



City of Austin

Purchasing Office, Financial Services Department
P.O. Box 1088, Austin, TX 78767

February 1, 2019

Firetron Inc.
John Davis
District Manager
3006 Longhorn Blvd. Ste. 101
Austin, TX 78758
John.davis@firetron.com

Dear Mr. Davis:

The Austin City Council approved the execution of a contract with your company for Fire Alarm Services in accordance with the referenced solicitation.

Responsible Department:	Austin Water
Department Contact Person:	Virginia Soto-Reynolds
Department Contact Email Address:	Virginia.Soto-Reynolds@austintexas.gov
Department Contact Telephone:	512-972-0337
Project Name:	Fire Alarm Services
Contractor Name:	Firetron Inc.
Contract Number:	MA 2200 NA190000062
Contract Period:	2/4/19 – 2/3/21
Dollar Amount	\$200,000
Extension Options:	3 x 12-month extension (\$100,000 per extension)
Requisition Number:	RQM 18021200265
Solicitation Type & Number:	IFB 2200 GLB1008
Agenda Item Number:	23
Council Approval Date:	1/31/19

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

Sincerely,

Georgia Billela
Procurement Specialist III
City of Austin
Purchasing Office

cc: Andy Ramirez
Jessica Easley
Virginia Soto-Reynolds

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
FIRETRON INC. ("Contractor")
for
Fire Alarm Services
MA 2200 NA190000062**

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 Firetron Inc. having offices at Austin, TX 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 IFB 2200 GLB1008.

1.1 This Contract is composed of the following documents:

- 1.1.1 This document
- 1.1.2 The City's Solicitation, Invitation for Bid (IFB), GLB1008 including all documents incorporated by reference, including subsequent clarifications.
- 1.1.3 Firetron Inc., Offer, dated 10/10/18

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

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

1.3 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of twenty-four (24) months. The Contract may be extended beyond the initial term for up to three (3) additional twelve (12) month periods at the City's sole option.

- 1.3.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- 1.3.2 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 the Contract (not to exceed 120 calendar days unless mutually agreed to in writing).
- 1.3.3 This is a twelve (12) month Contract. Prices are firm for the first twelve (12) months.

1.4 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$200,000 for the initial Contract term and 100,000 for each extension option as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

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

1.5.1 Contract Manager has changed from Lupe Cruz to Virginia Soto-Reynolds, phone 512-972-0337, and email virginia.soto-reynolds@austintexas.gov.

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.

FIRETRON INC.

CITY OF AUSTIN

John Marshall

Printed Name of Authorized Person

Georgia Billela

Printed Name of Authorized Person

[Signature]
Signature

[Signature]
Signature

Sales Manager

Title:

Procurement Specialist III

Title:

1-31-2019

Date:

2/4/19

Date:



CITY OF AUSTIN, TEXAS

Purchasing Office INVITATION FOR BID (IFB) OFFER SHEET

Version 1.1

SOLICITATION NO: IFB 2200 GLB1008

DATE ISSUED: September 17, 2018

REQUISITION NO.: RQM 18021200265

COMMODITY CODE: 93609

COMMODITY/SERVICE DESCRIPTION: Notifier Fire Control System Monitoring, Maintenance, Inspection, and Repair Services

PRE-BID CONFERENCE TIME AND DATE: September 26, 2018 @ 8:00 AM

LOCATION: 625 E. 10th Street Austin, TX 78701 Suite #1000 10th floor

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

Georgia Billela
Procurement Specialist III

Phone: (512) 972-2939

E-Mail: Georgia.Billela@austintexas.gov

BID DUE PRIOR TO: October 4, 2018 @ 2:00 PM

BID OPENING TIME AND DATE: October 4, 2018 @ 3:00 PM

LOCATION: MUNICIPAL BUILDING, 124 W 8th STREET
RM 308, AUSTIN, TEXAS 78701

LIVE BID OPENING ONLINE:

For information on how to attend the Bid Opening online, please select this link:

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

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

Address for US Mail (Only)	Address for FedEx, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # GLB1008	Purchasing Office-Response Enclosed for Solicitation # GLB1008
P.O. Box 1088	124 W 8 th Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

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

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

The Vendor agrees, if this Offer is accepted within **120** calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

SUBMIT 1 ORIGINAL AND 1 ELECTRONIC COPY (USB FLASH DRIVE) OF YOUR RESPONSE

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

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

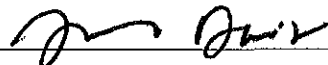
SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 26, 2018	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	6
0500	SPECIFICATION – Version 1.1	9
0600	BID SHEET – Must be completed and returned with Offer – Version 1.1	1
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return if required	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete, sign and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return if applicable	3

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

http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS

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

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: FireTron
Company Address: 3006 Longhorn Blvd Ste 101
City, State, Zip: Austin TX. 78758
Vendor Registration No. V00000902240
Printed Name of Officer or Authorized Representative: John Davis
Title: District Manager
Signature of Officer or Authorized Representative: 
Date: 10-10-18
Email Address: John.Davis@firetron.com
Phone Number: 512-493-8000

*** Completed Bid Sheet, section 0600 must be submitted with this signed Offer sheet to be considered for award**

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

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

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

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

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

10. WORKFORCE

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

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

12. INVOICES:

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

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

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>

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

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.

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

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.

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

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

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

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.

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

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

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

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

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

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.

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

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.

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

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

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

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.

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

- 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".

56. PROHIBITION OF BOYCOTT ISRAEL VERIFICATION

Pursuant to Texas Government Code §2270.002, the City is prohibited from contracting with any "company" for goods or services unless the following verification is included in this **Contract**.

- A. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code §2270.001.
- B. If the **Principal Artist** qualifies as a "company", then the **Principal Artist** verifies that he:
 - i. does not "boycott Israel"; and
 - ii. will not "boycott Israel" during the term of this **Contract**.
- C. The **Principal Artist's** obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

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 by September 28, 2018 to georgia.billela@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.
 - (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.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

- (2) The policy shall also include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
 - iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
 - C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
3. **TERM OF CONTRACT:**
- A. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 24 months. The Contract may be extended beyond the initial term for up to three (3) additional 12-month periods at the City's sole option. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
 - 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.
 - 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.
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.

Invoices shall be mailed to the below address:

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

	City of Austin
Department	Austin Water – Waller Creek
Attn	Dinorah Garcia-Domasck
Address	625 E. 10 th Street
City, State Zip Code	Austin, TX 78701

- B. The Contractor agrees to accept payment by 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. **HAZARDOUS MATERIALS:**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph “A” must be included with each shipment under the contract.

7. **LIVING WAGES:**

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 \$15.00 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 \$15.00 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).

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

- 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.

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

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

9. **AUSTIN WATER CONTRACTOR AND SUBCONTRACTOR FACILITY ACCESS REQUIREMENTS:**

- A. Access to the Austin Water building by the Contractor, all subcontractors and their employees will be strictly controlled at all times by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the Austin Water building at least thirty (30) days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's submittal.
- B. 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) days of the receipt of notification of denial.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

- C. Contractor personnel will be required to check in at the security desk when entering or leaving the Austin Water building and security badges must be on display at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth, driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.
- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

10. **ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (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 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.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES**

Weight % or \$ of Base Price: 100%	
Database Name: Employment Cost Index	
Series ID: CIU201S000300000I (B)	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: U.S.	
Description of Series ID: Total Compensation for Private Industry Workers in Service-Providing, Service Occupations	
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
Divided by index on solicitation close date
Equals Change Factor
Multiplied by the Base Rate
Equals the Adjusted Price

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

11. INTERLOCAL PURCHASING AGREEMENTS:

- 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:

Lupe Cruz

Phone: 512-972-0347

Email: lupe.cruz@austintexas.gov

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

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

1. **PURPOSE**

The City of Austin ("City") seeks to establish a contract with a qualified Vendor ("Contractor") experienced in full service monitoring, inspections, testing, maintenance, and repair services of fire control system. The Contractor shall provide all labor, material, and necessary equipment for the proper execution of each inspection and maintenance service detailed in this specification.

The contract will support the Austin Water Waller Creek Center located at 625 E. 10th Street Austin, Texas. Waller Creek Center is currently equipped with a Notifier Model NFS-3030 Addressable Fire Control Panel. Fire alarm equipment added to the contract shall coincide with the expiration of their warranty period and shall be mutually agreed to between the Contractor and the City. The Contractor may be required to work on fire alarm equipment still under warranty in an emergency. The City reserves the right to add or delete locations and fire alarm equipment as deemed necessary.

Any services that have been omitted from this scope of work which are clearly necessary or in conformance with normal fire alarm equipment the inspection, maintenance and repairs, certification and fire alarm monitoring shall be considered a requirement although not directly specified or called for in this scope of work.

2. **GENERAL REQUIREMENTS**

2.1 The Contractor shall provide services described herein for the following or similar systems at Waller Creek Center:

2.1.1 One (1) Notifier (NFS-3030) Addressable Fire Control Panel

2.1.2 Two (2) telephone lines serving five (5) elevator telephones; and,

2.1.3 One (1) telephone line serving six (6) stairwell telephones.

3. **CONTRACTOR REQUIREMENTS**

3.1 **Contractor Qualifications**

3.1.1 The Contractor shall have a minimum of five (5) years continuous experience prior to this solicitation in monitoring, inspection, testing, maintenance, and repair services for fire alarm equipment. The Contractor shall provide all necessary documentation to demonstrate their experience working on Notifier systems within two (2) business days upon request by the City. The City may request documentation of experience as part of the bid evaluation process.

3.1.2 The Contractor shall ensure that the Pump and Sprinkler Technician, Fire Control Technician, Fire Panel System Programmer, and Lead Technicians assigned to the subsequent Contract have a minimum of five (5) years' experience in all elements of fire alarm and/or fire suppression systems specific to the Notifier system.

3.1.2.1 Sprinkler and Pump Technicians/inspectors minimum requirements: NICET level II certification, RME-1, State of Texas backflow license, FA license, and extinguisher license.

3.1.2.2 Fire Alarm Technicians minimum requirements: Texas State Fire Alarm license and NICET level one certification.

3.1.2.3 Fire Panel System Programmer minimum requirements: NICET Level 4 Fire Alarm certification minimum of years (5) years of directly related experience

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

servicing and programming SimplexGrinnell or industry related equipment. Two-year Associate degree in a technical field, such as electronics or electricity, or equivalent experience

- 3.1.3 For all testing, the Contractor shall provide a minimum one (1) pump and sprinkler technician, two (2) fire control technicians, one (1) fire panel system programmer and one (1) lead technician to ensure the testing is completed within the timeframe scheduled.
- 3.1.4 For all sequence testing, the Contractor shall provide a minimum of two (2) pump and sprinkler technicians, two (2) fire control technicians, one (1) fire panel system programmer and one (1) lead technician for the duration of the entire sequence test.
- 3.1.5 The Contractor staff shall have all appropriate licenses and certifications as required to perform these services. The Contractor shall provide copies of all licenses and certifications within two (2) business days upon request by the City.
- 3.1.6 The Contractor's inspection, monitoring, maintenance and repair services shall conform to the latest applicable Texas Commission on Fire Protection, and any other Federal, State and local, and City governing ordinances, regulations, and codes.
- 3.1.7 The Contractor shall have and operate a full-time, permanent business address located within 30 miles radius from the State Capital in Austin, Texas with the ability to be reached by email and telephone.
- 3.1.8 The Contractor shall provide and maintain a telephone dispatch system that is operational 24 hours per day, seven (7) days per week, and 365 days per year (including holidays). Telephone answering machines do not meet the requirements of this paragraph.

3.2 Single Point of Contact (SPOC)

- 3.2.1 The Contractor shall provide a SPOC within (1) week of the contract award, who is English-speaking, skilled, knowledgeable, and experienced in providing the services required of the contract. The SPOC shall have the authority to dispatch Contractor personnel and shall have full decision-making authority for all services provided under this contract.
- 3.2.2 The SPOC shall be available and on-call 24 hours per day, seven (7) days per week, and 365 days per year (including holidays). The Contractor shall provide the office number, email address, and cell phone number for the SPOC. During times the SPOC is unavailable (due to vacation, travel, etc., for example), the Contractor shall provide a designee for the SPOC. The designee shall meet the same requirements as specified for the SPOC within this SOW and shall have the same authority as the SPOC.

4. CONTRACTOR RESPONSIBILITIES

4.1 General Requirements

- 4.1.1 The Contractor shall comply with all applicable Federal, State, Local requirements, law, statutes, and Austin Fire Department guidelines and regulations as they relate to fire alarm and/or fire suppression systems testing, inspection, maintenance, and repair including, but not limited to Uniform Fire Code, National Fire Protection Association (NFPA), and Factory Mutual (FM) guidelines.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

- 4.1.2 The Contractor shall provide a preventative maintenance schedule within one (1) month after contract award or is mutually agreed to between the Contractor and the City. The provided maintenance schedule shall be coordinated and agreed upon with the Facilities Manager or designee and Contractor. The Contractor shall inform the Facilities Manager or designee of any changes in scheduling through email at a minimum of seven (7) business days prior to schedule change.
- 4.1.3 The Contractor shall maintain the fire pump and fire sprinkler system for ten (10) floors, the Penthouse, two (2) generator rooms and one (1) parking garage elevator.
- 4.1.4 The Contractor shall understand and agree that the scheduling of events will take precedence over any scheduled maintenance and repair services agreed to by the Facilities Manager or designee and the Contractor. The Contractor shall not hold the City liable, financially or otherwise, if the City needs to reschedule services with the Contractor, due to a new event scheduled. The City will make every reasonable effort to immediately notify the Contractor of changes which may have an impact on scheduled services.
- 4.1.5 Contractor shall provide a 24/7 fire alarm monitoring service with a 24/7 contact telephone number to provide immediate assistance to any actual, or false fire system fault alarm.
 - 4.1.5.1 **Non-Emergency Calls**

Contractor shall notify Facility Manager or designee of any non-emergency fire system fault alarms. Where there is no actual fire alarm and the City Fire Department is not dispatched, call shall be made to Facility Manager or designee within four (4) hours of notification of fault alarm.
 - 4.1.5.2 **Emergency Calls**

Contractor shall notify Facility Manager or designee of any emergency fire alarm where there is an actual fire alarm and the City Fire Department is dispatched, within ten (10) minutes of the actual fire alarm. This service shall be available 24 hours per day 7 days a week, throughout the year. An Emergency notification is also necessary when the system user is unable to operate the system as it was designed, and such inability puts City facilities or personnel at risk.
- 4.1.6 The Contractor shall report to the Facilities Manager or designee upon arrival and departure from the premises.
- 4.1.7 The Contractor shall understand that all work is subject to inspection and acceptance by the Facilities Manager or designee and obtain a signature upon completion of all services. This shall be included with invoice.
- 4.1.8 The Contractor shall notify within 48 hours (by email) and within 24 (by phone) the Facilities Manager or designee of work in progress which may cause lapses in alarms or fire alarm services.
- 4.1.9 The Contractor shall provide all equipment, materials, labor, tools, software programming, specialized equipment, insurance, permits, incidentals, expendable items, personnel protective equipment, and transportation necessary for proper execution and completion of the inspection, maintenance, and repair services.
- 4.1.10 The Contractor shall be responsible for securing the proper City of Austin Building Inspection permits, which may be necessary for performance of this contract. The City will be responsible for the alarm permits.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

- 4.1.11 The Contractor shall maintain and repair all fire alarm systems so that they operate to the original manufacturer's performance specifications.
- 4.1.12 The Contractor shall replace all worn, failed, or intermittent malfunction parts. Replacement parts shall be Original Equipment Manufacturer (OEM) only. Replacement components and systems of the fire panel and related safety equipment shall be inspected and tested immediately following replacement/installment.
- 4.1.13 For inspections, the Contractor shall email to the Facilities Manager a record of finding/service report within three (3) calendar days for each inspection performed within a one (1) week of the inspection, or at a time mutually agreed to between the Contractor and the Facilities Manager or designee. The report shall include any corrective action taken at the time of the inspection, needed repairs, and/or recommendations for replacement of major components with a written estimate including labor and materials. A copy of this inspection report shall be submitted with the inspection's invoice.
- 4.1.14 For repairs, the Contractor shall provide a detailed service report within one (1) calendar day of the scheduled date, including additional repairs required, to the Facilities Manager or designee for signature indicating type of service performed during the service. A copy of the signed service report shall be submitted with the repair invoices as backup.
- 4.1.15 The Contractor shall contact the Facilities Manager or designee for any critical issues at the time of discovery by phone, pager, email, or any means necessary to discuss corrective action. The replacement of major components shall not be executed without written authorization from the Facilities Manager or designee.
- 4.1.16 The Contractor shall provide temporary equipment replacement for any equipment not immediately repairable on-site.
- 4.1.17 The Contractor shall mark off all work areas and post appropriate safety signs and safety barricades/bollards to protect City staff and the public from injury.
- 4.1.18 The Contractor shall dispose of all worn/defective parts, oils, solvents, in accordance with all applicable laws, rules and regulations as to ensure compliance with environmental and public health ordinances and regulations, at no additional cost to the City. The Contractor shall provide the manifest ticket for hazardous materials or other proof of proper disposal upon request by the Facilities Manager or designee.
- 4.1.19 The Contractor shall not store any contractor supplies or equipment used to complete work, nor any worn or defective parts on City premises at the end of the work day unless approved by the Facilities Manager or designee.
- 4.1.20 The Contractor shall be responsible for the immediate clean-up of the work area and the removal of debris. Cleaning of the work area shall be subject to the Facilities Manager or designee inspection and approval.
- 4.1.21 The Contractor shall be responsible for theft, misuse, or damage done to property or equipment as a direct result of the Contractor's actions. Should the Contractor and/or his employees cause any damage to City and adjacent property, the Contractor shall immediately inform the Facilities Manager or designee. The Contractor shall make repairs or replacement to the satisfaction of the Facilities Manager or designee at no cost to the City. The City may, however, at its sole discretion, elect to make repairs or replacements of damaged property and deduct the cost from any payments owed to the Contractor or to recover costs if no payments are owed.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

4.2 Service Requirements

The Contract shall provide:

- 4.2.1 Routine and Preventative maintenance schedule services: The Contractor shall work with the Facilities Manager or designee to establish a routine and preventative maintenance schedule and shall be within two calendar days of the scheduled service date.
- 4.2.2 Annual and preventative maintenance and inspection: (Completed one time per year)
- Test and clean system sensors and components.
 - Adjust system sensors and components as necessary.
- 4.2.3 Semi-Annual preventive maintenance and inspections: (Completed two times per year):
- ~~Inspect, test, clean, and adjust uninterruptible power system (UPS). Replace batteries as necessary.~~
 - ~~Inspect and clean all Data Gathering Panels (DGPs).~~
 - Inspect, test, and clean power supplies. Replace batteries as necessary.
 - Inspect, clean, and vacuum all consoles and equipment racks.
 - ~~Test and adjust all CCTV pan, tilt, zoom, and preset functions.~~
 - ~~Inspect clean and adjust CCTV matrix switcher and Digital Video Recorders (DVRs).~~
 - ~~Inspect and clean the Systems Management Server (SMS) file server, printers, and system workstations.~~
 - Perform hardware, firmware, software, and disk drive maintenance as required to ensure optimum performance.
 - Run SMS system diagnostics and perform file maintenance to insure optimal performance.
 - ~~Clean all camera housing view panels.~~
 - ~~Visually observe all cameras, monitor displays, and adjust as needed for optimal performance.~~
 - Inspect, clean, and replace batteries as necessary the main fire alarm and processing extended panels.
- 4.2.4 Quarterly maintenance and inspections, The Contractor shall perform Quarterly inspections and maintenance, on a rotating random 25% of devices/equipment as listed in the annual preventative maintenance and Inspections service schedule. The Contractor will contact the Facilities Manager or designee to schedule inspection/maintenance during a week day; provided there are interruptions to City staff. Any required testing of audible and visual alarms shall be conducted after or prior to normal business hours.
- 4.2.5 Additional maintenance and inspection:
- 4.2.5.1 Visual Sprinkler Head Inspection: The Contractor shall conduct an annual inspection of sprinkler heads 2-3 weeks prior to the Annual Sequence Test. Repairs or modifications shall be completed prior to the Annual Sequence Test and Fire Pump Full Flow Test.
- 4.2.5.2 Computer and Generator Rooms: The Contractor shall conduct annual inspections of two (2) computer room pre-action systems and two (2) generator rooms micro-mist systems 2-3 weeks prior to each Annual Sequence Test.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

4.2.5.3 Annual Sequence Test: An annual Sequence Test shall be performed each calendar year on all (100%) fire safety equipment and the fire panel according to all codes and guidelines. This Sequence Test shall be performed on a Saturday, date to be determined by the Austin Fire Department and will be schedule one month in advance

4.2.5.4 Fire Pump Full Flow Test: As a part of the Annual Sequence Test, the Contractor shall conduct a Full Flow Test of the fire pump and will take place at the same time the Annual Sequence Testing occurs. The Full Flow Test must flow off the roof, away from the building and shall not flood the roof. A 'water-cannon' method shall be used to minimize the amount of water applied to the building envelope by shooting the water out onto the creek area.

4.2.5.5 Sensitivity Test: The Contractor shall perform this test on smoke detectors and control panel heads, in conjunction with the annual inspection for the first year and thereafter shall be performed every other year. The Contractor shall go to each smoke detector to conduct the test and clean the smoke detectors and control panel heads.

4.2.6 Conduct a preliminary fire alarm system assessment at the request of the Facilities Manager or designee within one (1) week upon request, at no cost to the City.

4.3 Other Requirements:

4.3.1 Loaner Equipment: The Contractor shall provide loaner equipment for any equipment not field (on-site) repairable.

4.3.1.1 The loaner equipment shall meet the functional and technical equivalent of the item replaced and be fully compatible and function seamlessly with City equipment and associated components. The Contractor and Facilities Manager or designee shall mutually agree on the loaner equipment before putting into service.

4.3.1.2 The loaner equipment shall be on-site within two (2) hours or at a time mutually agreed to between the Contractor and the Facilities Manager or designee.

4.3.1.3 The loaner equipment not available locally and must be shipped from the manufacturer or distributor, shall be on-site and operational within two (2) calendar days of the component failure, or at a time mutually agreed to between the Contractor and the Facilities Manager or designee.

4.3.1.3.1 The Contractor shall furnish a list of equipment that requires shipment from the manufacturer or distributor, with estimated order/delivery lead times within 30 days after contract award, or at a time mutually agreed to between the Contractor and the Facilities Manager or designee

4.3.2 The Contractor acknowledges that assessments of areas and new fire alarm systems or components may be installed to meet the changing needs of the City. New fire alarm systems or components installed as an integral part of existing fire alarm systems become the property of the City upon installation and acceptance. Accordingly, the Contractor shall be responsible for providing all maintenance services to components that become an integral part of the existing fire alarm systems.

4.4 Repair Services

The Contractor shall provide repair or replacement parts on systems not covered under warranty. The Contractor shall perform the work in accordance with the following schedule:

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

4.4.1 Schedule A – Emergency Repair and Replacement Services

- 4.4.1.1 The Contractor shall be able to respond to emergency service requests twenty-four (24) hours per day, seven (7) days per week (including holidays). Emergency services are defined as a repair situation for major system components including, but not limited to, sprinkler, mist and pre-action systems. The need for immediate repair will be determined and approved by the Facilities Manager or designee.
- 4.4.1.2 Emergency services shall take priority over all other scheduled preventive maintenance and non-emergency repairs.
- 4.4.1.3 The Contractor shall acknowledge receipt of an emergency request within thirty (30) minutes or less by phone to the Facilities Manager or designee. The Contractor's technician shall sign in with the Facilities Manager or designee within two (2) hours unless otherwise approved or agreed-upon. The response time shall begin at the time the call is made and end at the time the appropriate Contractor's employee signs in at the work site.
- 4.4.1.4 The Contractor shall provide a written estimate for the total cost of work including the estimated time of completion and submit to the Facilities Manager or designee within one (1) calendar day unless otherwise approved or agreed-upon by the Facilities Manager or designee.

4.4.2 Schedule B – Non-Emergency Repair and Replacement Services

- 4.4.2.1 The Contractor shall perform non-emergency repair services on an as-needed basis within regular business hours, which is defined as Monday through Friday from 7:00 a.m. to 6:00 p.m., excluding City holidays. Non-emergency repairs are defined as minor repairs that are needed to all other components, hardware, equipment, and devices used to keep the fire alarm systems functioning.
- 4.4.2.2 The Contractor shall notify the Facilities Manager or designee a minimum two (2) business days to request service.
- 4.4.2.3 The Contractor shall be on site for non-emergency repair requests within four (4) business hours of phone or email notification, unless otherwise approved or agreed-upon by the Facilities Manager or designee.
- 4.4.2.4 The Contractor shall provide a written estimate for the total cost of work including the estimated time of completion and submit to the Facilities Manager or designee within three (3) calendar days unless otherwise approved or agreed-upon by the Facilities Manager or designee for approval of repair. This will be included with invoice for the repairs.
- 4.4.2.5 The Contractor shall repair all system failures within two (2) business days unless otherwise approved by the Facilities Manager or designee. If the Contractor needs an on-site manufacturer's service technician, labor provided by the manufacturer's service technician shall be billed to the City at a zero percent (0%) markup or at the rate the Contractor charges the City, whichever is less.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

- 4.4.2.6 The Contractor shall provide for on-line software maintenance, training and support including all software and hardware. The modem access to the system shall be password protected and controlled by the City and ensure compliance with the Austin Fire Department codes and the Underwriters Laboratory (UL) Inc., National Fire Protection Association's (NFPA) codes and standards and all manufacturer guidelines and recommendations.
- 4.4.2.7 The Contractor shall maintain an adequate inventory of replacement parts to ensure minimal down time during the maintenance and repair. The City estimates that an adequate parts inventory will cover four (4) weeks of repairs. The Contractor and the Facilities Manager or designee will mutually agree on what an adequate parts inventory is based on the systems in use.
- 4.4.2.8 The Contractor shall use parts and equipment that meet the manufacturers' specifications and standards for the type of systems and components being repaired.

4.5 Labor and Personnel

- 4.5.1 The Contractor shall be responsible for ensuring the safety of their employees, City employees, and the public during performance of services under this contract. The Contractor shall ensure that all crews are fully and properly equipped with personal protective equipment to perform services promptly and safely.
- 4.5.2 The Contractor shall follow all OSHA safety requirements: <http://www.osha.gov/>. Proof of compliance with applicable standards, regulations and laws shall be provided to the Facilities Manager or designee within one (1) week of request, or at a time mutually agreed to between the Contractor and the Facilities Manager or designee.
- 4.5.3 Contractor personnel assigned to provide services under the contract shall wear a uniform, necessary safety equipment, and company issued identification. Uniforms shall be alike and shall have the Contractor's and employee's names clearly displayed on the front of the shirt and seasonal outerwear.
- 4.5.4 The Contractor shall ensure that all personnel are continuously trained to meet the latest technology and industry standards. The Contractor shall submit proof of personnel training and experience within five (5) business days upon request by the Facilities Manager or designee.

5. CONTRACTOR FINANCIAL LIABILITIES

- 5.1 The Contractor shall be financially responsible for the expenses incurred by the City deemed necessary to secure a City facility while the electronic fire alarm system is down due to the following conditions:
 - 5.1.1 The Contractor fails to initiate emergency service repairs as indicated in this Scope of Work. The City will use fire alarm guards to cover the issue until the next business day when an outside Contractor will be called in to fix the issue. The City will send the invoice for the outside Contractor to the current Contractor as a bill-back.
 - 5.1.2 The Contractor fails to complete emergency repairs and repairs necessary because of poor workmanship and/or quality of service and equipment. Poor workmanship will be assessed, documented, and corrected by a Subject Matter Expert.

**CITY OF AUSTIN
SCOPE OF WORK
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, MAINTENANCE, INSPECTION, AND REPAIR SERVICES
IFB 2200 GLB1008
VERSION 1.1**

6. **CITY RESPONSIBILITIES**

- 6.1 Facilities Manager:
Augustin Cancino
625 E. 10th Street
Austin Texas 78701
Augustin.cancino@austintexas.gov
(512) 972-0344
- 6.2 The City will provide light, water, and electricity, as necessary. The Contractor shall use these facilities to perform these services only.
- 6.3 The City will provide an on-site contact with escorted access.
- 6.4 The City will be responsible for any alarm permit applications, renewals, or fees for this equipment.
- 6.5 The City will be responsible for obtaining clearances relating to asbestos related activity.

Section 0605: Local Business Presence Identification

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

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

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

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR:

Name of Local Firm	Firetron	
Physical Address	3006 Longhorn Blvd ste 101 Austin TX 78758	
Is your headquarters located in the Corporate City Limits? (circle one)	<input checked="" type="radio"/> Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	<input checked="" type="radio"/> Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	<input checked="" type="radio"/> No

SUBCONTRACTOR(S):

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

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

SUBCONTRACTOR(S):

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

Section 0700: Reference Sheet

Responding Company Name Firetron

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

St David's Medical Center

Name and Title of Contact

Doug Anderson Manager of Facilities

Project Name

St Davids Medical Center

Present Address

919 S 32nd Street

City, State, Zip Code

Austin TX. 78705

Telephone Number

(512) 544-4004 Fax Number (512) 544-4019

Email Address

Doug.Anderson@stdavids.com

2. Company's Name

Concordia University

Name and Title of Contact

Michael Cattaux Director of Capital Projects

Project Name

Concordia University

Present Address

8311 N FM 620 Rd

City, State, Zip Code

Austin TX 78726

Telephone Number

(512) 313-4064 Fax Number ()

Email Address

Michael.Cattaux@concordia.edu

3. Company's Name

Brandywine

Name and Title of Contact

Wade Pinkston Operating Engineer

Project Name

IBM Buildings

Present Address

11501 Burnet Rd

City, State, Zip Code

Austin TX. 78758

Telephone Number

(512) 676-3036 Fax Number ()

Email Address

Wade.Pinkston@bdrreit.com

City of Austin, Texas

Section 0800

NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

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

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

City of Austin

Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

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

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

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

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

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

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

Sanctions:

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

Term:

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

Dated this 10th day of October, 2018

CONTRACTOR

Authorized
Signature

Title

Fire Tron, Inc.
John Davis
District General Mgr.

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 \$15.00 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 \$15.00 per hour:

Employee Name	Employer	Prime or Sub	Your Normal Rate	Employee Job Title
Rick Corron	Firetron	Prime	Above \$15.00	Sprinkler Inspector
Landry Tucker	Firetron	Prime	Above \$15.00	Sprinkler Inspector
Andrew Geibel	Firetron	Prime	Above \$15.00	Alarm Inspector
Chris Cosperv	Firetron	Prime	Above \$15.00	Alarm Inspector
Joshua Davison	Firetron	Prime	Above \$15.00	Extinguisher Inspector
Cody Cosperv	Firetron	Prime	Above \$16.00	Alarm Inspector

- (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 \$15.00 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: Firetron

Signature of Officer
or Authorized
Representative:

John Davis

Date: 10-10-18

Printed Name:

John Davis

Title

District Manager

Section 0835: Non-Resident Bidder Provisions

Company Name Firetron

- 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: NA Which State: NA

- 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: NA

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

SOLICITATION NUMBER: IFB 2200 GLB1008

SOLICITATION TITLE: Notifier Fire Control System Monitoring, Maintenance, Inspection, and Repair Services

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

Instructions:

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

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

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

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

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

Offeror Information			
Company Name	FireTron		
City Vendor ID Code	V00000902240		
Physical Address	3006 Longhorn Blvd		
City, State Zip	Austin TX 78758		
Phone Number	512-493-8000	Email Address	anitra.young@firetron.com
Is the Offeror City of Austin M/WBE certified?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture		

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

Name and Title of Authorized Representative (Print or Type)

Signature/Date

BID SHEET
CITY OF AUSTIN ("CITY")
NOTIFIER FIRE CONTROL SYSTEM
MONITORING, INSPECTION, MAINTENANCE, TESTING, AND REPAIR SERVICES
Version 1.1

Solicitation No.: IFB 2200 GLB1008

Special Instructions: Offerors must use this Bid Sheet to submit pricing. Be advised that altering the bid sheet or taking exceptions to any portion of the solicitation may jeopardize acceptance of your Offer.

The quantities noted below are estimates and not a guarantee of actual volume. The City does not guarantee the purchase of the quantities listed, actual purchases may be more or less. Quantities are provided as a guide based on historical or anticipated usage. Order quantities will be as-needed and specified by the City for each order.

A bid of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of "no bid" or no response (space left blank) will be interpreted by the City that the Offeror does not wish to bid on that item. Be advised, a "no bid" or no response may be considered as non-responsive and may result in disqualification of the bid.

Prices offered on the bid sheet shall be all inclusive of fees not expressly allowed in the scope of work. The Offeror shall not charge separately for administrative, overhead, per diem, and shipping or transportation costs (travel time, fuel surcharges, mileage, stop-fee, etc.) to deliver services or items to the Austin, Texas area. The Offeror shall provide all tools, labor, travel, and equipment necessary to perform the services required under this contract.

The City reserves the right to award a single contract based on overall low cost or multiple awards based on individual or sections/groups of specific line items, cost, or any criteria or combination deemed most advantageous to the City.

SECTION A - FIRE CONTROL SYSTEM MONITORING, INSPECTION, MAINTENANCE, AND TESTING

The Contractor shall provide all equipment, materials, labor, tools, software programming, specialized equipment, insurance, permits, incidentals, expendable items, personnel protective equipment, and transportation necessary for proper execution and completion of the inspection, maintenance, and testing.

Item #	Description	Unit	Estimated Annual Qty	Unit Price	Extended Price
1	Austin Water Waller Creek Center - (625 E. 10th Street) - Monitoring, maintenance, and Testing services	Monthly	12	1,650.00	19,800.00
SECTION A TOTAL					19,800.00

SECTION B - LABOR RATE - REPAIRS

Hourly labor rate for services excluding the labor for monitoring, inspection, maintenance, and testing services -Section A

Item #	Hour of Work	Estimated Annual hours	Hourly Rate	Extended Price
2	REGULAR HOURS: Monday thru Friday, 6:00 A.M. and 6:00 P.M.	80	\$90.00	\$7,200.00
3	NON REGULAR HOURS: Monday thru Friday 6:01 P.M.-5:59 A.M., all day Weekends and Holidays	80	\$135.00	\$10,800.00
SECTION B TOTAL				18,000.00

SECTION C - MARK-UP TO COST FOR ADDITIONAL MATERIALS AND RENTALS

The City may require the Contractor to provide additional materials and rental equipment related to this Contract. In order to price these additional requirements, Offerors shall indicate the markup percentage to cost you can provide the City for these requirements. The percentage markup(s) shall remain fixed throughout the term of the Contract including any subsequent renewal periods.

Item #	Description	Estimated Annual Expenditure	Markup to Costs (Percentage)	Extended Price
4	Fire Alarm and Fire Suppression parts and materials billable as approved by the Contract Manager (Excludes parts and materials included in the maintenance service charge-Section A) (not to exceed 20%)	\$40,000.00	15%	46,000.00
5	Fire Alarm and Fire Suppression equipment rental (for rental of scaffoldings, lifts, or booms) (not to exceed 20%)	\$5,000.00	15%	5,750.00
SECTION C TOTAL				51,750.00

TOTAL EXTENDED PRICE FOR SECTIONS A - C **89,550.00**

DELIVERY TERMS: FOB Destination, Freight Pre-Paid and Allowed

COMPANY NAME: FireTron



**ADDENDUM
CITY OF AUSTIN, TEXAS**

Solicitation: **IFB 2200 GLB1008** Addendum No: **1** Date of Addendum: **9/20/18**

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

I. Questions:

The following questions were posed by one or more contractors in writing. Each question (Q) is followed by its answer (A).

1. (Q) Is there a site visit for the above listed solicitation?

(A) There will be a site visit after the Pre-Bid on September 26, 2018 @ 8:00, located at 625 E. 10th Street Suite 1000 Austin, TX 78701. This is not a mandatory Pre-Bid and will require to sign in at the security desk which will photo identification.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:

Georgia L. Billela, Procurement Specialist III
Purchasing Office, 512-974-2939

ACKNOWLEDGED BY:

FireTron

SUPPLIER

AUTHORIZED SIGNATURE

10-10-18

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: **IFB 2200 GLB1008** Addendum No: **2** Date of Addendum: **10/1/18**

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

I. Questions:

The following questions were posed by one or more contractors during the Pre-Bid and in writing. Each question (Q) is followed by its answer (A).

1. (Q) What is the process for proprietary parts that require repair at the manufacturer level or OEM parts that require ordering from manufacturer and there is a long lead line?

(A) In the Scope of Work 4.3.1.3.1 it states that "The Contractor shall furnish a list of equipment that requires shipment from the manufacturer or distributor, with estimated order/delivery lead times within 30 days after contract award, or at a time mutually agreed to between the contract and the Facilities Manager or designee" It is the expectation that the Contractor will communicate with the City on repair parts when they are in the process of approving the request at the initial start of a repair and it should include lead time or loaner equipment for the parts.

2. (Q) Can the SPOC be a technician?

(A) The SPOC can be a technician if they are knowledgeable on the system, and Contractor shall ensure the City is aware of any changes in the SPOC.

3. (Q) Is the required amount of personnel that is listed for the sequence test and testing able to be adjustable for personnel that hold multiple licenses to avoid personnel standing around during sequence testing?

(A) The required amount of personnel that is listed for the testing is not adjustable and it required to have the number of technicians as stated in the Scope of Work.

4. (Q) Will the fire extinguishers be a responsibility of the Contractor on this contract?

(A) The fire extinguishers will not be the responsibility of the Contractor under this contract. It is handled by another City contract.

5. (Q) Can the Contractor pass on the permit fees to the City?
(A) The Contractor is responsible for all permit fees with the expectation of the alarm permits which is the City responsibility as stated in Scope of Work 4.1.10. This is considered part of the overhead cost for the Contractor and is built in to the cost provided.
6. (Q) When was the last five (5) year inspection completed and are they all done at the same time (Sprinkler and standpipe)?
(A) They were completed with the Fire department last week.
7. (Q) On the Semi-Annual preventive maintenance and inspections, it is noted several items like data gathering panels, uninterruptible power system, CCTV systems and SMS, can you go into what those systems are and location?
(A) These are no longer part of the system and have been removed. Please see the Scope of Work Version 1.1 with the removal of those items.
8. (Q) Has the fire pump been replaced in the past 10 years?
(A) Yes, it has been replaced.
9. (Q) Has the Micro Mist been replaced in the past 10 years?
(A) No, it has not been replaced.
10. (Q) When was the last time the Micro Mist has been hydro tested?
(A) It was last test in 2010 and is not due until 2020.
11. (Q) Is the Contractor or the City responsible for 4.2.5.2 of the Scope of Work that includes 2 computer room, 2 generator room and Micro-mist system?
(A) The Contractor is responsible for 4.2.5.2 of the Scope of Work that includes 2 computer rooms, 1 generator room with a fire pump, and 1 generator room with a Micro-mist system.
12. (Q) In a years' experience what are the common items that require to be replaced that would require to be on hand?
(A) Top 4 items replaced 8 to 10 times: Smoke Heads, Heat heads, monitor modules, and duct detector.
13. (Q) How may emergency calls in one year?
(A) The City has had approximately 20 calls that would be emergency calls.
14. (Q) In the event of complete fire alarm system failure and fire pump failure is the Contractor responsible for complete replacement at no cost to City?
(A) The Contractor is not responsible for the replacement cost but would bill the City for labor and materials as quoted on the bid sheet, if it is elected to use this contract or go out for a new contract for a new system if the contract does not have enough authority on it.
15. (Q) Section 3.1.2.3 surpasses all requirements needed for other contracts within the City, is this correct?
(A) This solicitation is for a different building and fire alarm system which require different requirements that other facilities.

16. (Q) The systems yellow tagged for what should have been normal inspection procedures why were they not completed?

(A) This solicitation is for a different building and fire alarm system which require different requirements than other facilities.

17. (Q) Is the existing company going to address any and all pre-existing issues that exist with all associated systems?

(A) The system should have passed inspections prior to the start of the new contract. If repairs and maintenance is needed after initial inspection done the contractor would bill the City for labor and materials as quoted on the bid sheet.

18. (Q) Does this contract cover the "won doors"?

(A) No, this contract will not cover those doors.

- ii. **Extension:** The proposal due date is hereby extended until Thursday, October 11, 2018 at 2:00 PM.
- iii. The Bid Sheet has been replaced with Section 0600 Version 1.1. The City has increased line item 4 from \$20,000 to \$40,000
- iv. Sign in sheet from the Pre-Bid dated 9/26/18 is attached.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:



Georgia L. Billela, Procurement Specialist III
Purchasing Office, 512-974-2939

ACKNOWLEDGED BY:

FireTron

SUPPLIER



AUTHORIZED SIGNATURE

10-10-18

DATE

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GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Georgia Billela/4-2939	PM Name/Phone	Jessica Easley/2-0312
Sponsor/User Dept.	Austin Water / 2200	Sponsor Name/Phone	Iupe Cruz/2-0347
Solicitation No	IFB 2200 GLB1008	Project Name	Notifier fire control system services
Contract Amount	430,000 total /86,000 per year.	Ad Date (if applicable)	9/17
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> IFB – IDIQ <input checked="" type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
Provide Project Description**			
To establish a contract with a qualified Vendor ("Contractor") experienced in full service monitoring, inspections, testing, maintenance, and repair services of Notifier fire control system.			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
IFB 2200 SSC0172REBID no goals and no subcontractors.			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
99042- Alarm Equipment Maintenance/Repair (Fire, Etc.) 100%.			
Georgia Billela		9/6/2018	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY			
Date Received	9/6/2018	Date Assigned to BDC	9/6/2018
In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

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

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

There is one MBE and zero WBEs available for this project.

Subcontracting Opportunities Identified

There are no subcontracting opportunities identified.

Sonya Powell	
SMBR Staff	Signature/ Date <i>Sonya Powell</i> 9/6/18
SMBR Director or Designee <i>AK</i>	Date 9/7/18
Returned to/ Date:	