living Wage Program, Rule R161-17.14, is located at:

<http://www.austintexas.gov/edims/document.cfm?id=277854>

- A. The minimum wage required for all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$14.00 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$14.00 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's assigned Contract Manager with the first invoice, individual Employee Certifications for all Contractor Employees (and all tiers of Subcontracting) directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the contract. The Employee Certification form is available on-line at https://www.austintexas.gov/financeonline/vendor_connection/index.cfm.
- E. Contractor shall submit employee certifications for Contractor Employees (and all tiers of Subcontracting) annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the contract and/or to report any employee changes as they occur.
- F. The Department's assigned Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records required in paragraph C above to verify compliance with this provision.

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

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If an Offeror has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to

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exceed three (3) years, provided the Offeror is given written notice and a hearing in advance of the debarment.

- D. The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: <http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

8. NON-SOLICITATION:

- A. During the term of the Contract, and for a period of six (6) months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.
- B. In the event that a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) 100 percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.
- C. During the term of the Contract, and for a period of six (6) months following termination of the Contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.
- D. In the event that a breach of Paragraph C occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) 100 percent of the employee's annual compensation while employed by the Contractor.

9. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):

- A. Contractors are required to obtain a certified criminal background report with fingerprinting (referred to as the "report") for all persons performing on the contract, including all Contractor, Subcontractor, and Supplier personnel (for convenience referred to as "Contractor's personnel").
- B. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four to six week delay for receipt of a Federal report.].
- i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver's license or photo ID card;
 - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver's license or photo ID card; or
 - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.
- C. Contractor shall obtain the reports at least 30 days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor's personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver's license or photo ID card.
- D. Contractor shall provide the City a Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor's personnel to determine those appropriate for

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execution of the work and for presence on the City's property. A list of all Contractor Personnel requiring access to the City's site shall be attached to the affidavit.

- E. Upon receipt by the City of Contractor's affidavit described in (D) above and the list of the Contractor's personnel, the City will provide each of Contractor's personnel a contractor ID badge that is required for access to City property that shall be worn at all times by Contractor's personnel during the execution of the work.
 - F. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's reports. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) calendar days of the receipt of notification of denial.
 - G. Contractor's personnel will be required to wear the ID badge at all times while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, without regard to Contractor's schedule. Lost ID badges shall be reported to the City's Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
 - H. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.
 - I. Contractor is not required to obtain reports for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons, however all delivery personnel must present company/employer-issued photo ID and be accompanied by at least one of Contractor's personnel at all times while at the work site.
 - J. The Contractor shall retain the reports and make them available for audit by the City during regular business hours (reference paragraph 17 in Section 0300, entitled Right to Audit).
10. **MONTHLY SUBCONTRACT AWARDS AND EXPENDITURES REPORT:** (reference paragraph 18 in Section 0300) (applicable when an MBE/WBE Compliance Plan is required)
- A. The Contractor must submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager specified herein and to the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
 - B. Mail the Purchasing Office Copy of the report to the following address:

City of Austin
Purchasing Office
Attn: Contract Compliance Manager
P. O. Box 1088
Austin, Texas 78767
11. **ECONOMIC PRICE ADJUSTMENT:**
- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first 12 months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the

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anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed twenty five percent (25%) for any single line item and in no event shall the total amount of the contract be automatically adjusted as a result of the change in one or more line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.

- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
- i. The following definitions apply:
 - (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
 - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
 - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
 - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
 - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
 - ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
 - (1) Utilize final Compilation data instead of Preliminary data
 - (2) If the referenced index is no longer available shift up to the next higher category index.
 - iii. **Index Identification:** Complete table as they may apply.

| | |
|--|--|
| Weight % or \$ of Base Price: 100 | |
| Database Name: BLS Employment Cost Index | |
| Series ID: CIU2010000000000I | |
| <input checked="" type="checkbox"/> Not Seasonally Adjusted | <input type="checkbox"/> Seasonally Adjusted |
| Geographical Area: United States | |
| Description of Series ID: 11-2000 Advertising, Marketing, Promotions, Public Relations | |
| This Index shall apply to the following items of the Bid Sheet / Cost Proposal: All | |

- E. **Calculation:** Price adjustment will be calculated as follows:

Single Index: Adjust the Base Price by the same factor calculated for the index change.

| |
|------------------------------|
| Index at time of calculation |
|------------------------------|

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| |
|---|
| Divided by index on solicitation close date |
| Equals Change Factor |
| Multiplied by the Base Rate |
| Equals the Adjusted Price |

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

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

13. **CONTRACT MANAGER:** The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Kevin Thuesen, WQPL Project Manager

Phone: 512-972-1666

Email: kevin.thuesen@austintexas.gov

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