

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)
AND
SUSTAINABLE FOOD CENTER (“Contractor”)
FOR
HEALTHY FOOD ACCESS EDUCATION AND OUTREACH
CONTRACT NO. MA 9100 NA190000230**

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 Sustainable Food Center having offices at 2921 E. 17th Street, Bldg. C, Austin, TX 78702 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number RFP 9100-SBR3001.

1.1 This Contract is composed of the following documents:

1.1.1 This Contract

1.1.2 The City’s Solicitation, Request for Proposal (RFP), 9100-SBR3001 including all documents incorporated by reference Sustainable Food Center Proposal dated August 5, 2019, including subsequent clarifications

1.1.3 Exhibit A Sustainable Food Center Best and Final Offer (BAFO) and Clarifications, dated September 4, 2019.

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

1.2.1 This Contract

1.2.2 The City’s Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference.

1.2.3 The Contractor’s Proposal and submitted documents as referenced in Section 1.1.3, including subsequent clarifications.

1.2.4 Exhibit A Sustainable Food Center Best and Final Offer (BAFO) and Clarifications, dated September 4, 2019

1.3 Term of Contract.

1.3.1 The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of twelve (12) months. The Contract may be extended beyond the initial term for up to four (4) additional twelve (12) month periods at the City’s sole option.

1.3.1.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period.

1.3.1.2 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).

1.3.1.3 This is a twelve (12) month Contract. Prices are firm for the first twelve (12) months and any extension options exercised.

1.4 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$60,000 for the initial Contract term and \$60,000 for each extension. Payment shall be made on a cost reimbursement method based on invoices, valid purchase receipts, and any other invoice supporting documentation submitted to the City in accordance with the Contract.

1.5 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order

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

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

SUSTAINABLE FOOD CENTER

CITY OF AUSTIN

Ronda Rutledge

Printed Name of Authorized Person



Signature

Executive Director

Title:

9-10-19

Date:

Sarah Ramos

Printed Name of Authorized Person



Signature

Procurement Specialist II

Title:

9.11.19

Date:

List of Exhibits:

Exhibit A - Sustainable Food Center Best and Final Offer (BAFO)



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

SOLICITATION NO: RFP 9100-SBR3001

COMMODITY/SERVICE DESCRIPTION: Healthy Food Access
 Education and Outreach

DATE ISSUED: Monday, July 15, 2019

REQUISITION NO.: RQM 9100 19013000259

COMMODITY CODE: 95243
**FOR CONTRACTUAL AND TECHNICAL
 ISSUES CONTACT THE FOLLOWING
 AUTHORIZED CONTACT PERSON:**

PROPOSAL DUE PRIOR TO: Tuesday, August 6, 2019 at 2:00 PM

PROPOSAL OPENING TIME AND DATE: Tuesday, August 6, 2019
 at 3:00 PM

Primary Contact

Sarah Ramos
 Procurement Specialist II
 Phone: (512) 974-2554
 E-Mail: sarah.ramos@austintexas.gov

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

Secondary Contact

Claudia Rodriquez
 Procurement Specialist IV
 Phone: (512) 974-2959
 E-Mail: claudiar.rodriquez@austintexas.gov

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

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

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

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

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 # 9100-SBR3001	Purchasing Office-Response Enclosed for Solicitation # 9100-SBR3001
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.

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	SCOPE OF WORK	9
0600	PROPOSAL PREPARATION INSTRUCTIONS & EVALUATION FACTORS	4
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – <i>Complete and return</i>	2
0630	EXCEPTION FORM - <i>Complete and return</i>	1
0700	REFERENCE SHEET – <i>Complete and return</i>	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION– <i>Complete and return</i>	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION - <i>Complete and return</i>	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0835	NONRESIDENT BIDDER PROVISIONS – <i>Complete and return</i>	1
0840	SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE – <i>Complete and return</i>	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – <i>Complete & return</i>	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – <i>Complete and return if applicable</i>	3
Exhibit A	Travis County Interlocal for Public Health Services (FY18)	44
Exhibit B	Sixth Amendment and Renewal of Travis County Interlocal for Public Health Services (FY19)	4

*** 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: Sustainable Food Center

Company Address: 2921 E. 17th Street, Bldg. C

City, State, Zip: Austin, TX 78702

Vendor Registration No. AUS6000830

Printed Name of Officer or Authorized Representative: Ronda Rutledge

Title: Executive Director

Signature of Officer or Authorized Representative: 

Date: 8/5/2019

Email Address: ronda@sustainablefoodcenter.org

Phone Number: 512-220-1084

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

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STANDARD PURCHASE DEFINITIONS**

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.

1. **Addendum** - a written instrument issued by the Contract Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.
2. **Alternate Offers** - multiple Offers with substantive variations from the same Offeror in response to a Solicitation.
3. **Appropriate, Appropriated, or Appropriation** - the adoption by the City Council of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
4. **Authorized City Representative** - a person designated by the City Manager to act for the Contract Awarding Authority.
5. **Best Offer** - the best evaluated Offer in response to a Request for Proposals or Request for Qualification Statements.
6. **Best Offeror** - the Offeror submitting the Best Offer.
7. **Bid** - a complete, properly signed response to an Invitation for Bid, which if accepted, would bind the Bidder to perform the resultant Contract.
8. **Bidder** - a person, firm, or entity that submits a Bid in response to an Invitation for Bid. Any Bidder may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
9. **Bid Guaranty** – a form of security assuring that the bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
10. **Bid Sheet** - a document, signed and dated by a Bidder, containing unit and extended bid prices for all goods and/or services, identified by item numbers and descriptions, for which Bids are being submitted
11. **Business Entity** – any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.
12. **Central Purchase Order (CT)** - a financial system document issued by the Contract Awarding Authority to encumber funds to pay for the deliverables identified in a Contract.
13. **City** - the City of Austin, a Texas home-rule municipal corporation.
14. **Compliance Plan** - is defined in chapter 2-9 of the City Code.
15. **Construction** - the construction, repair, rehabilitation, alteration, conversion or extension of buildings, parks, utilities, streets or other improvements or alterations to real property.
16. **Contract** - a binding legal agreement between the City and the Offeror. The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

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- A. any exceptions to the Offer accepted in writing by the City
 - B. the Supplemental Purchase Terms and Conditions
 - C. the Standard Purchase Terms and Conditions
 - D. the Offer, exhibits, and attachments; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.
17. **Contract Awarding Authority** - a City department authorized to enter into Contracts on behalf of the City.
18. **Contractor/Consultant** - a person, firm or entity that supplies or provides goods and/or services to the City by Contract.
19. **Controlling Interest** means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stocks or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.
20. **Deliverables** - the goods, products, materials, and/or services to be provided to the City under a Purchase Order, Contract, or Master Agreement.
21. **Delivery Order** - a release against a Master Agreement authorizing delivery of goods and/or performance of services. A financial system document issued by the Department to encumber funds to pay for the deliverables.
22. **Disadvantaged Business Enterprise** - is defined in 49 Code of Federal Regulation Part 26 or other applicable federal regulations.
23. **Due Date** - the date and time specified for receipt of Bids, Proposals, Qualification Statements, Quotations, Responses, Submittals and Compliance Plans.
24. **Goods** - supplies, materials, or equipment.
25. **Highest Responsible Offer** - the highest Offer meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid-Sale or Request for Quotation-Sale.
26. **Highest Responsible Offeror** - the Offeror submitting the "Highest Responsible Offer."
27. **Interested Party** – a person who has a Controlling Interest in a Business Entity with whom the City contracts or who actively participates in facilitating the Contract or negotiating the terms of the Contract, including a broker, intermediary, adviser, or attorney for the Business Entity.
28. **Invitation for Bid (IFB)** - a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper and/or on the Internet.
29. **Late Offer** - a Bid, Proposal, Quote, Response, or Submittal that is received after the Due Date and time specified in the Solicitation.
30. **Lowest Responsible Offer** - the Offer meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid or Request for Quotation resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of

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the Vendor to perform the Contract, past performance of the Vendor, and compliance with all City ordinances concerning the purchasing process.

31. **Lowest Responsible Offeror** - the Offeror submitting the Lowest Responsible Offer.
32. **Master Agreement** - a term contract that is used when the total quantity required cannot be definitely fixed, but can be stated as an estimate or within maximum and minimum limits with deliveries on demand. A Master Agreement does not create a financial obligation.
33. **Minority-Owned Business** - is defined in chapter 2-9 of the City Code.
34. **Non-Professional Services** - services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
35. **Offer** - a complete signed response to a Solicitation including, but not limited to, an Invitation for Bid, a Request for Proposal, a Request for Qualification Statements, or a Request for Quotation.
36. **Offeror** - a person, firm, or entity that submits an Offer in response to a City Solicitation. Any Offeror may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. Includes Bidders, Proposers, Quoters, Contractors and Consultants.
37. **Pre-Bid / Proposal / Quote / Response / Submittal Conference** - a conference conducted by the Contract Awarding Authority, held in order to allow Offerors and Vendors to ask questions about the proposed Contract and particularly the Contract specifications.
38. **Professional Services** - services that use skills that are predominantly mental or intellectual, rather than physical or manual such as accounting, architecture, land surveying, law, medicine, optometry, professional engineering, etc.
39. **Proposal** - a complete, properly signed response to a Request for Proposals, which if accepted, would bind the Proposer to perform the resultant Contract.
40. **Proposal Guaranty** - a form of security assuring that the Proposer (a) will not withdraw the Proposal within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Proposer upon execution of a Contract.
41. **Proposer** - a person, firm or entity that submits a Proposal in response to a Request for Proposals. Any Proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
42. **Purchase Order (PO)** - an order placed by a City department for the purchase of Goods and/or Services written on the City's standard Purchase Order form and which, when accepted by the Vendor becomes a Contract. The Purchase Order is the Vendor's authority to deliver and invoice the City for Goods and/or Services specified, and the City's commitment to accept the Goods and/or Services for an agreed upon price.
43. **Purchasing Office** - refers to the Purchasing Office in the Financial and Administrative Services Department of the City.
44. **Quote** - a complete, properly signed response to a Request for Quotation, which if accepted, would bind the Offeror to perform the resultant Contract.

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- 45. **Quoter** - a person, firm or entity that submits a Quote in response to a Request for Quotations. Any Quoter may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
- 46. **Request for Information (RFI)** - a solicitation used to obtain "state of the art" information on goods and/or services for informational purposes only.
- 47. **Request for Interest (RFINT)** - a solicitation used to identify interest in a City requirement.
- 48. **Request for Proposal (RFP)** - a solicitation used to acquire goods and/or services when a clearly defined scope of work or specification is not available.
- 49. **Request for Qualification Statements (RFQS)** - a solicitation used to acquire professional services as defined by the State of Texas Government Code, Chapter 2254.
- 50. **Request for Quotation (RFQ)** - a solicitation used to acquire goods and/or services with a total dollar value less than the State of Texas competitive bidding amount.
- 51. **Resident Bidder** - a person, firm, or entity whose principal place of business is in the State of Texas, including a Contractor whose ultimate parent company or majority owner has its principal place of business in the State of Texas.
- 52. **Response** - a complete signed reply to a Solicitation including, but not limited to a Request for Information and/or a Request for Interest.
- 53. **Response Guaranty** – a form of security assuring that the Offeror (a) will not withdraw the Offer within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Offeror upon execution of a Contract.
- 54. **Responsible** - refers to the financial and practical ability of the Offeror to perform the Contract and takes into consideration resources, expertise, and past performance of the Offeror as well as compliance with all City ordinances concerning the purchasing process.
- 55. **Responsive** - meeting all the requirements of a Solicitation.
- 56. **Services** - include all work or labor performed for the City on an independent Contractor basis other than construction.
- 57. **Solicitation** - as applicable, includes Invitation for Bid, Invitation for Bid - Sale, Request for Proposal, Request for Qualification Statements, Request for Quotation, Request for Quotation – Sale, Request for Information, Request for Interest, or such other request as defined by the City.
- 58. **Subcontractor/Subconsultant** - a person, firm, or entity providing goods and/or services to a prime Contractor / Consultant to be used in the performance of the prime Contractor/Consultant's obligations under a Contract.
- 59. **Sub-Subcontractor/Sub-Subconsultant**- a person, firm or entity providing goods and/or services to a Subcontractor/Subconsultant to be used in the performance of the Subcontractor/Subconsultant's obligations under a Contract.

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- 60. **Unbalanced Offer** - an Offer that is based on prices which are significantly less than cost for some items and significantly more than cost for others.
- 61. **Vendor** - a person, firm, or entity that sells Goods and/or Services.
- 62. **Woman-Owned Business** - is defined in chapter 2-9 of the City Code.

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1. **VENDOR REGISTRATION:** All Vendors, Contractors, Subcontractors, Consultants, and Subconsultants desiring to sell to the City must be registered to do business with the City prior to submitting an Offer to a City solicitation. Prime Contractors/Consultants are responsible for ensuring that their Subcontractors/Subconsultants are registered. Registration can be done through the City's online vendor registration system. [Log onto http://www.austintexas.gov/financeonline/vendor_connection/index.cfm](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm) and follow the directions.
2. **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.
3. **MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) PROCUREMENT PROGRAM:**

All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C, and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts. Goals for MBE/WBE participation are stated in each Solicitation and differ from contract to contract based on the type of contract, the availability of MBEs/WBEs to perform the functions of the contract, and other factors. Information on achieving the goals or documenting good faith efforts to achieve the goals are contained in the MBE/WBE Program Package contained in Section 0900 of the Solicitation. When goals are established, Offerors are required to complete and return the MBE/WBE Compliance Plan with their Offer. If no goals are established, Offerors are required to submit the No Goals Utilization Plan. If a Compliance Plan or No Goals Utilization Plan is not submitted prior to the date and time set forth in the Solicitation, the Offer will not be accepted for consideration.
4. **SOLICITATION:**
 - A. **Review of Documents:** Offerors are expected to examine all documents that make up the Solicitation. Offerors shall promptly notify the City of any omission, ambiguity, inconsistency or error that they may discover upon examination of the Solicitation. Offerors must use a complete Solicitation to prepare Offers. The City assumes no responsibility for any errors or misrepresentations that result from the use of incomplete Solicitations.
 - B. **Location of Documents:** Solicitations are issued by the Purchasing Office. The location and phone number for the Purchasing Office are specified in the advertisement and in the Solicitation.
5. **WRITTEN EXPLANATIONS OR CLARIFICATIONS:** Any material information given to one Offeror concerning a Solicitation will be furnished as an Addendum to all Offerors who have been issued a Solicitation. Any explanation, clarification, interpretation or change to the Solicitation made in any other manner is not binding upon the City, and Offerors shall not rely upon such explanation, clarification, interpretation or change. Oral explanations or instructions given before the award of the Contract are not binding. Requests for explanations, clarifications or interpretations may be faxed to the City at (512) 974-2388. The fax must clearly identify the buyer's name and solicitation number.

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6. **PRE-BID / PROPOSAL / RESPONSE CONFERENCE:** If a Pre-Bid/Proposal/Response conference is mandatory, the time, place and mandatory nature of the conference will be specified on the cover page of the Solicitation. If a Pre-Bid/Proposal/Response Conference is mandatory and is not attended by an Offeror, their Offer will be rejected.
7. **PREPARATION OF OFFERS:**
- A. **Alternate Offers:** Alternate Offers will be rejected unless the Solicitation authorizes the submission of Alternates.
 - B. **Bid Preparation Costs:** All costs associated with preparing a Bid in response to a Solicitation shall be borne by the Bidder.
 - C. **Bid / Proposal / Response Guaranty or Bond:** When required by the Solicitation, an Offer must be accompanied by a Bid/Proposal/Response Guaranty or a Bid / Proposal / Response Bond with Power of Attorney attached, issued by a solvent surety authorized under laws of the State of Texas and acceptable to the City.
 - D. **Brand Name or Equal:** If the Solicitation indicates brand name or "equal" products are acceptable, the Offeror may propose an "equal" product but must be prepared to demonstrate those features that render it equal. Final determination of a product as an "equal" remains with the City.
 - E. **Delivery Time:** Delivery time, if stated as a number of days, will be based on calendar days. Time is of the essence in any City purchase. If the indicated date cannot be met or the date is not indicated, the Offeror shall state its best delivery time.
 - F. **Exceptions:** Exceptions that are taken to any portion of the Solicitation may jeopardize acceptance of the Offer.
 - G. **Free on Board (FOB) Point:** The Offeror should quote its lowest and best price, with the goods delivered to the place specified, at the Offeror's expense and risk, and there tender delivery to the City.
 - H. **Payment:** Payment terms shall be net 30 days.
 - I. **Prices:** Offers shall be firm unless otherwise specified. Pricing shall be entered on the Bid/Quote Sheet (if applicable) in ink. Totals shall be entered in the "Total Price" column of the Bid/Quote Sheet. In the event of a discrepancy between unit price and extended price, the unit price shall govern.
 - J. **Proposal Preparation Costs:** All costs directly or indirectly related to preparation of a Response to an RFP or any oral presentation required to supplement and/or clarify a Proposal which may be required by the City shall be the sole responsibility of the Proposer.
 - K. **Proprietary Information:**
 - i. All material submitted to the City becomes public property and is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, upon receipt.
 - ii. If an Offeror does not desire proprietary information in the Offer to be disclosed, each page must be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General.
 - iii. Failure to identify proprietary information will result in all unmarked sections being deemed nonproprietary and available upon public request.
 - iv. For Bids submitted in response to an Invitation for Bids (IFB), the City will not consider any requests to keep the contents of a Bid Sheet Proprietary or Confidential.

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- L. **Signature:** The Offeror must sign each document in the Solicitation requiring a signature. Any change made to the Offer must be initialed by the Offeror.
- M. **Taxes:** Purchases of Goods or Services for City use are usually exempt from City, State, and most Federal Taxes. Offers should not include exempted taxes. The successful Offeror should request a Tax Exemption Certificate from the Purchasing Office. Under no circumstances shall the City be liable to pay exempt taxes under any Contract.
- N. **Anti-Lobbying and Procurement:** Article 6, Chapter 2-7, City Code, repealed and replaced effective on June 25, 2018, prohibits lobbying activities or representations by Offerors during the No-Lobbying Period.

1. FINDINGS; PURPOSE.

- (A) The council finds that persons who enter a competitive process for a city contract voluntarily agree to abide by the terms of the competitive process, including the provisions of this article.
- (B) The council finds that it is in the City's interest:
- (i) to provide the most fair, equitable, and competitive process possible for selection among potential vendors in order to acquire the best and most competitive goods and services; and
 - (ii) to further compliance with State law procurement requirements.
- (C) The council intends that:
- (i) each response is considered on the same basis as all others; and
 - (ii) respondents have equal access to information regarding a solicitation, and the same opportunity to present information regarding the solicitation for consideration by the City.

2. APPLICABILITY.

- (A) This article applies to all solicitations except:
- (i) City social service funding;
 - (ii) City cultural arts funding;
 - (iii) federal, state or City block grant funding;
 - (iv) the sale or rental of real property;
 - (v) interlocal contracts or agreements; and
 - (vi) solicitations specifically exempted from this article by council.
- (B) Absent an affirmative determination by the council, the purchasing officer has the discretion to apply this article to any other competitive process.
- (C) City Code Section 1-1-99 (*Offenses; General Penalty*) does not apply to this article.

3. DEFINITIONS.

In this article:

- (A) AGENT means a person authorized by a respondent to act for or in place of the respondent in order to communicate on behalf of that respondent. Each of the following is presumed to be an agent:
- (i) a current full-time or part-time employee, owner, director, officer, member, or manager of a respondent;
 - (ii) a person related within the first degree of consanguinity or affinity to a current full-time or part-time employee, owner, director, officer, member, or manager of a respondent;
 - (iii) a person related within the first degree of consanguinity or affinity to the respondent, if a respondent is an individual person; and
 - (iv) a lobbyist, attorney, or other legal representative of the respondent that has been retained by the respondent with respect to the subject matter of either the solicitation or the respondent's response to the solicitation.

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- (B) AUTHORIZED CONTACT PERSON means a City employee designated in a City solicitation as the point of contact for all purposes for that solicitation.
- (C) CITY EMPLOYEE is defined in Section 2-7-2 (*Definitions*), and further includes an independent contractor hired by the City with respect to the solicitation.
- (D) CITY OFFICIAL is defined in Section 2-7-2 (*Definitions*).
- (E) NO-LOBBYING PERIOD means the period of time beginning at the date and time a solicitation is published and continuing through the earliest of the following:
 - (i) the date the last contract resulting from the solicitation is signed;
 - (ii) 60 days following council authorization of the last contract resulting from the solicitation; or
 - (iii) cancellation of the solicitation by the City
- (F) PURCHASING OFFICER means the City employee authorized to carry out the purchasing and procurement functions and authority of the City.
- (G) RESPONSE means a written offer or submission in reply to a solicitation.
- (H) RESPONDENT means a person or entity that has timely submitted or subsequently timely submits a response to a City solicitation, even if that person subsequently withdraws its response or has been disqualified by the City for any reason. Respondent includes:
 - (i) a subsidiary or parent of a respondent;
 - (ii) a joint enterprise, joint venture, or partnership with an interest in a response and in which a respondent is a member or is otherwise involved, including any partner in such joint enterprise, joint venture, or partnership; and
 - (iii) a subcontractor to a respondent in connection with that respondent's response.
- (I) SOLICITATION means an opportunity to compete to conduct business with the City that requires council approval under City Charter Article VII Section 15 (*Purchase Procedure*), and includes, without limitation:
 - (i) an invitation for bids;
 - (ii) a request for proposals;
 - (iii) a request for qualifications;
 - (iv) a notice of funding availability; and
 - (v) any other competitive solicitation process for which the purchasing officer, in the purchasing officer's sole discretion, affirmatively determines this article should apply in accordance with Section 2-B.

4. RESTRICTION ON LOBBYING.

Subject to the exclusions in Section 5 (*Permitted Communications*), during a no-lobbying period,

- (A) a respondent or an agent shall not communicate directly with a City official or a City employee, or both in order to:
 - (i) provide substantive information about any respondent or response with respect to the solicitation to which the communication relates;
 - (ii) encourage the City to reject one or more of the responses to the solicitation to which the communication relates;
 - (iii) convey a complaint about the solicitation to which the communication relates; or
 - (iv) ask any City official or City employee to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action on any vote, decision, or agenda item regarding the solicitation to which the communication relates.
- (B) a City official shall not contact or communicate with a respondent regarding a response or the solicitation to which the no-lobbying period applies;
- (C) a City employee, other than the authorized contact person, shall not contact or communicate with a respondent regarding a response or the solicitation to which the no-lobbying period applies.

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5. PERMITTED COMMUNICATIONS.

The following communications are permitted under this article at any time:

- (A) any communication between a respondent or agent and any authorized contact person, including, without limitation and in accordance with regulation, any complaint concerning the solicitation;
- (B) any communication between a respondent or agent and any person to the extent the communication relates solely to an existing contract between a respondent and the City, even when the scope, products, or services of the current contract are the same or similar to those contained in an active solicitation;
- (C) any communication between a respondent or an agent and a City employee to the extent the communication relates solely to a non-substantive, procedural matter related to a response or solicitation;
- (D) any communication required by or made during the course of a formal protest hearing related to a solicitation;
- (E) any communication between a respondent or an agent and the City's Small & Minority Business Resources Department, that solely relates to compliance with Chapters 2-9A through 2-9D (*Minority-Owned and Women-Owned Business Enterprise Procurement Program*) of the City Code;
- (F) any communication between an attorney representing a respondent and an attorney authorized to represent the City, to the extent the communication is permitted by the Texas Disciplinary Rules of Professional Conduct;
- (G) any communication made by a respondent or an agent to the applicable governing body during the course of a meeting properly noticed and held under Texas Government Code Chapter 551 (*Open Meetings Act*);
- (H) any communication between a respondent or an agent and a City employee whose official responsibility encompasses the setting of minimum insurance requirements for the solicitation to which the communication relates, to the extent the communication relates solely to the insurance requirements established by the City in the solicitation; and
- (I) any contribution or expenditure as defined in Chapter 2-2 (*Campaign Finance*).

6. MODIFICATION OF RESTRICTION.

The purchasing officer may waive, modify, or reduce the requirements in Section 4 (*Restrictions on Lobbying*) in order to allow respondents to communicate with a City employee or a City official other than the authorized contact person when the purchasing officer determines, in writing, that the solicitation must be conducted in an expedited manner, including but not limited to a solicitation conducted for reasons of health or safety under the shortest schedule possible with no extensions. Any such modification authorized by the purchasing officer shall be stated in the solicitation.

7. NOTICE.

- (A) Each solicitation shall include a notice advising respondents and prospective respondents:
 - (i) of the requirements of this article;
 - (ii) that any communication initiated by a City employee or City official, other than the authorized contact person, during the no-lobbying period regarding a response or the solicitation may result in a violation of Section 4(A) if the respondent subsequently lobbies that City employee or City official.
- (B) The purchasing officer, or a City employee designated by the purchasing officer, shall provide weekly written notice, accessible to all City employees and City officials, of each solicitation for which the no-lobbying period is in effect.

8. DISCLOSURE OF VIOLATION.

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A City official or a City employee other than the authorized contact person that becomes aware of a violation of Section 4 (*Restrictions on Lobbying*) shall notify the authorized contact person in writing as soon as practicable.

9. ENFORCEMENT.

- (A) A respondent that has been disqualified pursuant to Section 10(A) (*Disqualification; Contract Voidable*) may appeal such disqualification to a subcommittee that is less than a quorum of the Ethics Review Commission established in Chapter 2-7, Article 2 (*Ethics Review Commission*), whose decision on appeal shall be final and binding. Any appeal must be filed in the manner prescribed by the Ethics Review Commission within 5 calendar days of the notice given by the purchasing officer pursuant to Section 10(B).
- (B) The purchasing officer shall waive a violation of Section 4(A) if the violation was solely the result of communications initiated by a City official or a City employee other than the authorized contact person.
- (C) The purchasing officer has the authority to enforce this article through rules promulgated in accordance with Chapter 1-2 (*Adoption of Rules*), which at a minimum shall include a notice and protest process for respondents disqualified pursuant to Section 10 (*Disqualification; Contract Voidable*), including:
 - (1) written notice of the disqualification imposed pursuant to Section 10 (*Disqualification; Contract Voidable*);
 - (2) written notice of the right to protest the disqualification imposed; and
 - (3) written notice of the right to request an impartial hearing process.

10. DISQUALIFICATION; CONTRACT VOIDABLE.

- (A) If the purchasing officer finds that a respondent has violated Section 2-7-104(1), the respondent is disqualified from participating in the solicitation to which the violation related.
- (B) The purchasing officer shall promptly provide written notice of disqualification to a disqualified respondent.
- (C) If a respondent is disqualified from participating in a solicitation as a result of violating Section 2-7-104(1) and the solicitation is cancelled for any reason, that respondent is also disqualified from submitting a response to any reissue of the same or similar solicitation for the same or similar project. For the purposes of this section, the purchasing officer may determine whether any particular solicitation constitutes a "same or similar solicitation for the same or similar project".
- (D) If a respondent violates Section 104(1) and is awarded a contract resulting from the solicitation to which the violation relates, the City may void that contract.
- (E) Respondents that violate Section 2-7-104(1) three or more times during a five year period may be subject to debarment from participating in any new contracts with the City for a period of up to three years.

8. SUBMISSION OF OFFERS: Offerors are required to submit an executed original and copies of the Offer as specified on the Offer Sheet of the Solicitation.

- A. **Documents required with Offer:** Submit the following documents with the Offer, as applicable, prior to the Due Date (**SEE SECTIONS 0400, 0500 and 0600 IN THE SOLICITATION FOR ADDITIONAL REQUIRED INFORMATION**). Failure to submit the documents may be grounds to reject the Offer:
 - i. Cover Page, Offer Sheet signed by an authorized representative; ii.
 - Section 0600, Bid/Quote Sheet or Offer, as applicable; iii.
 - Section 0605, Local Business Presence Identification, if applicable;
 - iv. Section 0700, Reference Sheet, as applicable ;
 - v. Sections 0835 – Non-Resident Bidder Provisions;

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- vi. 0815, Living Wage and Benefits Contractor Certification, if applicable;
- vii. Section 0900, MBE/WBE Procurement Program Package;
- viii. Bid/Proposal Guaranty, if applicable; and ix.. any other document included in the Solicitation requiring completion or execution by the Offeror.

All other pages in the Solicitation should be retained by the Offeror.

- B. **Mailing:** Offers and Compliance Plans (when required by the Solicitation), must be returned in a sealed envelope or container marked on the outside with the:

**Offeror's Name & Address
Solicitation Number
Due Date and Time**

- i. If a MBE/WBE Compliance Plan is required, it may be submitted with the sealed Offer or in a separate sealed envelope. If the Compliance Plan is included with the Offer, the outside of the envelope must indicate that the Compliance Plan is included. If the Compliance Plan is submitted in a separate envelope, the outside of the envelope must identify the contents as the "Compliance Plan" and must also include the Offeror's name & address, the Solicitation number, and the Due Date and Time. If a Compliance Plan is required but is not submitted prior to the time set forth in the Solicitation, the Offer will not be accepted for consideration.
- ii. When sending an Offer and/or Compliance Plan, use the proper address 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 #	Purchasing Office-Response Enclosed for Solicitation #
P.O. Box 1088	124 W 8 th Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

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

- iii. Unless authorized in the Solicitation, email, facsimile, or electronic Offers will not be accepted.
- C. **Addendum:** Receipt of an Addendum should be acknowledged by signing and returning the Addendum with the Offer or under separate cover prior to the Due Date. The Addendum should be returned with the Offeror's name, address, the Solicitation number, and the Due Date and Time. If the elements covered in the addendum directly impact cost and the addendum is not returned before the Due Date and Time, the offer will be disqualified.
- D. **Acceptance of Offers:** Offers must be received and time stamped at the receptionist's desk in the Purchasing Office prior to the Due Date and Time. The time stamp clock on the receptionist's desk in the Purchasing Office is the official time of record and is verified daily with the local time service at (512) 476-7744. It is the sole responsibility of the Offeror to ensure timely delivery of the Offer. The City will not be responsible for failure of service on the part of the U.S. Postal Office, courier companies, or any other form of delivery service chosen by the Offeror.

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- E. **Late Offers:** All Offers received after the Due Date and Time are considered late and will be returned to the Offeror. It is the responsibility of the Offeror to ensure that their Offer arrives at the proper location by 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. Late Offers will be rejected unless the Purchasing Office, at its sole discretion, determines that the City's misdirection or mishandling was the sole or main cause for the Offer's late receipt at the designated location.
- F. **Rejection of Offers:** The City reserves the right to reject any or all Offers and to waive any minor informality in any Offer or solicitation procedure (a minor informality is one that does not affect the competitiveness of the Offer).

9. **MODIFICATION OR WITHDRAWAL OF OFFERS:**

- A. **Modification of Offers:** Offers may be modified in writing at any time prior to the Due Date.
- B. **Withdrawal of Offers:** Offers may be withdrawn in writing, by email, or by facsimile (provided that the facsimile is signed by the Offeror) at any time prior to the Due Date. An Offeror may also withdraw an Offer in person, provided the withdrawal is made prior to the Due Date. A receipt of withdrawal must be signed by the Offeror. Withdrawn Offers may be resubmitted, with or without modifications, up to the Due Date.

10. **OPENING OF BIDS:** The Purchasing Office representative responsible for opening Bids shall confirm the time and announce the Bid opening. The representative shall then personally and publicly open all Bids timely received, reading each Bid aloud. Following the Bid opening, the City will post on the City's website the Bid Sheets from all timely received Bids.

11. **OPENING OF PROPOSALS / QUALIFICATIONS STATEMENTS AND RELEASE OF INFORMATION:** Proposals / Qualifications Statements will be opened in a manner that avoids disclosure of the contents. Following the Opening of Proposals / Qualification Statements, the City will post on the City's website the names of all Offerors submitting Proposals / Qualification Statements. At its sole discretion, the City may release to the public information that is contained in an opened Proposals / Qualifications Statement after City staff review, except as prescribed by State law, including Texas Government Code Chapter 552 and Local Government Code Chapter 252, provided that the City determines that the disclosure will not create a competitive disadvantage for the City.

12. **EVALUATION FACTORS AND AWARD FOR QUOTES AND BIDS:**

- A. **Evaluation:** Offerors may furnish pricing for all or any portion of the Solicitation (unless otherwise specified). However, the City may evaluate and award the Contract for any item or group of items shown on the Solicitation, or any combination deemed most advantageous to the City. Offers that specify an "all or none" award may be considered if a single award is advantageous. An Offer containing prices significantly lower than all other Offeror's prices for an item will present a rebuttable presumption of irresponsibility.
- B. **Award:** Request for Quotations and Invitations for Bids will be awarded to the Lowest Responsible Offeror. Invitation for Bids – Best Value will be awarded to the offeror who provides goods or services at the best value for the City based on factors outlined in Section 0600. Request for Quotations – Sale and Invitation for Bids – Sale will be awarded to the Highest Responsible Offeror.
- C. **Local Business Presence:** 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

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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.

- (1) For Invitations for Bids if the City receives a competitive sealed bid from an offeror who has Local Business Presences and whose bid is within three percent of the lowest bid price received from an offeror who does not have Local Business Presence, the City may enter into a contract with the local vendor.
- (2) For Request for Proposals and Invitation For Bids-Best Value: Points will be awarded through a combination of the Offeror's Local Business Presence and/or the Local Business Presence of their subcontractors per the below evaluation criteria. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of goods and/or services as reflected in the Offeror's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. For Local Business Presence to be considered a completed Section 0605 must be returned with the Offer.

LOCAL BUSINESS PRESENCE (Maximum 10 points)

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

- D. **Acceptance of Quote/Bid:** Acceptance of a Quote/Bid for an open market purchase or supply or service Master Agreement will be by a Purchase Order or a Contract as appropriate. Subsequent Delivery Orders may be issued as appropriate. The contents of a Quote/Bid shall become a part of the Purchase Order/Contract. Under no circumstances will the City be responsible for Goods or Services provided without an acceptance signed by or authorized by an Authorized City Representative.

13. EVALUATION FACTORS AND AWARD FOR PROPOSALS AND RESPONSES:

Competitive Selection: This procurement will comply with applicable City of Austin Policy. The successful Proposer will be selected by the City on a rational basis. Evaluation factors outlined in Section 0600 of the Solicitation shall be applied to all eligible, responsive Proposers in comparing proposals and selecting the successful Proposer. Award of a contract may be made without discussion with Proposers after proposals are received. Proposals should, therefore, be submitted on the most favorable terms.

14. RESERVATIONS: The City expressly reserves the right to:

- A. specify approximate quantities in the Solicitation;
- B. extend the Solicitation closing date and time;
- C. waive as an informality, minor deviations from specifications provided they do not affect competition or result in functionally unacceptable Goods or Services;
- D. waive any minor informality in any Offer or Solicitation procedure (a minor informality is one that does not affect the competitiveness of the Offeror);
- E. add additional terms or modify existing terms in the Solicitation;
- F. reject an Offer containing exceptions, additions, qualifications or conditions not called for in the solicitation;
- G. reject an Offer received from an Offeror who is currently debarred or suspended by the City or State;

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- H. reject an Offer received from an Offeror who is currently debarred or suspended by the Federal Government (Applicable if project receives Federal funding);
 - I. reject an Offer that contains fraudulent information;
 - J. reject an Offer that has material omissions;
 - K. reject or cancel any or all Offers;
 - L. reissue a Solicitation;
 - M. procure any item by other means;
 - N. consider and accept alternate Offers, if specified in the Solicitation, when most advantageous to the City; and/or
 - O. reject an Offer because of unbalanced unit prices;
15. **NEGOTIATIONS OF PROPOSALS:** The City reserves the right to negotiate all elements which comprise the Offeror's Proposal to ensure that the best possible consideration be afforded to all concerned.
16. **CONTRACT INCORPORATION:** Offeror should be aware that the contents of the successful Offer will become a part of the subsequent contractual documents. Failure of the successful Offeror to accept this obligation may result in the cancellation of any award. Any damages accruing to the City as a result of the successful Offeror's failure to contract may be recovered from the successful Offeror.
17. **OPPORTUNITY TO PROTEST:** The Purchasing Officer has the authority to settle or resolve any claim of an alleged deficiency or protest. The procedures for notifying the City of Austin of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Purchasing Officer may dismiss your complaint or protest.
- A. **Prior to Offer Due Date:** If you are a prospective Offeror and you become aware of the facts regarding what you believe is a deficiency in the solicitation process before the Due Date for receipt of Offers, you must notify the City in writing of the alleged deficiency before that date, giving the City an opportunity to resolve the situation prior to the Offer Due Date.
 - B. **After Offer Due Date:** If you submit an Offer to the City and you believe that there has been a deficiency in the solicitation process or the award, you have the opportunity to protest the solicitation process or the recommended award as follows:
 - i. You must file written notice of your intent to protest within four (4) calendar days of the date that you know or should have known of the facts relating to the protest. If you do not file a written notice of intent within this time, you have waived all rights to protest the solicitation process or the award.
 - ii. You must file your written protest within fourteen (14) calendar days of the date that you know or should have known of the facts relating to the protest unless you know of the facts before the Offer has been closed. If you know of the facts before those dates, you must notify the City as stated above.
 - iii. You must submit your protest in writing and must include the following information:
 - (1) your name, address, telephone, and fax number;
 - (2) the solicitation number and the CIP number, if applicable;
 - (3) a detailed statement of the factual grounds for the protest, including copies of any relevant documents.
 - iv. Your protest must be concise and presented logically and factually to help with the City's review.
 - v. When the City receives a timely written protest, the Purchasing Officer will determine whether the grounds for your protest are sufficient. If the Purchasing Officer decides that the grounds are sufficient, the Purchasing Office will schedule a protest hearing, usually within five (5) working days. If the Purchasing Officer determines that your grounds are insufficient, the City will notify you of that decision in writing.
 - vi. The protest hearing is informal and is not subject to the Open Meetings Act. The purpose of the hearing is to give you a chance to present your case, it is not an adversarial proceeding. Those who may attend from the City are: representatives from the department that requested the

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purchase, the Department of Law, the Purchasing Office, and other appropriate City staff. You may bring a representative or anyone else that will present information to support the factual grounds for your protest with you to the hearing.

- vii. A decision will usually be made within fifteen (15) calendar days after the hearing.
- viii. The City will send you a copy of the hearing decision after the appropriate City staff has reviewed the decision.
- ix. When a protest is filed, the City usually will not make an award until a decision on the protest is made. However, the City will not delay an award if the City Manager or the Purchasing Officer determines that:
 - (1) the City urgently requires the supplies or services to be purchased, or
 - (2) failure to make an award promptly will unduly delay delivery or performance.In those instances, the City will notify you and make every effort to resolve your protest before the award.

18. INTERESTED PARTIES DISCLOSURE

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

<https://www.ethics.state.tx.us/File/>

19. POST OFFER DOCUMENTS REQUIRED FROM SUCCESSFUL OFFEROR:

- A. **Letters of Intent:** When a MBE/WBE Compliance Plan is required, the successful Offeror must submit to the Purchasing Officer the Letters of Intent to subcontract required by the Compliance Plan within three (3) business days after notification. Failure to submit the required letters will be grounds for rejection of the Offer.
- B. **Certificates of Insurance:** When insurance is required, the Offeror must provide proof of coverage prior to execution of a Contract. The Offeror shall provide Certificates of Insurance in the amounts and for the coverages required to the Purchasing Office within 14 calendar days after written request from the City (See also "Insurance" in Section 0400, Supplement Purchase Provisions, of the Solicitation).
- C. **Bonds:** When Bonds are required, the Offeror must provide the bonds prior to the execution of the Contract. The Offeror shall provide the Bonds, in the amounts and on the conditions required, within 14 calendar days after notification of award, or as otherwise required by the Solicitation.
- D. **Chapter 176 Conflict of Interest Disclosure:** In accordance with Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7th) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:

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

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

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

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

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

10. WORKFORCE

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

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

12. INVOICES:

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

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13. PAYMENT:

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

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

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

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

17. AUDITS and RECORDS:

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

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18. **Financial Disclosures and Assurances:** The City may request and review financial information as the City requires to determine the credit worthiness of the Contractor, including but not limited to, annual reports, audited financial statements and reports, bank letters of credit or other credit instruments. Failure of the Contractor to comply with this requirement shall be grounds for terminating the Contract.
19. **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.
20. **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.

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- 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.
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

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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 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

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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.

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.**

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- 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. 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.

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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 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

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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.
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.

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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.
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

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President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

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

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 -

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

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.

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The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to Sarah Ramos via email at sarah.ramos@austintexas.gov, at least five (5) days prior to the Solicitation Due Date.

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

Alternate Offers will be considered.

3. **INSURANCE:** Grantee shall have, and shall require all Subgrantees of every tier providing services under this Agreement to have, Standard Insurance meeting the General Requirements as set forth below and sufficient to cover the needs of Grantee and/or Subgrantee pursuant to applicable generally accepted business standards. Depending on services provided by Grantee and/or Subgrantee(s), Supplemental Insurance Requirements or Alternate Insurance Options shall be imposed as follows:

A. **General Requirements: Applicable to All Grantee's Insurance.** The following requirements (A-J) apply to the **Grantee and to Subgrantee(s) of every tier** performing services or activities pursuant to the terms of this Agreement. Grantee acknowledges and agrees to the following concerning insurance requirements applicable to Grantee and Grantee's Subgrantee(s):

- i. The minimum types and limits of insurance indicated below shall be maintained throughout the duration of the Agreement.
- ii. Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VII or higher.
- iii. Prior to commencing work under this Agreement, the required insurance shall be in force as evidenced by a Certificate of Insurance issued by the writing agent or carrier. A copy of the Certificate of Insurance shall be forwarded to the Austin Public Health Department upon request. Execution of this Agreement will not occur until such evidence of insurance has been provided and accepted by the City.
- iv. Certificates of Insurance shall include the endorsements outlined below and shall be submitted to the Austin Public Health Department. The Certificate(s) shall show all endorsements by number.
- v. Insurance required under this Agreement which names City of Austin as Additional Insured shall be considered primary for all claims.
- vi. Insurance limits shown below may be written as primary or structured using primary and excess or umbrella coverage that follows the form of the primary policy.
- vii. City shall be entitled, upon its request and without expense, to receive certified copies of policies and endorsements.
- viii. City reserves the right to review insurance requirements during any term of the Agreement and to require that Grantee make reasonable adjustments when the scope of services has been expanded.
- ix. Grantee shall not allow any insurance to be cancelled or lapse during any term of this Agreement. Grantee shall not permit the minimum limits of coverage to erode or otherwise be reduced. Grantee shall be responsible for all premiums, deductibles and self-insured retention. All deductibles and self-insured retention shall be shown on the Certificates of Insurance.
- x. Insurance coverages specified in this Agreement are not intended and will not be interpreted to limit the responsibility or liability of the Grantee or Subgrantee(s).
- xi. The City will accept endorsements providing equivalent coverage if the insurance carrier does not use the specific endorsements indicated below.

B. **Specific Requirements:** The following requirements (II.A - II.D, inclusive) apply to the **Grantee and to Subgrantee(s) of every tier** performing services or activities pursuant to the terms of this Agreement.

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Grantee acknowledges and agrees to the following concerning insurance requirements applicable to Grantee and Grantee's Subgrantee(s):

- i. Workers' Compensation and Employers' Liability Insurance
 - (1) Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.
 - (2) Employers' Liability limits are
 - \$100,000 bodily injury each accident
 - \$100,000 bodily injury by disease
 - \$500,000 policy limit
 - (3) Policies under this Section shall apply to State of Texas and include the following endorsements in favor of City of Austin:
 - (a) Waiver of Subrogation (Form 420304)
 - (b) Thirty (30) day Notice of Cancellation (Form 420601)
- ii. Commercial General Liability Insurance
 - (1) Minimum limits:
 - \$500,000* combined single limit per occurrence for coverage A and B.
 - *Supplemental Insurance Requirement
 - If eldercare, childcare, or housing for clients is provided, the required limits shall be: \$ 1,000,000 per occurrence
 - (2) The Policy shall contain or be endorsed as follows:
 - (a) Blanket Contractual liability for this Agreement
 - (b) Products and Completed Operations
 - (c) Independent Contractor Coverage
 - (3) The Policy shall also include the following endorsements or endorsements providing equivalent coverage in favor of City of Austin:
 - (a) Waiver of Subrogation (Form CG 2404)
 - (b) Thirty (30) day Notice of Cancellation (Form CG 0205)
 - (c) City of Austin named as Additional Insured (Form CG 2010)
 - (4) If care of a child is provided outside the presence of a legal guardian or parent, the Grantee shall provide coverage for sexual abuse and molestation for a minimum limit of \$500,000 per occurrence.
- iii. The policy shall be endorsed to cover injury to a child while the child is in the care of the Grantee or Subgrantee.
- iv. Business Automobile Liability Insurance
 - (1) Minimum limits:
 - \$500,000 combined single limit per occurrence coverage for all owned, non-owned, and hired vehicles.
 - (a) If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$1,000,000 per occurrence.
 - (b) If Grantee does not own any vehicles, a signed "Hired & Non-Owned Auto" Statement may be provided in conjunction with evidence of non-owned and hired Business Automobile Liability Insurance coverage.
 - (c) If no transportation services of any type are provided, and use of a motor vehicle is strictly limited to travel to and from work or work sites, evidence of Personal Auto Policy coverage with limits of: \$100,000/\$300,000/\$100,000 may be provided in lieu of Business Automobile Liability Insurance.
 - (2) The Policy shall also include the following endorsements or endorsements providing equivalent coverage in favor of City of Austin:
 - (a) Waiver of Subrogation (Form CA 0444)

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- (b) Thirty (30) day Notice of Cancellation (Form CA 0244)
- (c) City of Austin named as Additional Insured (Form CA 2048)
- v. Professional Liability Insurance
Coverage shall be provided with a minimum limit of \$500,000 per claim to cover negligent acts, errors, or omissions arising out of Professional Services under this Agreement.
- vi. Blanket Crime Policy Insurance
A Blanket Crime Policy shall be required with limits equal to or greater than the sum of all Agreement Funds allocated by the City. Acceptance of alternative limits shall be approved by Risk Management.
- vii. Directors and Officers Insurance
Directors and Officers Insurance with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Agreement and for not less than twenty-four (24) months following the end of the Agreement. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the Agreement or evidence of prior acts or an extended reporting period acceptable to the City may be provided. The Grantee shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.
- viii. Property Insurance
If the Agreement provides funding for the purchase of property or equipment the Grantee shall provide evidence of all risk property insurance for a value equivalent to the replacement cost of the property or equipment.

4. TERM OF CONTRACT:

- A. Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of twelve (12) months. The Contract may be extended beyond the initial term for up to four (4) additional twelve (12) month period 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 twelve (12) months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

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:

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	City of Austin
Department	Austin Public Health
Attn:	Estephanie Olivares
Email	Estephanie.olivares@austintexas.gov

- B. The Contractor agrees to accept payment by check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. There shall be no additional charges, surcharges,

6. **RECYCLED PRODUCTS:**

- A. The City prefers that Offerors offer products that contain recycled materials. When a recycled product is offered by the Offeror, the Offeror must state in their Offer the percentage of the product that is recycled and must include a list of the recycled materials that are contained in the product.
- B. The recycled content of paper products offered to the City shall be in accordance with the Federal Environmental Protection Agency's Recycled Product Procurement Guidelines. These guidelines are available at <http://www.epa.gov/cpg/>.
- C. Contract award for paper products will be made for recycled products unless the cost is more than 10% above the lowest price for non-recycled paper products as required in the City's Comprehensive Recycling Resolution.

7. **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 ten percent (10%) 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).

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- (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
 - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
 - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
 - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- (1) Utilize final Compilation data instead of Preliminary data
 - (2) If the referenced index is no longer available shift up to the next higher category index.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 100%	
Database Name: Employment Cost Index (ECI)	
Series ID: CIU2010000300000A	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: United States-National	
Description of Series ID: Total compensation for Private industry workers in Service occupations, 12-month percent change	
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.

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

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental

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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.
9. **OWNERSHIP AND USE OF DELIVERABLES:** The City shall own all rights, titles, and interests throughout the world in and to the Deliverables.
- A. **Patents:** As to any patentable subject matter contained in the Deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. **Copyrights:** As to any Deliverable containing copyrighted subject matter, the Contractor agrees that upon their creation, such Deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such Deliverables, provided however, that nothing in this Paragraph 36 shall negate the City's sole or joint ownership of any such Deliverables arising by virtue of the City's sole or joint authorship of such Deliverables. Should by operation of law, such Deliverables not be considered work made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of Austin) all worldwide right, title, and interest in and to such Deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such Deliverables to the City or at such other time as the City may request.
- C. **Additional Assignments:** The Contractor further agrees to, and if applicable, cause each of its employees to execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns, and nominees, the sole and exclusive right, title, and interest in and to the Deliverables, The Contractor's obligations to execute acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 36 A., B., and C. shall continue after the termination of this Contract with respect to such Deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the Deliverables, but should arise to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph above.
10. **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:

Estephania Olivares

(512) 972- 6769

Estephania.olivares@austintexas.gov

**CITY OF AUSTIN
SCOPE OF WORK (SECTION 0500)
FOR
HEALTHY FOOD ACCESS EDUCATION AND OUTREACH
SOLICITATION NUMBER: REQUEST FOR PROPOSALS (RFP) 9100-SBR3001**

1.0 Introduction

Austin Public Health (APH) promotes and protects a healthy community through the use of best practices and community partnerships. The Chronic Disease and Injury Prevention Program (CDIP) exists to inspire people to take steps to adopt healthy lifestyles through promoting and modeling healthy behaviors, preventing and managing chronic disease, and promoting policy, systems and environmental change that make it easier to make healthy choices.

2.0 Purpose

APH requests proposals from qualified organizations to implement education and outreach efforts to promote healthy nutrition and food access in conjunction with the mobile produce market project. Community Health Workers (CHWs) or Promotoras are individuals who provide culturally competent education and support to communities experiencing health disparities and are representative of the cultural and linguistic background of the populations they serve. The 2017 Austin Travis County Community Health Assessment (CHA) notes that CHW's who are members of the communities served are a community asset and a practice that could increase to meet the need for cultural competency in health and social services. This RFP will utilize a CHW-like model in recipe sampling, nutrition education, and outreach to increase healthy eating and utilization of the mobile produce markets in underserved areas of Austin and Travis County.

3.0 Background

In Travis County, 51% of all deaths are caused by chronic diseases such as cancer, heart disease, stroke, Chronic Obstructive Pulmonary Disease (COPD) and diabetes. The primary risk factors for chronic disease include lack of physical activity, poor nutrition, and tobacco use. The majority of Travis County residents (80%) do not eat the recommended number of fruits & vegetables each day. In fact, 18% of Travis county residents eat less than one serving of vegetables per day. About 60% of adults are overweight or obese (Behavioral Risk Factor Surveillance System, BRFSS 2011-2017).

Significant health disparities exist for chronic diseases by income and race/ethnicity. The obesity rate for white adults in Travis County is 18.7%, while the rate is 36.1% among Blacks/African Americans and 30.5% among Hispanic/Latinos. The rate of diabetes for all adults in Travis County is 8.3%, however rates of diabetes among Blacks/African Americans and Hispanics/Latinos are 13% and 12% respectively. Nationally, Asian Americans also have higher rates of diabetes than the non-Hispanic white population (CDC National Diabetes Education Program). Disparities exist by income as well, as the diabetes rate among individuals earning less than \$25,000 per year is 11.6% as compared to 4.4% for individuals earning more than \$75,000 (BRFSS 2011-2016).

Five (5) zip codes in East Austin and Travis County (78721, 78724, 78725, 78617, 78653)

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have a high concentration of individuals below the poverty level and also lack a full-service grocery store. In addition, fifteen percent of Travis County residents are identified as food insecure <http://canatx.org/dashboard/our-basic-needs-are-met/food-security/> meaning that these individuals have limited or uncertain availability of nutritionally adequate foods. The U.S. Dept. of Human Services, Healthy People 2020 notes that the risk for food insecurity is greater for low income households in neighborhoods where transportation options are limited, the travel distance to stores is greater, and there are fewer supermarkets.

Austin City Council has allocated ongoing funding to implement strategies to increase access to healthy foods in areas within the City that are experiencing high rates of chronic disease and that lack access to food. APH will be contracting with a mobile market contractor to operate 10 to 14 weekly mobile produce market stops in FY2020. Beginning in October 2019, there will be 10 weekly mobile markets, with expansion to 14 weekly mobile markets by spring of 2020. This scope of work (Healthy Food Access Education and Outreach) will support the mobile market contractor through enhanced outreach, recipe sampling, and nutrition education. Mobile produce markets will be located in neighborhoods with limited food access and that face health and economic disparities. Current locations of existing Austin mobile markets and farm stands can be found at freshforlessaustin.org, however some of these locations will change in FY2020. The primary goal of this project continues to be to increase access to affordable fresh fruits and vegetables, and ultimately consumption of fresh fruits and vegetables, among populations at risk for chronic disease or who live in areas without close proximity to a grocery store. A secondary goal is to support the local economy, wherever possible, through the sale of Texas-grown produce.

Research by Zepeda et al on mobile produce markets in other cities show that there are some challenges to operating markets. The authors note a need for increased awareness and advertising, affordability, improved convenience by offering more stops and hours, as well as greater variety of items for one-stop shopping, emphasis on value and service, and building trust within communities in order to make these types of markets most effective (See Section 7.0 Exhibits). In a systematic review of mobile markets by Hsiao et al, numerous institutional and interpersonal factors are seen to be associated with mobile market use, including produce price, variety, convenience, as well whether markets offer nutritional education on cooking, storing and using fruits and vegetables, and social interactions among vendors and customers or between customers. Utilization of a community health worker or Promotora model as well as recipe sampling of produce available at the markets and nutrition education may address some of these challenges to successful mobile markets that have been identified in the research

3.1 Priority Populations

Individuals of lower incomes are disproportionately impacted by both food

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insecurity and chronic disease, therefore individuals/households with incomes under 200% of the Federal poverty level as well as those receiving Supplemental Nutrition Assistance Program (SNAP) benefits are priority populations for this program. African American/Black, Hispanic/Latino, and Asian American individuals are disproportionately impacted by chronic disease. Rates of obesity and diabetes by census tract can be found in the 500 Cities Data portal located at the [Austin Public Health, Chronic Disease Prevention Website](#). Areas that face multiple barriers to access as demonstrated in the Food Environment Analysis will also be taken into consideration by the mobile market contractor when determining appropriate locations for the mobile markets. These maps were created by the City of Austin Office of Sustainability. The Priority Areas take into consideration distance to a full-service grocery store, income, household access to a vehicle and other factors when determining areas most in need of food access interventions.

3.2 Budget

The available budget for this initiative is \$60,000 for the initial contract term and \$60,000 for each of the four (4) additional 12-month extension option and shall be all-inclusive (e.g. all labor, materials, supplies, equipment, transportation, translation, administrative management) as necessary to meet requirements of this contract.

4.0 Contractors Qualifications

The Contractor shall:

- 4.1 Have experience with nutrition education for low income populations and persons of color, including Spanish-speaking populations.
- 4.2 Have staff that speak both English and Spanish.
- 4.3 Have access to a commercial kitchen.
- 4.4 Have received or in the process of receiving all necessary food permits from Austin Public Health Environmental Health Services to provide recipe preparation and sampling.
- 4.5 Have experience engaging and establishing partnerships in underserved and low-income communities using a community health worker (CHW) or “Promotora” model.
- 4.6 Have a minimum of two (2) years working in Austin, Texas and or Travis County to establish healthy communities.
- 4.7 Be a non-profit organization and must provide documentation of 501c3 status within five (5) business days of request by the City.

5.0 Contractor’s Responsibilities

The Contractor shall:

- 5.1 Furnish all necessary services, qualified personnel, materials, equipment,

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transportation/travel, and facilities to perform the specified requirements of this contract listed below.

- 5.2** Be responsible for ensuring all permitting regulations are met in relation to recipe sampling and food preparation (such as fixed food establishment and food handler requirements from [Austin Public Health Environmental Health Services Division](#)).
- 5.3** Provide education and outreach at 10 to 14 mobile produce markets throughout FY20.

5.4 Education and Outreach requirements

The Contractor shall:

- 5.4.1** Develop or obtain recipes that are culturally appropriate and able to be prepared in a commercial kitchen and transported to a mobile market site.
- 5.4.2** Provide recipes that are healthy (lower fat, lower sodium) and feature produce available at the mobile markets that week. Further lists of available produce during each market season will be provided to Contractor after award is made. Contractor shall prioritize recipes that are easy to prepare. Contractor may utilize the same recipes in multiple years of the contract if the recipes are well received by the community. Contractor is encouraged to refresh recipe selection as needed or deemed appropriate.
- 5.4.3** Make available printed copies of the recipes during the mobile markets, as well as an electronic copy that can be shared on the Contractor's website, [City of Austin website](#), and mobile market vendor website.
- 5.4.4** Coordinate with mobile market Contractor to determine the most appropriate days for recipe sampling and create a mutually agreeable calendar of sampling and recipe distribution to be approved by both the Mobile Market contractor and the City.
- 5.4.5** Provide recipe sampling and basic nutrition information to mobile market customers. Recipe sampling shall take place for the full two (2) hours of mobile market operations. Each mobile market shall have sampling one (1) time per month
 - 5.4.5.1** a minimum two (2) recipe samplings for each of 10 fall markets from contract start date through December 31st
 - 5.4.5.2** a minimum of four (4) recipe samplings for each of 14 spring markets from January 1st through May 31st
 - 5.4.5.3** a minimum of one (1) recipe sampling for each of 4 summer markets from June 1st through August 31st
- 5.4.6** Discuss healthy cooking techniques while distributing samples (i.e. baking instead of frying, limiting salt, etc.).
- 5.4.7** Provide or make available basic nutrition information (such as health benefits of eating fruits and vegetables, US dietary guidelines for eating five (5) servings of fruits and vegetables per day, etc.) as well as techniques for storing fruits and vegetables to reduce spoilage. Recipe sampling and education should be conducted by a CHW/Promotora or other qualified staff member.

5.5 Develop outreach capacity for the mobile markets

The Contractor shall:

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- 5.5.1** Hire CHWs, Promotoras, or other qualified staff who are knowledgeable about the areas where the mobile markets are in operation to provide supplemental outreach.
- 5.5.2** Assure that staff are adequately trained in the mobile market products sold, locations and basic functioning of the markets, basic nutritional information, and overall knowledge of food systems.
- 5.5.3** Assure that CHWs or other qualified staff can communicate effectively with mobile market customers in both English and Spanish.
- 5.5.4** Update or create any training modules for CHWs/Promotoras as needed.
- 5.5.5** Align messages with mobile market contractor prior to season launch by attending a pre-launch meeting with mobile market contractor.
- 5.5.6** Coordinate with the mobile market contractor to determine one (1) priority area for the Fall and one (1) priority area for the Spring where supplemental outreach will take place. Priority areas will consist of a cluster of mobile markets and the community assets surrounding these markets. Priority areas may include Del Valle, Rundberg, Dove Springs/Southeast Austin, Hornsby Bend, or other geographic areas where mobile markets are/will be located. Mobile market contractor must approve the priority location for expanded outreach.
- 5.5.7** Create outreach plan for Fall and Spring seasons. Conduct outreach for a minimum of 50 hours in the Fall season and a minimum of 100 hours in the Spring Season. Outreach may consist of distribution of flyers/leaflets, presenting or tabling at community events, stakeholder engagement/relationship building with other organizations and key individuals, social media promotion, etc. Contractor may suggest other forms of outreach, however both APH and mobile market contractor shall approve outreach plan in advance of Fall market launch and Spring market launch.
- 5.5.8** Attend a minimum of five (5) large health fairs per year to promote the mobile markets. Large events are defined as events where attendance is greater than 400 individuals. Health fairs attended should reach priority populations in section 3.1 Priority Populations, and should prioritize geographical areas near mobile markets whenever possible.
- 5.5.9** Coordinate efforts with other food access outreach to the extent possible as directed by APH (for example, efforts to promote SNAP and WIC, Food Retail Market Analysis, etc.)
- 5.5.10** Recognize the City as a funding source for any messaging or materials prepared or distributed by or for the Contractor.
- 5.5.11** Use APH's "Fresh for Less" brand identity and logo in marketing materials. Utilize creative elements already developed, including banners, flyers, and logos for "Fresh for Less". These elements will be provided to the

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Contractor. Additional materials may be created by the Contractor. All marketing and education materials created by the Contract are subject to approval by the APH contract manager.

5.6 Program Reporting and Evaluation

The Contractor shall:

- 5.6.1** Collaborate with APH and evaluation contractor, University of Texas Health Science Center at Houston (UTHealth), on outcome evaluation to measure selected changes in attitudes and behaviors and with a process evaluation to measure implementation of the Mobile Produce Market project.
- 5.6.2** Participate in the Foundation for Food and Agriculture Research (FFAR) evaluation, which is a partnership between Fresh for Less project partners and UTHealth, and is a 3-year cohort study to measure the impact of the Fresh for Less projects.
- 5.6.3** Provide a monthly outreach and education summary consisting of the total number of outreach events/opportunities that the CHWs/Promotoras or other staff took part in, total number of outreach hours logged, and location of outreach activities, and total number of recipe sampling events and number of customer encounters. Provide a list of challenges and successes encountered at these outreach events.
- 5.6.4** Comply with other APH reporting requirements, including but not limited to, monthly programmatic reports and on-site reviews. Written programmatic reports shall be submitted to APH Contract Manager by the 10th day of the month for the duration of the contract. The reporting template will be provided after the Work Plan is finalized.
- 5.6.5** This project will be part of an interlocal agreement between City of Austin and Travis County Health and Human Services. Contractor shall comply with Travis County Health and Human Services Policies and procedures referenced in the interlocal agreement (Exhibit A). An updated interlocal for FY2020 will be provided to the contractor upon execution of the final interlocal agreement. See Exhibit A - Travis County Interlocal for Public Health Services (FY18) and Exhibit B - Sixth Amendment and Renewal of Travis County Interlocal for Public Health Services (FY19) for more information. Travis County Health and Human Services may conduct an on-site monitoring visit with the contractor.
- 5.6.6** Submit monthly required reporting documentation, valid purchase receipts, invoice supporting documentation and invoice to be reviewed and approved by the APH Contract Manager prior to being reimbursed.

6.0 City Responsibilities

The City's Contract Manager will:

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- 6.1** Be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work.
- 6.2** Represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract.
- 6.3** Participate in all conference calls or meetings, especially where the public is present.
- 6.4** Promptly review any written reports submitted by the Contractor, and will review/approve all invoices for payment, as appropriate.
- 6.5** Give the Contractor timely feedback on the acceptability of progress and task reports.
- 6.6** Provide a lists of available produce available during each market season.
- 6.7** Provide a reporting template shortly after the Work Plan is finalized.

7.0 Deliverables

Deliverable	Output Measure	Deadline
6.1 Create a job description for CHWs/Promotoras or other qualified staff; hire and train CHWs/Promotoras or other qualified staff (if needed); align messaging with mobile market contractor	Date of hire for any new CHWs; copies of training materials used for orientation to the project; job descriptions	Within 6 weeks of contract award date; message alignment meeting preferably within 2 weeks of market launch
6.2 Provide to City's Contract Manager and Mobile Market contractor for review/approval list of recipes for Fall sampling and other health education materials for Fall nutrition/sampling events, as well as calendar of recipe sampling dates for Fall mobile markets	Copies of recipes chosen for Fall sampling and nutrition education, education materials on handling and storage of fruits and vegetables, and general nutrition, calendar of sampling dates	Within 1 month of contract award date and each year of the contract extension
6.3 Conduct recipe sampling and nutrition education 1 time per month at 10 Fall markets	Number of sampling events provided and number of customer encounters per sampling event	December 31st of each year of the contract
6.4 Create supplemental outreach plan for Fall for approval by City's Contract manager and Mobile Market Contractor; Conduct Fall supplemental outreach (minimum 50 hours)	Approved outreach plan for Fall; Monthly list of outreach conducted; number of encounters with community members per outreach event	Within 1 month of each contract term Monthly
6.5 Provide list of recipes for Spring sampling and other health education materials for Spring	Copies of recipes chosen for fall sampling and nutrition education, calendar of sampling dates	By January 15th of each year of the contract

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nutrition/sampling events, provide calendar of sampling dates for spring mobile markets for approval by Mobile Market Contractor and City Contract Manager		
6.6 Provide supplemental outreach plan for Spring semester for approval by City's Contract manager and Mobile Market Contractor. Conduct Spring outreach (minimum of 100 hours)	Approved outreach plan for Spring Monthly list of outreach conducted; number of encounters with community members per outreach event	By January 15th of each year of the contract Monthly
6.7 Conduct sampling and nutrition education 1 time per month at spring markets, or a minimum of 4 sampling encounters at each of 14 markets.	Number of sampling events provided and number of customer encounters per sampling event	May 31st of each year of the contract
6.8 Attend a minimum of 5 large health fairs per year to promote the mobile markets.	Dates of events attended	Ongoing, by September 30th of each year of the contract
6.9 The Contractor shall assist APH with an outcome evaluation to measure selected changes in attitudes and behaviors and with a process evaluation to measure implementation of the mobile produce market project.	Documentation of participation in evaluation activities	Ongoing
6.10 The Contractor shall comply with APH reporting requirements.	Reporting documents, including back-up documentation for financial and deliverables	Throughout the contract

7.0 Exhibits (Links)

7.1 Sarah Stein-Lobovits Food Insecurity Report

http://austintexas.gov/sites/default/files/files/Final_Project_SteinLobovitsS_UrbanGIS.pdf

7.2 Journal Article by Lydia Zepeda et al. "Overcoming challenges to effectiveness of mobile markets in US" Appetite. August 2014, Volume 79, Pages 58-67

<https://www.sciencedirect.com/science/article/pii/S0195666314001470>

7.3: Journal Article by Bi-sek Hsiao et Al. "A Systematic Review of Mobile Produce Markets". Journal of the Academy of Nutrition and Dietetics. Accessed December 2018

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[https://jandonline.org/article/S2212-2672\(18\)30280-6/fulltext](https://jandonline.org/article/S2212-2672(18)30280-6/fulltext)

7.4: Healthy People 2020: Food Insecurity

<https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/food-insecurity>

CITY OF AUSTIN PURCHASING OFFICE
SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

****Updated 07/30/2019****

1. PROPOSAL FORMAT

The original copy shall be submitted on 8.5 x 11 inch paper, bound or in a 3-ring binder, shall be clearly labeled as “**ORIGINAL**” and shall include the original signature of the person authorized to sign on behalf of the Proposer.

The electronic copy shall be an exact replica of the original paper copy. The electronic proposal shall be saved as a single PDF file copy of the original submitted paper proposal.

Organize your Proposal in the information sequence described below. Use tabs to divide each part of your Proposal and include a Table of Contents with page numbers. Proposers should provide all details in the Proposal described below and any additional information you deem necessary to evaluate your Proposal:

Tab 1 - Required Documents:

Complete and submit the following documents:

- i. Signed Offer Sheet (pages 1-3)
- ii. Section 0605 - Local Business Presence Identification Form
- iii. Section 0630 – Exception Form - List any exceptions that your company is making to the solicitation in Section 0630. Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.
- iv. Section 0700 – Reference Sheet
- v. Section 0800 - Non-Discrimination and Retaliation Certification
- ~~vi. Section 0805 - Non-Suspension or Debarment Certification~~
- vii. Section 0835 - Nonresident Bidder Provision
- viii. Section 0840 - Service-Disabled Veteran Business Enterprise
- ix. Section 0900/0905 – Subcontracting/Sub-Consulting Utilization Form and/or Plan.
- x. Signed Addenda, if issued by the City

Tab 2 - Experience and Qualifications (37 points):

Provide the following information:

- i. Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal.
- ii. Full name and address of your non-profit organization; identify parent organization if you are a subsidiary. Include the State(s) in which incorporated or licensed to operate and how long your company has been in business. Provide documentation attesting to your organization's active 501(c)(3) status.
- iii. Experience and Qualifications. Describe your organization's experience in the following areas:
 - a) Experience conducting nutrition education, recipe sampling and/or outreach for low income populations and persons of color, including Spanish-speaking populations.
 - b) Experience engaging and establishing partnerships in underserved and low-income communities using a community health worker (CHW) or “promotora” model.
 - c) Have a minimum of two (2) years working in Austin, Texas and or Travis County to establish healthy communities.
- iv. Personnel Experience and Qualifications. Provide resumes or bios for leadership and key personnel who will provide services under the Contract. Describe each individual's experience and competencies in obtaining/creating and preparing recipes that feature Texas grown seasonal produce available at mobile markets for sampling, ability to manage logistics of nutrition education/recipe sampling and outreach at multiple mobile market sites, and ability to recruit, train, and manage a culturally competent workforce of promotoras/community health workers or other qualified staff who are reflective culturally and linguistically of the priority

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****Updated 07/30/2019****

populations for this RFP. Include details, such as educational background, previous experience with similar projects, position title, CHW or food handler certifications (if applicable), number of years with your firm, awards, past employment, etc.

Tab 3 - Approach, Methodology and Work Plan (40 points):

Describe how you plan to accomplish the project described in the Scope of Work (Section 0500) and include any additional information you deem necessary to evaluate your proposal. At a minimum, specifically provide or indicate the following:

- i. Approach and Methodology: Describe the approach and methodology to be employed, underlying philosophies that inform the approach/methodology, organizational values, and the result intended and desired. Provide details on how your approach/methodology will meet or exceed the requirements described in the Scope of Work. The approach/methodology should particularly address how you would: recruit and train a culturally competent workforce of CHWs/Promotoras to conduct outreach and nutrition education/recipe sampling, obtain recipes and prepare culturally appropriate, healthy samples that feature fruits and vegetables currently available at mobile market locations, assure that basic nutrition and food storage information is provided during mobile market sampling events, obtain all necessary City of Austin permits necessary for preparation and distribution of food samples, and conduct supplemental outreach in the priority area(s) chosen by mobile market operator and Austin Public Health (APH) to increase the customer base of the mobile markets with a focus on lower income individuals (under 200% of the Federal poverty level), individuals who receive Supplemental Nutrition Assistance Program (SNAP) benefits, and communities of color disproportionately impacted by chronic disease.
- ii. Work Plan:
 - a) Provide a detailed narrative of your proposed work plan for accomplishing the Scope of Work. Include a breakdown of the work by task and timeline. Include project deliverables provided in the Scope of Work and any other proposed milestones and deliverables as well as meetings, etc.
 - b) Proposed Project Team. Include names and titles of all professional personnel including the Project Manager who will be assigned to this project. State the primary work assigned to each person and the percentage of time each person will devote to this project. Specify project leadership, team personnel, and reporting responsibilities. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor. Please include if any proposed project staff are Bilingual in English and Spanish.

Tab 4 - Total Evaluated Cost (10 points):

Provide an all-inclusive cost proposal that itemizes materials, supplies, labor, warranty, travel, and administrative burden to complete the project. Your organization's method of costing may or may not be used but shall be described.

There is not a budget template provided, but please provide budgets using the following categories:

Personnel

- Salaries
- Fringe

Operating Expenses

- Supplies
- Consultants/contractual
- Travel (mileage)
- Equipment

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- **Other**
Indirect Expenses (must be less than 10% of total contract)

Tab 5 - Authorized Negotiator:

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

Tab 6 - Exceptions to the Proposal: If applicable include this form in your Proposal package (Section 0630):

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

2. PROPOSAL ACCEPTANCE PERIOD: All proposals are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the proposal.

3. LOCAL BUSINESS PRESENCE: The City seeks opportunities for businesses in the Austin Corporate City Limits to participate on City contracts. 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. Points will be awarded through a combination of the Offeror's Local Business Presence and/or the Local Business Presence of their subcontractors. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of work as reflected in the Offeror's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. Specify if and by which definition the Offeror or Subcontractor(s) have a local business presence.

4. SERVICES-DISABLED VETERAN BUSINESS ENTERPRISE ("SDVBE"): Pursuant to the interim Service-Disabled Veteran Business Enterprise (SDVBE) Program, Offerors submitting proposals in response to a Request for Proposals shall receive a three point (3 percent) preference if the Offeror, at the same time the proposal is submitted, is certified by the State of Texas, Comptroller of Public Accounts as a Historically Underutilized Business and is a Service-Disabled Veteran Business Enterprise. This preference does not apply to subcontractors. To receive this preference, Offerors shall complete the enclosed Section 0840 Service-Disabled Veterans Business Enterprise Preference Form, in accordance with the Additional Solicitation Instructions included therein.

5. PROPRIETARY INFORMATION:

All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt. If a Proposer does not desire proprietary information in the proposal to be disclosed, each page must be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information must be

CITY OF AUSTIN PURCHASING OFFICE
SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

****Updated 07/30/2019****

disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

6. PROPOSAL PREPARATION COSTS:

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

- 7. DEBRIEFINGS:** Any Offeror to this solicitation may request a debriefing up until 30 calendar days after the contract has been fully executed. Accepting debriefing requests after 30 days of contract execution will be at the sole discretion of the City. Debriefings will be scheduled at the availability of the authorized point of contact and will focus specifically on the offer submitted by the Offeror.

8. EVALUATION FACTORS AND AWARD:

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

B. **Evaluation Factors:**

a. 100 points

- | | |
|--|-----------|
| 1. Experience and Qualifications | 37 Points |
| 2. Approach, Methodology and Work Plan | 40 Points |
| 3. Total Evaluated Cost | 10 Points |
| 4. Local Business Presence | 10 Points |

Local Business Presence shall be scored according to this table:

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

- | | |
|---|----------|
| 5. Service-Disabled Veteran Business Enterprise | 3 Points |
|---|----------|

- b. The City will score proposals on the basis of the criteria listed above. The City may select a "short list" of Proposers based on those scores. "Short-listed" Proposers may be invited for presentations, demonstrations, or interviews with the City. The City reserves the right to re-score "short-listed" proposals as a result, and to make award recommendations on that basis.

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	Sustainable Food Center	
Physical Address	2921 E 17th St., Building C, Austin, TX 78702	
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?	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?)	<input checked="" type="radio"/> Yes	No

SUBCONTRACTOR(S):

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

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

SUBCONTRACTOR(S):

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



**CITY OF AUSTIN
PURCHASING OFFICE
EXCEPTIONS
Section 0630 Exception Form**

Solicitation Number: RFP 9100-SBR3001

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

Place this attachment in Tab 7 – Exceptions to your Proposal. Copies of this form may be utilized if additional pages are needed.

☒ Accepted as written.

☐ Not accepted as written. See below:

Indicate:

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

Page Number

Section Number

Section Description

Alternative Language:

Justification:

Responding Company Name Sustainable Food Center

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 Farmshare Austin
Name and Title of Contact Andrea Abel, Executive Director
Project Name Fresh for Less Mobile Markets & Farm Stands
Present Address 3608 River Rd
City, State, Zip Code Cedar Creek, TX 78612
Telephone Number (512) 337-2211 Fax Number (____) _____
Email Address andrea@farmshareaustin.org

2. Company's Name Austin Public Health WIC Program
Name and Title of Contact Annette Phinney, Public Health Division Manager
Project Name Double Dollars
Present Address 7201 Levander Loop
City, State, Zip Code Austin, TX 78702
Telephone Number (____) _____ Fax Number (____) _____
Email Address Annette.Phinney@austintexas.gov

3. Company's Name People's Community Clinic
Name and Title of Contact Diana Guerra, Program Coordinator
Project Name The Happy Kitchen/La Cocina Alegre
Present Address 1101 Camino La Costa
City, State, Zip Code Austin, TX 78752
Telephone Number (512) 478-4939 Fax Number (____) _____
Email Address Diana.Guerra@austinpcc.org

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

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

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

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

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

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

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

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

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

not continue.

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

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

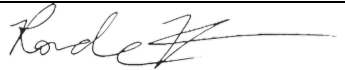
Sanctions:

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

Term:

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

Dated this 5th day of August, 2019

CONTRACTOR	<u>Sustainable Food Center</u>
Authorized Signature	<u></u>
Title	<u>Executive Director</u>

Section 0835: Non-Resident Bidder Provisions

Company Name Sustainable Food Center

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

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

Answer: 1) Texas Resident Bidder

- (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: n/a Which State: _____

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

Answer: n/a

Section 0840, Service-Disabled Veteran Business Enterprise Preference

Offeror Name
[OFFEROR NAME]

Additional Solicitation Instructions.

- ☒ By checking this box, Offeror states they are NOT a certified Service-Disabled Veteran Business Enterprise seeking to claim preference points under the City of Austin's SDVBE Program.
- Offerors seeking to claim the Service-Disabled Veteran Business Enterprise (SDVBE) preference shall be certified **under one of the two following scenarios**. Offerors shall check one of the following boxes, input the data in the applicable table below and include this completed form in their Proposal.
 - ☐ **HUB/SV**. Offeror is certified as a Service-Disabled Veteran (SV) Historically Underutilized Business (HUB) by the Texas State Comptroller of Public Accounts.

Texas State HUB/SV Certification	
13-Digit Vendor ID (VID)	
HUB/SV Issue Date	
HUB/SV Expiration Date	

- ☐ **HUB/OTHER + Federal SDVOSB**. Offeror is certified by the Texas State Comptroller of Public Accounts as a Historically Underutilized Business in a HUB Eligibility Category other than Service-Disabled Veteran (SV) AND is verified by the US Veterans Administration as a Service-Disabled Veteran-Owned Small Business (SDVOSB). **Texas HUB Eligibility Categories:** HUB/BL (Black), HUB/AS (Asian), HUB/HI (Hispanic), HUB/AI (Native American), or HUB/WO (Women Owned).

Texas State HUB/OTHER Certification	
13-Digit Vendor ID (VID)	
HUB Eligibility Category	
HUB Issue Date	
HUB Expiration Date	

Federal SDVOSB Verification	
9-Digit DUNS	
SDVOSB Issue Date	
SDVOSB Expiration Date	

- Offeror Identity**. The Offeror submitting the Proposal shall be the same entity that is certified by the Texas State Comptroller of Public Accounts, AND if applicable as verified by the US Veterans Administration.
- Certification Status**. Offeror's certification(s) must be active on or before the Solicitation's due date for Proposals and shall not expire prior to the award and execution of any resulting contract.
- Confirmation of Certification(s)**. Upon receipt of this completed form, the City will confirm the Offeror's certification(s): State: <https://mycpa.cpa.state.tx.us/tpasscmblsearch>. Federal: <https://www.vip.vetbiz.gov/>. The City will direct any questions concerning an Offeror's State or Federal certification status to the Offeror's contact person as designated on the Offer Form of their Proposal.
- Misrepresentation**. If the City determines that the Offeror requesting this preference is not certified by the State or Federal government if applicable, the Offeror will not receive the preference points. If the City determines that this misrepresentation was intentional, the City may also find the Offeror not responsible and may report the Offeror to the Texas State Comptroller of Public Accounts or if applicable to the US Veterans Administration. If the misrepresentation is discovered after contract award, the City reserves the right to void the contract.

Section 0900: SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM

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:

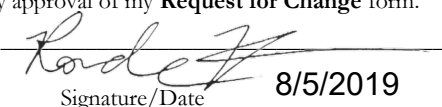
- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.
b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. **Offers that do not include the following required documents shall 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	Sustainable Food Center		
City Vendor ID Code	AUS6000830		
Physical Address	2921 E 17th St., Building C		
City, State Zip	Austin, TX 78702		
Phone Number	5122360074	Email Address	robineoneil@gmail.com
If 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		
<p>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.</p> <p>Ronda Rutledge, Executive Director</p> <div style="display: flex; justify-content: space-between;"> <div>Name and Title of Authorized Representative (Print or Type)</div> <div>  Signature/Date 8/5/2019 </div> </div>			

Section 0905: SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

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

GOOD FAITH EFFORTS CHECK LIST –

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

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

- ☒ **Follow up with responding M/WBE firms.** Offeror shall follow up with all M/WBE firms that respond to the Offeror's request. Offerors shall provide written evidence of their contact(s): emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.

- ☒ **Advertise.** Offerors shall place an advertisement of the subcontracting opportunity in a local publication (i.e. newspaper, minority or women organizations, or electronic/social media). Offerors shall include a copy of their advertisement, including the name of the local publication and the date the advertisement was published.

- ☒ **Use a Community Organization.** Offerors shall solicit the services of a community organization(s); minority persons/women contractors'/trade group(s); local, state, and federal minority persons/women business assistance office(s); and other organizations to help solicit M/WBE firms. Offerors shall provide written evidence of their Proof of contact(s) include: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, organization contacted, phone number, email address and contact person.

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

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

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

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

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

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

 Reviewing Counselor

 Date

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

 Director/Assistant Director or Designee

 Date

EXHIBIT A

Contract No. 4400001726
Page 1 of 141

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF AUSTIN AND TRAVIS COUNTY FOR PUBLIC HEALTH SERVICES

PARTIES

This Interlocal Agreement ("Agreement") is entered into by the following parties: City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County").

RECITALS

City and County have historically operated to collaboratively provide public health and human services throughout Travis County and the City of Austin.

The City of Austin Health and Human Services Department has the authority to perform all public health functions that the City of Austin and Travis County can perform through Texas Health and Safety Code, Chapter 121, and other applicable statutes.

Travis County Health, Human Services and Veterans' Services has the authority to perform all public health functions that County can perform through Texas Health and Safety Code Ann., Section 121.032, and other applicable statutes.

County has the authority to provide for public health, education and information services (Texas Health and Safety Code Chapters 121 and 122, and other statutes), and provision of those services constitutes a public purpose.

County has the authority to provide for the care of indigents and other qualified recipients (Tex. Loc. Gov't. Code, Section 81.027, and other statutes), and provision of those services constitutes a public purpose.

City and County have the authority to enter into an Interlocal Cooperation Agreement through Texas Constitution, Article 3, Sec. 64, and "The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

Pursuant to the terms of this Agreement, City and County will provide personal, professional and other services for the care of qualified recipients and for public health education and information, thus providing services which will further the achievement of a public purpose.

NOW, THEREFORE, in consideration of the hereinafter set forth agreements, covenants and payments, the sufficiency of which are acknowledged, City and County agree to the terms and conditions stated in this Agreement as follows:

DEFINITIONS

1.0 TERMS DEFINED. In this Agreement, the following terms will have these meanings:

1.1 "Agreement Funds" means all funds paid by County to City pursuant to the applicable terms of this Agreement.

1.2 "Agreement Term" means the Initial Term and/or any subsequent Renewal Term(s) or any other period of time designated in writing as an Agreement Term by the Parties.

1.3 "City Council" means the City Council of the City of Austin, Texas.

EXHIBIT A

Contract No. 4400001726
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- 1.4 "Commissioners Court" means the Commissioners Court of Travis County, Texas.
- 1.5 "County Auditor" means the Travis County Auditor, or their successor.
- 1.6 "County Purchasing Agent" means the Travis County Purchasing Agent, or their successor.
- 1.7 "Day(s)" means calendar day(s), unless otherwise specifically noted in any individual provision.
- 1.8 "Director" means the Director of HHSD, or their successor.
- 1.9 "County Executive" means the County Executive, TCHHSVS, or their successor.
- 1.10 "Fiscal Year" means that twelve-month time period between any October 1 and the next following September 30.
- 1.11 "HHSD" or "City Department" means the City of Austin Health and Human Services Department.
- 1.12 "Parties" and/or "Party" means the County and/or City.
- 1.13 "Subcontract" means any agreement between City and another party to fulfill, either directly or indirectly, any of the requirements of this Agreement, in whole or in part.
- 1.14 "TCHHSVS" or "County Department" means Travis County Health Human Services & Veterans Services.

GENERAL TERMS.

2.0 PURPOSE AND SCOPE. The purpose of this Agreement is to continue to provide those public health services authorized to be provided by County through the collaborative use of City staff and a combination of City and County staff and other resources. The Parties commit to continuing to provide these services throughout the term(s) of this Agreement. The Parties also seek to continue to consider improvements to public health delivery in a way which will maximize the benefits and efficiencies for those persons who need such services in Travis County and the City of Austin.

3.0 AGREEMENT TERM.

3.1 Initial Term. The Initial Term of this Agreement begins on October 1, 2013, and shall continue through September 30, 2014, unless terminated earlier in accordance with the terms of this Agreement.

3.2 Renewal Term. Unless sooner terminated pursuant to the terms of this Agreement, and upon approval of funding by the Commissioners Court and City Council during their respective budget process relating to any Renewal Term, this Agreement shall renew, only as evidenced by written approval of the Parties, on October 1, 2014, for a term of one year, and each successive October 1 for up to an additional four years, as evidenced each year by written approval of the Parties prior to each renewal, or for any time period agreed to in writing by County and City. The exercise of any option to renew shall continue in full force and effect the terms and conditions of the Agreement except for such changes as are set out in a written renewal or amendment.

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4.0 AMENDMENT

4.1 Written Amendment. Unless specifically provided otherwise in this Agreement, any change to the terms of this Agreement shall be in writing and signed by the Parties.

4.2 Acknowledgements as to Amendments. It is acknowledged by the Parties that no officer, agent, employee or representative of either Party has any authority to change the terms of this Agreement unless expressly granted that authority by the governing entity of that Party under a specific provision of this Agreement or by separate action of that governing entity.

4.3 Budget Submissions for Renewal Terms.

4.3.1 Initial Budget Submission. The Parties agree to exchange by April 1 of each year the information necessary to prepare and compile the forthcoming Fiscal Year's budget so that annual costs and expenses associated with the performance of this Agreement may be appropriately considered and budgeted. The "information necessary" will include updated cost model information reflecting updated population numbers; any cost drivers and other forecasting data being utilized by City; that information specified in this Agreement, including that information required in the quarterly and year-end report as set forth in Attachment D; all available projections for the next following fiscal year; and such other information as mutually agreed to by the Parties.

4.3.2 Supplemental Budget Submission(s). The Parties agree that the information exchanged under Section 4.3.1 above will be preliminary information and subject to updating and changes made as a result of the budget process of each Party. The Parties agree to communicate additional information between April and September of each year as that additional information becomes available. Final and complete numbers may not be available until, at the latest, September of each year, and will be exchanged at the earliest time possible as they become available.

4.4 Submission - Amendments. All requests for all changes, alterations, additions or deletions of the terms of this Agreement or any attachment to it shall be submitted to the County Executive, the Director and the County Purchasing Agent or their designees. Upon agreement by the City Department and County Department, the request will be presented by the County Purchasing Agent to the Commissioners Court and by the Director to the City Council or appropriate City authority for consideration.

5.0 ENTIRE AGREEMENT.

5.1 Inclusive Agreement. All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement, including the applicable terms of the Agreement, have been reduced to writing and are contained in this Agreement. The "Interlocal Cooperation Agreement Between City of Austin and Travis County for Public Health Services" effective October 1, 2007, and subsequently amended is terminated as of the effective date of this Agreement.

5.2 Attachments. The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performance by the Parties in accordance with the terms of this Agreement.

- 5.2.1 Attachment A, Work Statement
- 5.2.2 Attachment B, Cost Model
- 5.2.3 Attachment C, Financial Reports/Form
- 5.2.4 Attachment D, Work Statements and Performance Reports/Forms (Per Program)
- 5.2.5 Attachment E, County Personnel
- 5.2.6 Attachment F, Invoice Form

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5.2.6 Attachment F, Invoice Form

5.2.7 Attachment G, Inventory of County Property

5. **Outside Funding.** While not specifically included in this Agreement, the Parties acknowledge that each entity secures and utilizes various grants and other funding that contribute to the provision of public health services to residents of the City of Austin and Travis County. As requested, the Parties may exchange information related to such grants in order to better evaluate and coordinate all such services.

5.4 **Agreement Communications.** City and County agree that unless otherwise designated specifically in any provision, all communication, requests, questions, or other inquiries related to this Agreement shall initially be presented by and through the County Executive for the County and the Director for the City, or the designee.

6.0 **PERFORMANCE.**

6. **Services and Activities.**

6.1.1 **Program Services.** The Parties shall perform the services and activities stated in this Agreement, including the attached Work Statements, either directly or indirectly through Subcontracts in accordance with the terms and conditions stated in this Agreement. The provision of services by the City under this Agreement does not include services required due to extraordinary or catastrophic events or disasters or that may be required due to changes in state or federal laws or regulations unless specifically provided for herein.

6.1.2 **Extraordinary Events.** In the event of any extraordinary emergency response or catastrophic event or disaster ("Extraordinary Event"), City Director and County Executive shall mutually agree as to the handling of such Extraordinary Event. At the earliest possible date, such agreement will be reduced to writing and signed by the Director and County Executive, with immediate notice to the City Council and Commissioners Court. County shall not be responsible for any costs for services and activities related to the Extraordinary Event without approval by the Commissioners Court. City and County will make a good faith effort to coordinate and work together to meet the needs of the community related to such Extraordinary Event. To clarify and illustrate, but not limit, examples of the types of events and responses that may be considered an Extraordinary Event include accommodating and assisting hurricane evacuees from other jurisdictions and addressing needs resulting from such things as severe weather events, epidemics, and acts of terrorism.

6.1.3 **Coordination of Services and Major Changes in Services.**

(a) **Coordination.** Where possible, City and County agree to combine efforts in order to maximize efficiency and effectiveness of personnel and work efforts.

(b) **Review.** City and County will work together to assess and evaluate performance under this Agreement, and to develop mutually agreeable plans to improve the system of public health provided under this Agreement based upon those reviews of the effectiveness of the program operated by the City. Such review will take place following the provision of the quarterly and end-of-year reports by City according to Attachment D, and at any time that either Party presents a need for review and consideration of identified problems or issues.

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(c) Major Changes.

(i) Annual Major Changes. City and County agree that any major changes in programs/service/activities provided under this Agreement will be discussed by the Parties and agreed to during the budget process prior to each Renewal Term and agreed to only by written amendment to this Agreement.

(ii) Major Changes in an Agreement Term. No major changes in ongoing programs/services/activities provided to County under this Agreement will be made by City during an Agreement Term without prior written approval by County in the form of a written amendment to this Agreement. "Major" changes will be defined basically as any change which would increase or decrease program performance or cost by more than twenty-five percent (25%). "Program" will be defined as those program areas described in Attachment A, Work Statement, Sections III., A – L.

(iii) Changes Required by Law. The Parties agree that any change in the terms of this Agreement required by a change in federal, state, or local law, rule or regulation will be automatically incorporated herein effective on the date designated by such law, rule or regulation.

(iv) Failure to Agree. Either Party may seek termination under Section 14.2.1 if that Party is unable to conform to such changes required by federal, state and local laws or regulations or unable to agree to other major changes as set forth in this Section 6.1.3.

(v) Minor Changes. Any minor change ["minor" being defined as a change which would increase or decrease program performance or cost by more than ten percent (10%)] will be noted by City in each quarterly report for discussion with County as requested.

6.2 Supplies and Equipment.

6.2.1 Jointly Provided. County shall retain title to that equipment listed in Attachment G, "Inventory of County Property." City shall make such County Property available to County annually for inventory purposes and provide assistance pursuant to Section 6.4. City shall provide all other necessary supplies and equipment and shall provide for the maintenance of all such supplies and equipment (including that property owned by County).

6.2.2 Replacement.

(a) Capital Acquisition Property. For purposes of this Agreement, "Capital Acquisition Property ("Property") shall be considered to be any tangible, non-expendable property with a value of more than five thousand dollars (\$5,000.00). Only property within this definition will be considered for reimbursement by County under this Agreement.

(b) Cost to the City of Property required because of replacement or because of expanded services shall be:

(i) approved by City and County in the budget process related to the year in which the equipment will be purchased; and

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(ii) charged to County in the year that the equipment was purchased. The County's responsibility for cost of equipment will be based on the percentage of the residents living in the unincorporated areas of Austin/Travis County.

(c) such purchases shall be made subject to the mutual agreement of the Parties as to the need, purchase price, and proportionate share of County.

(d) The County shall determine and be responsible for the disposition of County equipment that has been replaced. The City shall determine and be responsible for the disposition of City equipment that has been replaced.

(e) In the event of termination of this Agreement by either Party prior to the completion of the useful life of the asset, the Parties will mutually agree to settlement of costs related to such asset.

6.3 Fees.

6.3.1 Fees. City shall charge only those fees authorized by the County to be charged for the services to be provided by City under this Agreement in accordance with County policies and applicable law. No change in those fees or additional fees will be collected by City without prior approval of the Commissioners Court. The City shall have no duty to collect unpaid fees. In the event the City undertakes collection efforts pursuant to written authority by County, the City's costs shall be separately billed and paid according to the written authorization by County.

6.3.2 Payment to County. City shall deposit fees as they are collected to a designated County account. Fee deposit forms and/or receipts will include the following information:

Receipts: Payor information (Name -individual or company; phone number (if provided by payor); payment method; amount received; amount applied; department (HHSD); other receipt details if available.

Fee Deposits: Amount; purpose of fee or program for which fee collected; permit receipt number; payor check number; amount - check or cash; other, where available; copy of deposit slips; copy of check.

City shall make available (for inspection or copying) itemized deposit records as they are maintained by City.

6.3.3 Supporting Documentation for Collections. City shall make available to County, for viewing and copying, copies of the supporting documentation for any billing or collection (subject to Section 6.3.1) to be undertaken by the County or on its behalf.

6.3.4 Changes in County Fees. City understands and agrees that any changes in County fees charged under this Agreement must be processed according to County policies and procedures and applicable laws, including public hearings and Commissioner Court approval. No change in any County fee will be made without written notice from County of the completion of such process and the identification of the changes in fees.



6.4 County Property.

6.4.1 Annual Inventory. City shall provide an annual written inventory regarding all property received from the County to the County Purchasing Agent, with a copy to the County

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Executive, pursuant to Section 6.2, and certifying the continued use of such property. Such inventory shall be reviewed by County and subject to County acceptance and approval.

(*)

6.4.2 Discontinued Use. Should County property or equipment (as listed in Attachment G) be deemed to no longer be of service or serviceable, City shall return such property to the County or request written disposition instructions. Property returned to the County shall be returned subject to ordinary wear and tear. When use of County property (as listed in Attachment G) is discontinued, City will obtain an appropriate replacement (which will be City property) pursuant to Section 6.2.2, and cost to County for such property will be as calculated under Section 6.2.2(b).

6.4.3 Responsibility. City shall take reasonable measures to protect County property provided under this Agreement.

6.4.4 Loss or Damage. City shall furnish County with a written, factual report of the theft, loss of, or damage to any County property by providing written notice to the County Executive with a copy to:

Travis County Risk Management
P. O. Box 1748
Austin, Texas 78767

Fixed Asset Manager
Travis County Purchasing Office
P. O. Box 1748
Austin, Texas 78767

In the event of any theft, vandalism, loss or other offense against the property, City shall notify the appropriate local law enforcement authorities and County immediately following such incident. The City shall repair or replace any County property lost or damaged due to the City's fault. Determination as to whether to repair or replace shall be the decision of City, with consultation with and agreement of County. County shall notify City in writing of such agreement (or disagreement) with the City's proposal within thirty (30) days of receiving written notification; if County does not notify City of County's decision within that thirty (30) day period, County will be presumed to have consented to City's recommendation. Any deficiency or delay in performing services under this Agreement due to a delay in repairing or obtaining replacement equipment shall not be deemed a default of this Agreement.

6.5 Insurance. City and County acknowledge and agree that each Party is self-insured and will maintain such coverage at a level sufficient to cover the needs of City and County, respectively, pursuant to applicable generally accepted business standards. Each Party shall require all subcontractors providing services under this Agreement to have insurance coverage sufficient to cover the needs of the Parties and/or subcontractor pursuant to applicable generally accepted business standards, and to indemnify the City and the County for any and all claims arising from and relating to their performance under the respective subcontracts.

6.6 Liabilities and Claims.

6.6.1 Liability. City shall not be liable for any claims, damages or attorney fees arising from any negligence or unlawful acts of the County or its employees in relation to this Agreement. County shall not be liable for any claims, damages or attorney's fees arising from any negligence or unlawful acts of the City or its employees in relation to this Agreement. City and County acknowledge that each entity is otherwise responsible for any claims or losses from personal injury or death or property damages that were caused by the acts or omissions of that entity, its agents, employees, or representatives in the performance of the services and activities under this Agreement; and that each entity will be responsible for the handling of the portion of any claim which is based solely on the assertion that a policy of that entity is illegal or unenforceable in any way.

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6.6.2 Claims Notification. If City or County receives notice or becomes aware of any claim or other action, including proceedings before an administrative agency, which is made or brought by any person, firm, corporation, or other entity against City or County in relation to this Agreement, City or County shall give written notice to the other Party of the claim or other action within three (3) working days after being notified of it or the threat of it. The notice shall include: the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice shall be given in the manner provided in Section 19.0 of this Agreement. Except as otherwise directed, City or County shall furnish to the other Party copies of all pertinent papers received by the notifying Party with respect to these claims or actions.

6.7 Acknowledgements, Warrants, and Assurances.

6.7.1 Eligible Client Warranty. The Parties agree that, where any services provided under this Agreement are based upon specific eligibility requirements, County will provide the City with such requirements as a part of Attachment A, Work Statement.

6.7.2 Accurate Information. City warrants that all reports, data and information submitted to County will be accurate, reliable and verifiable. Approval by County of such information shall not constitute nor be deemed a release of the responsibility and liability of City, its employees, agents or associates for the accuracy and competency of their reports, information documents, or services, nor shall approval be deemed to be the assumption of such responsibility by County for any defect, error, omission, act or negligence or bad faith by City, its employees, agents, or associates.

6.7.3 No Duplication. City acknowledges and agrees that City will not accept payments from other sources for the same services paid for by County for the provision of services hereunder.

6.8 Personnel. To the extent County employee positions listed in Attachment E are engaged in directly providing services that would otherwise be provided by the City under this Agreement, the City shall make an appropriate adjustment in calculating total program costs to the County. At such time as the positions as listed become vacant, the City shall hire replacement personnel to provide the work or services and an adjustment to the cost and payment terms of the Agreement shall appropriately be made. It is understood that the costs of these personnel (with necessary adjustments) will be reflected as credits to County in the invoices for payment provided by City to County under Section 13.2, unless or until such positions are transferred to City. As long as such employees are employed by County, and during any Renewal Term, the Parties understand and agree that the employees referenced under this Section 6.8 will receive from County as a part of their compensation, cost-of-living increases approved by City during any budget process for the next Fiscal Year.

6.9 Forms - W-9 Taxpayer Identification Form. City shall provide the County Purchasing Agent with an Internal Revenue Service Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor, and with immediate notice of any changes to said forms. City understands that this W-9 form must be provided to the County Purchasing Agent before any Agreement Funds are payable.

6.10 Materials and Publications. City and County, as appropriate, must comply with the applicable standard patent rights clauses in 37 Code of Federal Regulations, Section 401.13 or Federal Acquisition Regulations, Section 52.227.1. All reports, charts, schedules, or other materials submitted by

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either Party under the terms of this Agreement, and all work performed under this Agreement shall be the property of the creating Party. Either Party may publish the results of this Agreement performance at their own expense with notice to the other Party. Any publication or other use shall include acknowledgement of any support received from the other Party and the appropriate reference to any copyright. Subject to rights of third parties and compliance with confidentiality or privacy laws, each Party hereby grants the other Party an irrevocable, non-exclusive, non-transferable and royalty-free license to use, reproduce, publish, revise and make disposition of, prepare derivative works from, distribute to the public, to perform and display publicly, for or on behalf of that Party according to law, any material (including software) that may be developed as part of the work under this Agreement, provided that it is an original work of authorship under the U. S. Copyright Act. Each Party shall provide the other party with a courtesy copy of any publication made using the charts, schedules, seal, logo or other materials of the other party prior to publication or distribution. If County owns the copyright, any publication should include "© Travis County, P. O. Box 1748, Austin, Texas, 78767, (the year of publication), All Rights Reserved." If City owns the copyright, any publication should include "© City of Austin Health and Human Services, P. O. Box 1088, Austin, Texas, 78767, (the year of publication), All Rights Reserved."

6.11 Miscellaneous Responsibilities.

6.11.1 Employee Offenses. City will, and will require all subcontractors to, conduct criminal background checks (in accordance with City's standard process) on the following HHSD job applicants and employees ("employee" being defined under this Section as including all employees, volunteers, or other persons working under the direction of City or County, respectively, in the provision of services under this Agreement in a manner which involves direct Client contact) who will perform services under this Agreement: (a) those who work with youth; and (b) clinical social workers. In addition, City and County will make a good faith effort to ensure that no employee having direct client contact has been convicted of having committed an offense of abuse, neglect, or exploitation or an offense against the person, an offense against the family, or an offense involving public indecency under the Texas Penal Code. For any job applicant or employee who will come into contact with youth, the criminal background check conducted by the City will comply with Sections 411.129 and 411.1410 of the Texas Government Code, and all applicable laws.

6.11.2 Qualifications. If specific qualifications are set forth in the job descriptions required by either Party, or attached to any position related to providing of services under this Agreement, only personnel with the required qualifications will be assigned to fill functions unless a written waiver is granted by the other Party.

7.0 COMPLIANCE.

7.1 Federal, State and Local Laws. City shall provide all services and activities performed under the terms of this Agreement in compliance with the Constitutions of the United States and Texas and with all applicable federal, state, and local orders, laws, regulations, rules, policies and certifications governing any activities undertaken during the performance of this Agreement including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., Section 794); the Americans With Disabilities Act of 1990, Public Law 101-336 (S.933) ("ADA"); Chapter 73, TEXAS ADMINISTRATIVE CODE, Section 85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV); Health Insurance Portability and Accountability Act of 1996 (HIPAA). City shall not discriminate against any employee, applicant for employment, or Eligible Client based on race, religion, color, gender, national origin, age or handicapped condition. In performance of all Agreement services and activities, City will comply with applicable state and federal licensing and certification requirements, health and safety standards, and regulations prescribed by the U. S. Department of Health and Human Services and the Texas Department of State Health Services.

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7.2 Confidentiality.

7.2.1 Method. Each Party shall secure the confidentiality of records and other information relating to clients served in accordance with the applicable Federal, state and local laws, rules and regulations and applicable professional ethical standards. This provision shall not be construed as limiting the right of access to otherwise disclosable client information.

7.2.2 Limited Access. Prior to a scheduled monitoring or audit, each Party agrees to submit to the other Party in writing any relevant requirement precluding that Party's access to client information including the correct citation of the legal authority on which the limiting Party relies to support its claim that the other Party is prohibited from access to the client information.

7.2.3 Masking. Upon authorization from either Party to render client files anonymous, the other Party agrees to mask information identifying clients in a way that will not obstruct the authorizing Party's monitoring and evaluative duties in any way.

7.2.4 Privacy. Each Party shall comply with state and federal laws relating to the privacy and confidentiality of patient and client records that contain protected health information, or other information made confidential by law, and shall maintain patient and client records in compliance with state laws relating to the security and retention of medical or patient records.

7.3 County Rules/Policies.

7.3.1 Applicable County Rules/Policies. In provision of services related to local rules and regulations, City shall administer and enforce County rules and policies within the unincorporated areas of the County (and the ETJ, where applicable). County agrees that said rules and policies will be written in compliance with all applicable federal, state and local laws, rules and regulations. County has provided City with current copies of all relevant rules/policies, and will provide City with copies of any amendments to those rules/policies. City may notify County of any issues with said policies by giving written notice including a description of that issue and recommended resolution. Such notice shall go to the County Executive with a copy to the County Attorney. County shall notify City in writing of such agreement (or disagreement) with the City's proposal for resolution at the earliest possible date, but no more than thirty (30) days of receiving written notification; if County does not notify City of County's decision or need for further review within that thirty (30) day period, County will be presumed to have consented to City's recommendation. If requested by County, City will work with County in the event that resolution of the issue requires an amendment to the County policy or this Agreement in order to allow sufficient time for consideration by the Commissioners Court.

7.3.2 Imminent Threat. If the City believes an imminent threat to public health or safety exists and a County policy or rule does not authorize prompt action, notice shall be provided to the County Judge, County Executive and County Attorney by confirmed facsimile, electronic mail or personal delivery, and the County Executive or her designee shall immediately respond to City and provide direction. The parties agree that City staff shall not be required to enforce a policy or rule that does not comply with applicable laws or regulations, and failure to enforce a policy or rule in such circumstance shall not be deemed a default under this Agreement.

8.0 RETENTION AND ACCESSIBILITY OF CLIENT & FISCAL RECORDS.

8.1 Retention and Maintenance of Agreement Records. City shall create and maintain all records and reports required and/or created relevant to performance under this Agreement, including but not

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limited to those specifically set out in this Section 8.0 (and all other applicable provisions of this Agreement), including all fiscal records, documentation about operations and documentation for all expenditures pertaining to this Agreement, and all operational and statistical reports related to performance in a readily available state, until all evaluations, audits and other reviews have been completed and all questions or issues (including litigation) arising from those evaluations, audits and reviews are resolved satisfactorily to County. Such creation, maintenance and retention of records by City shall be in accordance with the schedule and requirements of City established pursuant to Local Government Records Act, Texas Local Government Code, Chapters 201 – 205, and the City of Austin Code, Chapter 2-11, and other applicable laws and regulations. City will provide County with a copy of such schedule annually.

8.2 Maintenance of Client Records.

8.2.1 Medical. City shall maintain all medical records in accordance with all applicable statutes and regulations governing medical information.

8.2.2 Other. If eligibility determinations are made under Section 6.7.1, then City will create and maintain records regarding such eligibility determination as specified by County under Section 6.7.1 pursuant to the requirements of Section 8.1 above.

8.3 Access. Subject to all applicable laws, City shall give County, and County shall give City or any of their respective duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files and other papers, things or property belonging to or in use by City or County, respectively, pertaining to this Agreement at reasonable times and for reasonable periods. These rights to access shall continue as long as the records are required to be retained by City and/or County, and for any additional time period that the records are retained by City and/or County. If there is any incident in which claims are made against the County or any County employee, or City or any City employee, as a result of the activities performed under this Agreement, the Party against whom the claim is made shall give the duly authorized representative(s) of the other Party full and reasonable access to and the right to examine documentation related to this matter at reasonable times and for reasonable periods. These rights to access shall continue until all claims are resolved or and according to the requirements of Local Government Records Act, Texas Local Government Code, Chapters 201 – 205, and the City of Austin Code, Chapter 2-11, and other applicable laws and regulations. *define?*

9.0 REPORTING REQUIREMENTS

9.1 Quarterly Performance/Financial Reports. City shall submit quarterly performance and financial data to the County as set forth in Attachment C and D within thirty(30) days after the end of the Term to which the report relates.

9.2 Annual Performance Close-Out Report. City shall deliver a performance close-out report to the County as set forth in in Attachment D. This close-out report shall be submitted to County with the last quarter performance report.

9.3 Corrections. City agrees to correct or revise any errors, omissions or other deficiencies in any reports or services provided by the City to ensure that such reports and services provide accurate information. City shall make the required corrections or revisions without additional cost to County.

9.4 Legal Prohibition. If City is legally prohibited from providing any required or requested reports, it shall immediately notify County, through County Department, in writing of this fact. Such notice shall include specific identification of the basis of the prohibition, including statutory citations as applicable, and shall be reviewed by County for final resolution.

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9.5 Additional Reports. County may make, and City will respond to, reasonable requests by County for City to produce additional reports based on available information. The Parties shall mutually agree to the timing, content and format of such reports.

9.6 Changes. City shall promptly provide County with written reports of any changes in any of the information, reports and/or records provided to County pursuant to this Agreement.

9.7 Annual update to Commissioners Court. As part of the year-end report, upon request by County, City will create a report covering service provision and program performance to be presented to the Commissioners Court. Scheduling will be coordinated with County Department, with provision for bioterrorism and other confidential matters update to be presented in Executive session as permitted under the Texas Open Meetings Act, Texas Government Code, Chapter 551, and other applicable laws.

10.0 NON-WAIVER

10.1 County Approval.

10.1.1 County's Satisfaction. The Parties expressly acknowledge and agree that County shall not be responsible for the cost of any services provided under this Agreement that are not substantially performed according to the terms of this Agreement and with County's approval, which shall not be unreasonably withheld.

10.1.2 Responsibility and Liability. Approval of County of any service, report or other performance by City under this Agreement shall not constitute nor be deemed a release of the responsibility and liability of City, its employees, agents or associates for the accuracy and competency of their reports, information, documents, or services, nor shall approval be deemed to be the assumption of such responsibility by County for any defect, error, omission, act or negligence or bad faith by City, its employees, agents, or associates.

11.0 PRIOR DEBTS. County shall not be liable for: costs incurred or performances rendered by City under this Agreement before or after the Agreement Term, although the Parties agree that this Agreement shall not affect County's obligation to pay City for services provided prior to the effective date of this Agreement under the terms of the previous agreement between City and County; expenses not billed to County within the applicable time frames set forth in this Agreement; or any payment for services or activities not provided pursuant to the terms of this Agreement.

12.0 LIMITATIONS.

12.1 Current Revenue Funds. County shall make payments for services provided as performance of governmental functions under this Agreement from current revenue funds available to County and set aside for this purpose. The payment is in an amount that fairly compensates City for the services or functions performed under this Agreement.

12.2 Immunity or Defense. It is expressly understood and agreed by all Parties that, neither the execution of this Agreement, nor any conduct of any representative of City or County relating to this Agreement, shall be considered to waive, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to that entity against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit. It is understood and agreed that a decision by one Party to waive immunity or to compensate a claim for which immunity would have been a defense and would have operated to prevent payment does not operate as a waiver or decision to compensate by the other Party; nor will such action by one Party operate to incur any expense or charge to the other Party.

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12.3 Training. The Parties agree, to the extent possible, to extend opportunities for training to each other's personnel on matters relevant to each department's functions on a space available basis.

FINANCIAL PROVISIONS

13.0 AGREEMENT FUNDS.

13.1 Fixed Price.

13.1.1 Initial Term Agreement Funds Amount. In consideration of full and satisfactory performance of the services and activities provided under the terms of this Agreement, and subject to other applicable provisions of this Agreement, County shall pay the City the following amount during the Initial Term:

<u>CATEGORY</u>	<u>NOT-TO-EXCEED AMOUNT</u>
GROSS Total:	<u>\$ 3,122,526.00</u>
LESS Personnel Credit:	<u>\$ 59,633.00</u>
NET Total:	<u>\$ 3,062,893.00</u>

City expressly acknowledges and agrees that the sum stated in this Section 13.1.1 is the not-to-exceed amount to be paid by County to City during the Initial Term unless an increase in the County budget for this Agreement is approved by Commissioners Court and this Agreement is appropriately amended. The amount is a not-to-exceed fixed cost provided by ATCHHSD in April of each year and modified through September with the approved City budget amount. The Parties agree that the amount provided in April of each year will be preliminary information and subject to updating and changes made as a result of the budget process of each Party. The Parties agree to communicate additional information between April and September of each year as that additional information becomes available. Final and complete numbers may not be available until, at the latest, September of each year, and will be exchanged at the earliest time possible as they become available.

13.1.2 Fiscal Year Limitation.

(a) City expressly acknowledges and agrees that County funding obligations can **ONLY** be incurred for the portion of the Agreement Term corresponding to a time period included in the approved budget for any one Fiscal Year unless services are requested (and approved in writing by Amendment to this Agreement) outside of the scope of the Agreement.

(b) In no event shall any provision of this Agreement or any agreement subject to this Agreement be interpreted to obligate the County beyond the funds approved by the Commissioners Court for any Fiscal Year/budget period. Payments by County during the Initial Term or any Agreement Term shall be subject to the Fiscal Year limitations applicable to this Agreement under Section 13.0. In no event shall any provision of this Agreement or any agreement subject to this Agreement be interpreted to obligate the City to provide services outside of the Scope of this Agreement.

(c) City understands and agrees that funds that apply to any subsequent Fiscal Year are contingent upon approval of such funding for this Agreement by the Commissioners Court in the budget process related to that Fiscal Year. This Section 13.1.2 shall apply to any future Agreement Term(s) within the Fiscal Year dates applicable to that Agreement Term.

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13.2 Payments to City.

13.2.1 Quarterly Payment Dates. City shall invoice the County on a quarterly basis an amount which will reflect actual expenses incurred up to that period on or before the following dates of each Agreement Term:

- (a) January 31 (covering October 1 – December 31)
- (b) April 30 (covering January 1 – March 31)
- (c) July 31 (covering April 1 – June 30)
- (d) October 30 (covering July 1 – September 30)

County shall pay City the amount invoiced within 30 days of receipt of a complete and correct invoice.

13.2.3 Quarterly Invoice. On or before the last day of the months as set forth in Section 13.2.1 (a) - (d) above for payment, City shall provide County with quarterly invoices utilizing the form attached to this Agreement as Attachment F showing the invoiced quarterly amount, the assigned quarterly credit for personnel, and other information as set forth in the invoice form.

13.3 Cost Model.

13.3.1 Cost Model.

(a) General. City and County agree that the determination of costs for public health services under this Agreement have been made using a dual approach. For most public health services, the costs to County will be based upon the Travis County population-based percentage; however, for those services described in Subsection (c) below, the cost will be based on a combination of the population-based percentage and the cost allocation method described in subsection c.

(b) Population Based. The annual fixed price for public health services will be allocated based on the Travis County population percentage (provided on a yearly basis by the City Demographer), except as set forth in subsection (c) below. The Travis County population percentage will be calculated as described in Attachment B. County will be provided with a written copy of the methodology and calculations used by the City Demographer annually. Upon request by County, such methodology and calculations may be negotiated and revised by mutual agreement of the Parties.

(c) Dual Approach. The dual approach combining population and cost allocation will be utilized for Environmental Health Services. For this area, the fixed price will be calculated using a combination of the Travis County population percentage and a cost allocation method based on the percent of activities in the County food establishments.

County's portion of the fixed cost will be allocated as follows:

a. Seventy Percent (70%) of County's portion will be based on cost and the % of activities in County food establishments in the unincorporated areas of the County:

of permitted food establishment activities
located in unincorporated Travis County

.70 X Cost X total # of permitted food establishment activities
in Austin/Travis County

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b. Thirty Percent (30%) of County's portion will be based on population percentage:

$$.30 \times \text{Cost} \times \text{County population percentage}$$

c. County portion will be determined by applying the total from subsections "a" and "b" above.

(d) Application. The Parties agree that the Travis County population percentage calculation and the cost allocation methodology set forth in this Section 13.3.1 applies to the Initial Term and the first Renewal Term of this Agreement but is subject to re-negotiation as to any later Renewal Terms(s) based, in part, upon performance data received related to each Term. The Parties agree that the population based percentages will be updated annually based on current figures. The parties agree to work together in order to evaluate and develop the most efficient and effective provision of services in the community as a whole.

13.3.2 The cost model does NOT include, either directly or indirectly, any of the following:

(a) Other Post Employment Benefits (OPEB) for City employees whether or not those costs are for current year benefits, prior year benefits, or future year benefits;

(b) employee recognition, rewards or awards other than performance pay documented pursuant to Council adopted compensation schedules;

(c) entertainment and gifts, including meals or beverages, even if related to a business purpose. This subsection (c) notwithstanding, the cost model WILL allow for payment for meal and beverage expenses for employees incurred during out-of-town trips or conferences related to services provided under this Agreement and incurred according to the City travel policy (a current copy of which has been provided to County; copies of amendments will be provided to County whenever changes are made).

(d) legislative consultant services;

(e) donations to non-profit or private organizations;

(f) legal services (the Parties agree that the City has no obligation to provide legal services to County under this Agreement);

(g) consulting services. This subsection (g) notwithstanding, the cost model WILL allow for payment for consulting services related to services provided within the scope of this Agreement.

14.0 TERMINATION.

14.1 Breach or Default - Option to Cure. Termination for breach or default shall be as follows:

14.1.1 Actions of Breach/Default. Actions of breach or default of a material term of this Agreement shall include, but not be limited to the following where such action substantially impairs the value of the Agreement as a whole to the non-breaching/defaulting Party:

(a) for City: failure to provide or make available the services to be provided under this Agreement; failure to timely submit required reports, records, or notification; failure to

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make corrections as required by this Agreement, and/or actions by City that would reasonably cause the Commissioners Court to believe that City is not using Agreement Funds in compliance with the terms of this Agreement, thereby necessitating a financial review or performance evaluation;

(b) for County: failure to timely submit any report, record or notification and failure to make timely payment.

14.1.2 Notice of Breach/Default. If either Party shall breach or be in default as set forth in Section 14.1.1, the other Party may provide written notice pursuant to Section 19.0, "Notices," to the breaching or defaulting Party, specifying the breach or default and requested correction.

14.1.3 Cure. Upon receipt of notice of breach/default under this Section 14.0, the Party receiving such notice shall have forty-five (45) calendar days in which to cure the alleged breach/default. If more than forty-five (45) days are required to cure such default or breach, a reasonable extension of such time may be established, provided both Parties agree in writing as to the time period to be substituted.

14.1.4 Failure to Cure. If the breaching/defaulting Party fails to cure the alleged breach/default within the time period under Section 14.1.3, the non-breaching Party may then, with written notice:

(a) re-negotiate an extension of time for cure;

(b) agree to continue performance under the terms of the Agreement; or

(c) provide notice of termination pursuant to Section 14.3.2.

14.1.5 Liability for Repayment. City shall be liable to County for money paid and/or advanced to City by County under this Agreement upon a failure by City to provide or make available the services to be provided under this Agreement and a failure to cure under Section 14.1. Return of funds under this Section 14.1.5 shall be made by City to County within thirty (30) days of request by County.

14.2 Other Reasons for Termination. A Party may terminate this Agreement if:

14.2.1 it is unable to conform to changes required by federal or state laws or regulations;

14.2.2 during the budget planning and adoption process, the governing body fails to provide funding for this Agreement for the Fiscal Year following the beginning of that Agreement period.

14.2.3 such termination is provided for under any provision of this Agreement. Notice of termination under this Section 14.2 shall be given in writing as soon as the Party terminating becomes aware of the event warranting termination under this Section 14.2.

14.3 Notice of Termination.

14.3.1 Notice - Termination for Convenience. Either Party may terminate this Agreement, in whole or in part, without cause, if the Party wanting to terminate the Agreement notifies the other Party in compliance with the Notice provisions of this Agreement of the decision to terminate this Agreement, the effective date of termination, which must be at least six (6) months (or any time

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period agreed to in writing by the Parties) after that notice, and, in the case of partial termination, the portion of the Agreement to be terminated.

14.3.2 Notice - Termination for Other Reasons. For termination under Sections 14.1 or any applicable provision of this Agreement, the terminating Party shall notify the other Party in compliance with the Notice provisions of this Agreement of the decision to terminate this Agreement, the effective date of termination, which must be at least ninety (90) days (or any other time period agreed to in writing by the Parties) after that notice, and, in the case of partial termination, the portion of the Agreement to be terminated.

14.4 Limitation on Termination. Nothing in the above Sections 14.1 and 14.2 prevents or prohibits either Party from taking any other action provided for under the terms of this Agreement or allowed by law.

14.5 Mutual Termination. Any Party has the right to terminate this Agreement, in whole or in part, when the Parties agree that the continuation of the activities funded under this Agreement would not produce beneficial results commensurate with the further expenditure of funds; provided that both Parties agree, in writing, upon the termination conditions, including the effective date of the termination, the provisions under which termination shall be accepted; and, in the case of partial termination, the portion of the Agreement to be terminated.

14.6 Results of Termination.

14.6.1 Post-Termination Costs. County shall not be liable to City or to City's Subcontractors, for costs incurred after the effective date of termination of this Agreement. County shall not under any circumstances be liable to City's Subcontractors for any payments under this Agreement.

14.6.2 Continued Liability. Notwithstanding any exercise by a Party of its right of termination under the provisions of this Agreement, a breaching Party shall not be relieved of any liability to the other Party for damages caused by virtue of any breach of this Agreement.

14.6.3 Transition. Where applicable, at the end of the Agreement Term or following any other Agreement termination, each Party shall, in good faith and in reasonable cooperation with the other Party, aid in transition to any new arrangement or provider of services which have been provided under this Agreement.

15.0 FINANCIAL AUDIT AND MONITORING

15.1 County/City Audit. County reserves the right to conduct an annual financial audit of City's performance of this Agreement. City agrees to permit County, or its authorized representatives, to audit and copy at its expense City's records that relate to this Agreement and to obtain any documents, materials, or information relating to this Agreement which are necessary to facilitate such audit. City reserves the right to conduct an annual financial audit of the County's performance of this Agreement. County agrees to permit City or its authorized representatives, to audit and copy at its expense County's records that relate to this Agreement and to obtain any documents, materials or information relating to this Agreement which are necessary to facilitate such audit.

15.2 Facilitation. City shall take whatever action is appropriate to facilitate the performance of any audits conducted pursuant to Section 15.0 that County may reasonably require of City. County shall take whatever action is appropriate to facilitate the performance of any audits conducted pursuant to Section 15.0 that City may reasonably require of County.

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15.3 County/City Monitoring.

15.3.1 Review of Records. City shall give County, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files and other papers, things or property belonging to or in use by City pertaining to this Agreement at reasonable times and for reasonable periods. These rights to access shall continue as long as the records are required to be retained by City and for any additional time period that the records are retained by City.

15.3.2 Adjustment in Records. City and County agree to work together to develop and agree to reporting requirements, including the creation, maintenance and submission requirements that will allow County to more precisely evaluate the actual benefits of services and activities provided under this Agreement.

16.0 MISCELLANEOUS PROVISIONS.

16.1 No Joint Enterprise. The relationship of County and City under this Agreement is not and shall not be construed or interpreted to be a joint enterprise or joint venture. No employee of City shall be considered an employee of County or gain any rights against County pursuant to County's personnel policies. No employee of County shall be considered an employee of City or gain any rights against City pursuant to City's personnel policies. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other Party or which shall hold itself out to be binding on the other Party. The Parties expressly agree that each Party is an independent contractor, and that each Party assumes all of the rights, obligations and liabilities applicable to it as an independent contractor.

16.2 Authority to Obligate. It is acknowledged by City that no officer, agent, employee or representative of County other than the Commissioners Court has any authority to sign any document or make any type of agreement obligating County unless expressly granted that authority by the Commissioners Court under a specific provision of this Agreement or by separate action by Commissioners Court.

16.3 Employees. Except as specified in Section 6.8, this Agreement shall have no effect upon the personnel policies of the City or County; or employment status or benefits of any City or County employee. Each Party retains all authority and liability related to the employment of that Party's employees. This Agreement does not create an employment contract between the City or County and/or individuals with respect to continued employment or the provision of any benefit. Each Party acknowledges that the other Party intends that each employee is at will, and that either the employee or the City or County can terminate the employee's employment for any reason and at any time, with or without notice. The Parties shall not have any contractual or statutory liability for any employee of the other Party.

17.0 SUBCONTRACTS.

17.1 City Responsibility.

17.1.1 Subcontractor Compliance. City is wholly responsible to County for the performance under this Agreement, whether such performance is provided directly by City or indirectly by any subcontractor, and shall monitor both financial and programmatic performance and maintain pertinent records concerning Subcontractor(s) that shall be available for inspection by County. City shall ensure that its Subcontractors comply with all applicable terms of this Agreement (including terms related to records and reports) as if the performance rendered by the Subcontractor was being rendered by City. City shall inspect all Subcontractors' work and shall be responsible for ensuring that it is completed in a good and workmanlike manner pursuant to the

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terms of this Agreement. City shall provide County with copies of any subcontract under which Agreement services are provided upon written request by County. Subcontracts shall include provisions ensuring that: Subcontractors will receive no duplicate payments from other sources or under other contracts for services/participants provided under this Agreement; that Subcontractor will cooperate with any County inquiries related to Agreement services; that Subcontractor agrees to comply with all laws and terms of this Agreement; and that City is solely responsible for payment.

17.1.2 Level of Service. City will ensure the provision of timely and quality professional services by individuals, agencies, or other Subcontractors which meet or exceed applicable licensing and regulatory standards applicable to the service provided and will provide County relevant documentation of such licenses and certifications upon request.

17.2 Agreement Limitation. This Agreement sets out the agreements and obligations between County and City only, and does not obligate County in any way to any of City's Subcontractors, nor to any other third party. This Agreement creates no third party beneficiary rights as between County and any of City's Subcontractors.

17.3 Minority Business Representation. City agrees to make a "good faith" effort to take all necessary and reasonable steps, in accordance with City's Minority and Women Owned Business Program (a copy of which has been provided to County, with changes to be provided as made) to ensure that minority businesses are given the maximum opportunity to be Subcontractors under this Agreement where such Subcontractors exist. City must report all expenditures made to minority Subcontractors to the County Purchasing Agent upon written request.

17.4 Payment to Subcontractors. City shall make its best effort to pay Subcontractors in a timely manner and shall make such payment pursuant to applicable law.

18.0 PERFORMANCE MONITORING. County shall have the right to perform periodic on-site monitoring of City's (and City's Subcontractor's) compliance/performance with the terms of this Agreement, and of the adequacy, effectiveness and timeliness of City's performance under this Agreement at reasonable times. Such monitoring visit may include review of any and all performance activities as well as any and all records or other documentation (including financial) maintained in relation to City's performance under this Agreement. City agrees to permit County, or its authorized representatives, to audit and copy at its expense City's records that relate to this Agreement and to obtain any documents, materials, or information relating to this Agreement which are necessary to facilitate such audit. Within thirty (30) days of each monitoring visit, County shall provide City with a written report of the monitor's findings. If the report notes deficiencies in City's performances under the terms of this Agreement, it shall include requirements and deadlines for the correction of those deficiencies by City as mutually agreed to by City and County. City shall take action specified in the monitoring report prior to the deadlines specified. City will include the above right to monitor provision in any Subcontract(s) entered into under this Agreement.

19.0 NOTICES.

19.1 Requirements. Except as otherwise specifically noted herein, any notice required or permitted to be given under this Agreement by one Party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

19.2 County Address. The address of County for all purposes under this Agreement shall be:

Sherri Fleming, County Executive (or her successor)

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Travis County Health, Human Services and Veterans Services
P. O. Box 1748
Austin, Texas 78767

With copies to (registered or certified mail with return receipt is not required):

Honorable David Escamilla (or his successor in office)
Travis County Attorney
P. O. Box 1748
Austin, Texas 78767
ATTENTION: Civil Transactions

and

Cyd Grimes (or her successor)
Travis County Purchasing Agent
P. O. Box 1748
Austin, Texas 78767

19.3 City Address. The address of the City for all purposes under this Agreement and for all notices hereunder shall be:

Marc Ott (or his successor in office)
City Manager
P. O. Box 1088
Austin, Texas 78767

With copy to (registered or certified mail with return receipt is not required):

Carlos Rivera
Health and Human Services Director (or his successor)
City of Austin
P. O. Box 1088
Austin, Texas 78767

and

City Attorney
301 West Second Street, Fourth Floor
Austin, Texas 78701

19.4 Change of Address. Each Party may change the address for notice to it by giving written notice of the change. Any change of address by City, including a change in the City's authorized representative, shall be reported to the County Executive and the Purchasing Agent within twenty (20) days of the change. Any change of address by County, including a change in the County's authorized representative, shall be reported to the Director within twenty (20) days of the change.

20.0 PROHIBITIONS.

20.1 Conflict of Interest. In performing duties under this Agreement, City employees shall comply with the conflict of interest requirements and ethics provisions set forth in the Austin City Code, Article 4, a copy of which has been provided to County, as well as with the conflict of interest provisions in Chapter 171 of the Texas Local Government Code.

20.2 Solicitation. City warrants that no persons or selling agency was or has been retained to solicit this Agreement upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by City to

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secure business. For breach or violation of this warranty, County shall have the right to terminate this Agreement without liability, or, in its discretion, to, as applicable, add or to or deduct from the Agreement price for consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.3 Gratuities. County may cancel this Agreement if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by City or any agent or representative to any County official or employee with a view toward securing favorable treatment with respect to the performing of this Agreement. In the event this Agreement is cancelled by County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover from City a sum equal in amount to the cost incurred by City in providing such gratuities. City's employees, officers and agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Subcontractors or potential Subcontractors.

20.4 Nepotism. City agrees that it will comply with TEX. GOVERNMENT CODE ANN., Ch. 573, by ensuring that no officer, employee or member of the governing body of City shall vote or confirm the employment of any person related within the second degree by affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person.

21.0 ASSIGNABILITY.

21.1 Written Approval. No Party may assign any of the rights or duties created by this Agreement without the prior written approval of the other Party. It is acknowledged by City that no officer, agent, employee or representative of County has any authority to assign any part of this Agreement unless expressly granted that authority by the Commissioners Court. Submission of a request by City for approval under this Section 26.1 shall be made in writing to the Purchasing Agent with a copy to the County Executive. Submission of a request by County for approval under this Section 26.1 shall be made in writing to the Director.

21.2 Binding Agreement. This Agreement shall be binding upon the successors, assigns, administrators, and legal representatives of the Parties to this Agreement.

22.0 LEGAL AUTHORITY. The person or persons signing this Agreement on behalf of each Party warrants that he, she or they have been duly authorized by their respective entities to sign this Agreement on behalf of the entity and to bind the entity validly and legally to all terms, performances, and provisions in this Agreement. Each Party warrants that the Party possesses the legal authority to enter into this Agreement, receive funds authorized by this Agreement, and to perform the services that Party has obligated itself to perform under this Agreement.

23.0 INTERPRETATIONAL GUIDELINES.

23.1 Computation of Time. When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that the City or County has declared a holiday for its employees, these days shall be omitted from the computation.

23.2 Numbers and Gender. Words of any gender in this Agreement shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the Agreement clearly requires otherwise.

23.3 Headings. The headings at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that section or subsection, and are not to be used in construing this Agreement.

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24.0 OTHER PROVISIONS.

24.1 Survival of Conditions. Applicable provisions of this Agreement shall survive beyond termination or expiration of this Agreement until full and complete compliance with all aspects of these provisions has been achieved where the Parties have expressly agreed that those provisions should survive any such termination or expiration or where those provisions remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

24.2 Non-Waiver of Default. One or more acts of forbearance by any Party to enforce any provision of this Agreement or any payment, act or omission by any Party shall not constitute or be construed as a modification of this Agreement or a waiver of any breach or default which then exists or may subsequently exist.

24.3 Reservation of Rights. If any Party to this Agreement breaches this Agreement, the other Party(ies) shall be entitled to any and all rights and remedies provided for by Texas law and any applicable Federal laws or regulations. All rights of City and County under this Agreement are specifically reserved, and any payment, act or omission shall not impair or prejudice any remedy or right to County or City under it. The exercise or failure to exercise any right or remedy in this Agreement of City or County or the failure to act in accordance with law based upon the other Party's breach of the terms, covenants and conditions of this Agreement, or the failure to demand the prompt performance of any obligation under this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law, nor shall any action taken or not taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

24.4 Law and Venue. This Agreement is governed by the laws of the State of Texas and all obligations under this Agreement shall be performable in the City of Austin, Texas, or in Travis County, Texas. It is expressly understood that any lawsuit, litigation, or dispute arising out of or relating to this Agreement will take place in Travis County and the City of Austin.

24.5 Severability. If any portion of this Agreement is ruled invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of it shall remain valid and binding, and shall continue to have full force and effect and shall in no way be impaired or invalidated by that holding. If federal, state or local laws or other requirements are amended or judicially interpreted so as to render continued fulfillment of this Contract, on the part of either Party, substantially unreasonable or impossible, and if the Parties should be unable to agree upon any amendment that would therefore be needed to enable the substantial continuation of the services contemplated in this Contract, the Parties shall be discharged from any further obligations created under the terms of this Contract, except for the equitable settlement of the respective accrued interests or obligations incurred up to the date of termination.

24.6 Political Activity. City shall not use any of the Agreement Funds for any activity related to influencing the outcome of any election for public office, or any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of City from furnishing to any member of its governing body upon request or to any other local or state official or employee, or to any citizen, information in the hands of the employee or official not considered under law to be confidential. No Agreement Funds can be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive or judicial branches of the government of City, the State of Texas or the government of the United States.

24.7 Sectarian Activity. City shall ensure that provision of services under this Agreement shall be carried on in a manner free from religious influence. City shall not execute any agreement with any primarily religious organization to receive Agreement Funds from City unless the agreement includes provisions as necessary to effectuate this assurance. Neither City's nor County's selection of a Subcontractor

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nor expenditure of funds under this Agreement is an endorsement of the Subcontractor's charitable or religious character, practices or expressions. No expenditures have as their objective the funding of sectarian worship, instruction or proselytization. City and County agree to be bound by the provisions of Section 702 of the Civil Rights Act [42 U.S.C., Section 2000E-1(a)] regarding employment practices and Section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C., Section 604a) regarding additional rights and responsibilities for charitable and faith-based providers of social services, assisted individuals and providers of such services.

24.8 Dispute Resolution/Mediation. Initial disputes and unresolved questions or issues of City or County shall initially be presented by City to County by submission in writing to TCHHSVS with a copy to the County Purchasing Agent and by County to City by submission in writing to the Director. If satisfactory resolution cannot be achieved between the Parties within a reasonable time, and should mediation be acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in the TEX. CIV. PRAC. AND REM. CODE, Section 154.023. Unless both Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in TEX. CIV. PRAC. AND REM. CODE, Sec. 154.073, unless both Parties agree, in writing, to waive the confidentiality.

24.9 County Public Purpose. By execution of this Agreement, the Commissioners Court hereby finds that the needs to be addressed by the services to be provided under the terms of this Agreement, including those specifically set forth in the attached Work Statement (Attachment A) constitute a significant public concern impacting members of the population which the County serves. The Commissioners Court further finds that the provision of services to be provided by City pursuant to this Agreement will further the public purpose of addressing those health and human services issues, problems and needs identified in this Agreement for identified and qualified individuals.

24.10 Force Majeure. Neither Party shall be financially liable to the other Party for delays or failures to perform under the Agreement where such failure is caused by force majeure (i.e. those causes generally recognized under Texas law as constituting impossible conditions). Such delays or failures to perform shall extend the period of performance until these exigencies have been removed or until the Parties agree in writing to either amend or terminate the Agreement. The Party seeking to avail itself of this clause shall notify the other Party within five (5) business days or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case notification shall be done in as timely a manner as possible. City agrees that breach of this provision entitles County to reduce or stop payments or immediately terminate this Agreement.

24.11 Publicity. In any publicity prepared or distributed by or for City related to this Agreement, the funding through County shall be mentioned as having made the project possible, either through use of the County logo or in applicable text. Prior to publication or any disbursement of such publicity, City must provide a copy of the final form of the publicity to County. When appropriate as determined by County Executive, City shall publicize the services and activities of City and County under this Agreement. City shall work with County to allow for distribution from appropriate County locations

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of any materials prepared related to services provided under this Agreement. All publicity will be subject to the requirements of Section 6.10 of this Agreement, as applicable.

24.12 Third Party Beneficiary. This Agreement sets out the agreements and obligations between City and County only, and does not obligate City or County in any way to any other third party. This Agreement creates no third party beneficiary rights as between City and any of County's Subcontractors or between County and any of City's Subcontractors. City and County, respectively, each have the sole responsibility for payment for services rendered by each Party's Subcontractors with Subcontractor's sole recourse in the event of non-payment, insolvency or cessation of operations being against the Party with whom the Subcontract was made. Neither Party shall under any circumstances be liable to the other Party's creditors or Subcontractors for any payments under this Agreement.

CITY OF AUSTIN

BY:


BERT LUMBRERAS
Assistant City Manager

Date:

10/21/13

AUSTIN/TRAVIS COUNTY HEALTH AND
HUMAN SERVICES

BY:


CARLOS RIVERA
Director, HHSD

Date:

10/18/13

TRAVIS COUNTY

BY:


SAMUEL T. BISCOE
Travis County Judge

Date:

12-17-13

County Approvals:

As to Legal Form:


Assistant County Attorney

Date: 12/9/13

Funds Certified By:

Date: _____

Nicki Riley, County Auditor

Purchasing:


Cyd Grimes, County Purchasing Agent

Date: 12/13/13

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FIRST AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF AUSTIN AND TRAVIS COUNTY FOR PUBLIC HEALTH SERVICES

This First Amendment to the Interlocal Cooperation Agreement ("Amendment") is by and between the City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County").

RECITALS

On October 1, 2013, the City and County entered the Interlocal Agreement ("Agreement") to provide public health services with the Initial Term being effective October 1, 2013, and continuing through September 30, 2014.

Under the Agreement, the Parties intended for City and County to provide personal, professional, and other services for the care of qualified recipients, and for public health education and information, which would further the achievement of a public purpose. The purpose of this Agreement is to continue to provide those public health services authorized to be provided by County through the collaborative use of City staff, and a combination of City and County staff, and other resources, whereby the Parties commit to continuing to provide these services throughout the term(s) of this Agreement and seek to continue to consider improvements to public health delivery in a way that will maximize the benefits and efficiencies for those persons needing such services in Travis County and the City of Austin. These services were to be performed on an annual basis during the Initial Term and any subsequent renewal terms subject to approval of funding by the Commissioners Court and City Council during their respective budget process relating to any renewal term, as long as such renewal was evidenced by written approval of the Parties.

The Parties have performed services in compliance with the terms of the Agreement for one year from October 1, 2013 to September 30, 2014, and have decided to renew this Agreement for an additional 12 months, by entering into this First Amendment to the Interlocal Cooperation Agreement between City of and County for Public Health Services.

The governing bodies of the City and County approved the continuance of the Agreement beyond the expiration date prior to that date, with services continuing to be provided without formal amendment or renewal of the Agreement.

The Parties now desire to execute the written renewal of the Agreement for an additional one-year term, and to indicate the ratification of the continuance of the Parties' rights and obligations under the Agreement from October 1, 2014, through the execution by both Parties of this renewal and ratification.

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In consideration of these recitals and mutual covenants in this Amendment, the Parties agree as follows:

1. 2015 Renewal Term.

1.1 **Renewal Term.** The Parties agree to renew the Agreement for an additional one-year term beginning October 1, 2014, and continuing through September 30, 2015 ("2015 Renewal Term"), unless earlier terminated pursuant to the terms of the Agreement.

1.2 **Ratification.** The Parties agree to ratify continuation of the Parties' rights and obligations under the Agreement from October 1, 2014, until execution by both Parties of this renewal and ratification.

2. **Fixed Price.** Section 13.1.1 is amended by replacing the funding amounts under the "Not-To-Exceed Amount" with the following amounts:

<u>CATEGORY</u>	<u>NOT-TO-EXCEED AMOUNT</u>
Total Amount:	\$ 3,497,531
Less Personnel Credit:	\$ 56,450
Net Total:	<u>\$ 3,441,081</u>

3. **Attachments.** Section 5.2, "Attachments," is amended for the 2015 Renewal Term as follows:

3.1 Replace Attachment A of the Agreement with Attachment A-2015, "2015 Work Statement" (Form # 3 – for each program).

3.2 Replace Attachment B of the Agreement with Attachment B-2015, "2015 Cost Model." 3.3.

3.3 Replace Attachment E of the Agreement with Attachment E-2015, "2015 County Personnel."

3.4 Add Attachment H, "Cover Page," (Form #2 – for each program).

3.5 Add Attachment I, "Subcontracted Expenses Form" (Form #8).

3.6 Add Attachment J, "Performance Measures Definitions."

The attachments listed above (Section 3.1 – 3.6) are included in this Amendment as Exhibit 1, and are hereby made a part of the Agreement, as amended, and constitute promised performance by the Parties in accordance with the terms of the Agreement.

4. **Incorporation.** County and City hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, County and City hereby

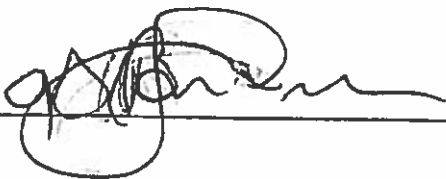
EXHIBIT A

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ratify all the terms and conditions of the Agreement. The Agreement, with the changes made in this Amendment, constitutes the entire agreement between the Parties and supersedes any prior undertaking or written or oral agreements or representations between the Parties.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment is effective as of the last date of signature.

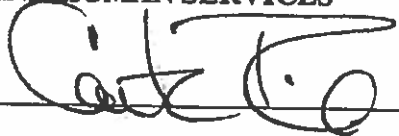
CITY OF AUSTIN



Bert Lumbreras
Assistant City Manager

12/19/14
Date

AUSTIN/TRAVIS COUNTY HEALTH AND HUMAN SERVICES



Carlos Rivera
Director, Health and Human Services
Department

12/16/14
Date

TRAVIS COUNTY


BY: 

Sarah Eckhardt
Travis County Judge

3/3/15
Date

County Approvals:

As to Legal Form:

 Date: 2/20/2015

Assistant County Attorney

Funds Certified By:

 Date: 2/23/15

Nicki Riley, County Auditor

EXHIBIT A

SECOND AMENDMENT AND RENEWAL OF THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF AUSTIN AND TRAVIS COUNTY FOR PUBLIC HEALTH SERVICES

This Second Amendment and Renewal of the Interlocal Cooperation Agreement ("Amendment") is by and between the City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County"). The City and County will herein be referred to collectively as "Parties."

RECITALS

On October 1, 2013, the City and County entered into the Interlocal Cooperation Agreement ("Agreement") to provide public health services with an Initial Term of October 1, 2013, through September 30, 2014.

Under the Agreement, the Parties provided personal, professional, and other services for the care of qualified recipients, and public health education and information that would achieve a public purpose. The purpose of the Agreement is to provide public health services through the collaborative use of City and County staff and other resources throughout the term of the Agreement and improve public health delivery in a way that would maximize the benefits and efficiencies for persons needing such services in the unincorporated areas of Travis County and the City of Austin. These services were to be performed on an annual basis during the Initial Term and any subsequent renewal terms, subject to approval of funding by the Commissioners Court and City Council during each party's respective budget process relating to any renewal term, as long as such renewal was evidenced by written approval of the Parties.

The Parties have performed services in compliance with the terms of the Agreement during the Initial Term and the First Renewal Term, and have decided to renew this Agreement for an additional one-year term effective October 1, 2015 through September 30, 2016 by entering into this Amendment.

The governing bodies of the City and County approved the continuation of the Agreement beyond its expiration date and services continued to be provided without formal amendment or renewal of the Agreement.

The Parties now desire to execute the written renewal of the Agreement for an additional one-year term, and to indicate the ratification of the continuance of the Parties' rights and obligations under the Agreement from October 1, 2015 through the execution by both Parties of this Amendment.

In consideration of these recitals and mutual covenants in this Amendment, the Parties agree as follows:

EXHIBIT A

1. 2016 Renewal Term.

1.1 Renewal Term. The Parties agree to renew the Agreement for an additional one-year term beginning October 1, 2015, and continuing through September 30, 2016 ("2016 Renewal Term"), unless earlier terminated pursuant to the terms of the Agreement.

1.2 Ratification. The Parties agree to ratify continuation of the Parties' rights and obligations under the Agreement from October 1, 2015, until execution by both Parties of this renewal and ratification.

2. Fixed Price. Section 13.1.1 is deleted in its entirety and replaced to read as follows:

13.1.1 **2016 Term Agreement Funds Amount.** In consideration of full and satisfactory performance of the services and activities provided under the terms of this Agreement, and subject to other applicable provisions of this Agreement, County shall pay the following amount during the 2016 Renewal Term:

<u>CATEGORY</u>	<u>NOT-TO-EXCEED AMOUNT</u>
Total Amount:	\$ 3,527,707
Less Personnel Credit:	\$ 61,024
Net Total:	\$ 3,466,683

The City will submit an invoice to the County on a quarterly basis, starting January of 2016, listing the expenditures on behalf of County for each public health program listed in the 2016 Work Statements (Attachment A) and the amount funded by all other sources for the public health program listed in the 2016 Work Statements (Attachment A). If City reasonably foresees that expenditures on behalf of County will exceed the Net Total Not-to-Exceed Amount or the program budget, as described in the 2016 Program Budget (Attachment B), for any public health program listed in the 2016 Work Statements (Attachment A), City shall notify County of this possibility immediately pursuant to Section 19.0 of this Agreement. The Parties will then negotiate to determine whether to amend the Not-to-Exceed Amount in this Section or to take other steps as agreed upon by the Parties. No amounts above the Not-to-Exceed Amount, as applicable, shall be payable by County unless an amendment to this Agreement has been executed, whereby a specified increase in expenditures for services to be provided under this Agreement during the period has been stipulated. City will only provide services with confirmation that funds are available to compensate for such services. County's obligation is payable only and solely from current funds available for payment of services provided under this Agreement.

3. Amendment. Section 4.0 is amended by adding a new section 4.5 to read as follows:

4.5 **Transfer of Funds without Amendment.** Notwithstanding Section 4.0, and as specifically applicable, City may transfer budgeted funds of public health programs between one another without a written amendment to this Agreement ONLY if the transfer will not change the scope or objective of the programs funded under this Agreement.

EXHIBIT A

4. **Attachments.** Section 5.2, "Attachments," is amended for the 2016 Renewal Term as follows:

3.1. Replace Attachment A-2015, "2015 Work Statement" of the Agreement with Attachment A-2016, "2016 Work Statements" (Form # 3 – for each program).

3.2. Replace Attachment B-2015, "2015 Cost Model" of the Agreement with Attachment B, "2016 Program Budget."

3.3. Replace Attachment C, "Financial Report" of the Agreement with Attachment C-2016, "2016 Financial Report."

3.4. Replace Attachment E-2015, "County Personnel" of the Agreement with Attachment E-2016, "2016 County Personnel."

3.5. Replace Attachment F, "Invoice Form" of the Agreement with Attachment F-2016, "2016 Invoice Form."

3.6. Replace Attachment G, "Inventory of County Property" with Attachment G-2016, "2016 Inventory of County Property."

The attachments listed above (Sections 3.1 – 3.6) are included in this Amendment as Exhibit 1, and are hereby made a part of the Agreement, as amended, and constitute promised performance by the Parties in accordance with the terms of the Agreement.

4. **Incorporation.** County and City hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, County and City hereby ratify all the terms and conditions of the Agreement. The Agreement, with the changes made in this Amendment, constitutes the entire agreement between the Parties and supersedes any prior undertaking, written or oral agreements or representations between the Parties.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment is effective as of October 1, 2015.

CITY OF AUSTIN

BY:  _____

Bert Lumbreras, Assistant City Manager

Date: 11/20/15

AUSTIN/TRAVIS COUNTY HEALTH
AND HUMAN SERVICES

BY:  _____

Shannon Jones, Director, Health and
Human Service Department

Date: 11/18/15

EXHIBIT A

TRAVIS COUNTY

BY: 
SARAH ECKHARDT
Travis County Judge
Date: DEC 22 2015

County Approvals:

As to Legal Form:


Assistant County Attorney

Date: 12/5/15

**THIRD AMENDMENT AND RENEWAL OF THE INTERLOCAL COOPERATION
AGREEMENT BETWEEN THE CITY OF AUSTIN AND
TRAVIS COUNTY FOR PUBLIC HEALTH SERVICES**

This Third Amendment and Renewal of the Interlocal Cooperation Agreement ("Amendment") is by and between the City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County"). The City and County will herein be referred to collectively as "Parties."

RECITALS

On October 1, 2013, the City and County entered into the Interlocal Cooperation Agreement ("Agreement") to provide public health services with an Initial Term of October 1, 2013, to September 30, 2014. The Parties subsequently extended the term through the First Renewal Term from October 1, 2014 to September 30, 2015, a Second Renewal Term from October 1, 2015 to September 30, 2016, and now agree to enter a Third Renewal Term from October 1, 2016 to September 30, 2017.

Under the Agreement, the Parties provided personal, professional, and other services for the care of qualified recipients, and public health education and information that would achieve a public purpose. The purpose of the Agreement is to provide public health services through the collaborative use of City and County staff, and other resources throughout the term of the Agreement and improve public health delivery in a way that would maximize the benefits and efficiencies for persons needing such services in the unincorporated areas of Travis County and the City of Austin. These services are to be performed on an annual basis during the Initial Term and any subsequent renewal terms, subject to approval of funding by City Council and the Commissioners Court during each party's respective budget process relating to any renewal term, as long as such renewal is evidenced by written approval of the Parties.

In consideration of these recitals and mutual covenants in this Amendment, the Parties agree as follows:

1. 2017 Renewal Term.

(a) Renewal Term. The Parties agree to renew the Agreement for an additional one-year term beginning October 1, 2016, and continuing through September 30, 2017 ("2017 Renewal Term"), unless earlier terminated pursuant to the terms of the Agreement.

(b) Ratification. The Parties agree to ratify continuation of the Parties' rights and obligations under the Agreement from October 1, 2016, until execution by both Parties of this renewal and ratification.

2. Amendments.

(a) Section 5.2, "Attachments," is amended for the 2017 Renewal Term as follows:

(1) Replace Attachment A-2016, "2016 Work Statement" with Attachment A-2017, "2017 Work Statements";

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- (2) Replace Attachment B-2016, "2016 Cost Model" with Attachment B-2017, "2017 Cost Model";
- (3) Replace Attachment C-2016, "2016 Financial Report" with Attachment C-2017, "2017 Financial Report";
- (4) Replace Attachment D-2016, "2016 Performance Report" with Attachment D-2017, "2017 Performance Report";
- (5) Attachment E- "County Personnel" is intentionally deleted for the 2017 Renewal Term;
- (6) Replace Attachment F, "Invoice Form" with Attachment F-2017, "2017 Invoice Form"; and
- (7) Replace Attachment G, "Inventory of County Property" with Attachment G-2017, "2017 Inventory of County Property."

The attachments listed above (Attachments A through G) are included in this Amendment as Exhibit 1, and are hereby made a part of the Agreement, as amended, and constitute promised performance by the Parties in accordance with the terms of the Agreement.

- (b) Section 6.8 "Personnel" is hereby deleted in its entirety.
- (c) Section 9.1 "Quarterly Performance/Financial Reports" is hereby amended by deleting it in its entirety and replacing it to read as follows

9.1 Quarterly Financial/Performance Reports. Quarterly financial reports, as set forth in Attachment C, will accompany the invoices on the schedule set forth in Section 13.2.1. City shall submit quarterly performance reports to the County as set forth in Attachment D by the last day of the month following the end of the quarter to which the report relates.

- (d) Section 9.2 "Annual Performance Close-out Report" is hereby amended by deleting it in its entirety and replacing it to read as follows:

9.2 Annual Financial/Performance Close-Out Reports. City shall deliver an annual financial close-out report to the County as set forth in Attachment C, which shall be submitted to County by December 31st following the end of the Renewal Term. City shall deliver an annual performance close-out report to the County as set forth in Attachment D, which shall be submitted to County with the last quarter's performance report.

- (e) Section 13.1.1 is hereby amended for the 2017 Renewal Term by replacing the funding amounts under the "Not-To-Exceed Amount" with the following amounts:

<u>CATEGORY</u>	<u>NOT-TO-EXCEED AMOUNT</u>
Total Amount:	\$ 4,034,822

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The remainder of Section 13.1.1 shall remain the same except that all references to "2016" are hereby deleted and replaced with references to "the applicable Renewal Term".

(f) Section 13.2.1 "Quarterly Payment Dates" is hereby amended by deleting it in its entirety and replacing it to read as follows:

13.2.1 Quarterly Payments. County shall pay City on a quarterly basis based upon actual expenditures paid by City on behalf of County during each calendar quarter, which shall be calculated as described in Section 13.3 on or before the following dates of each Renewal Term:

- (a) January 31 (covering October 1 – December 31)
- (b) April 30 (covering January 1 – March 31)
- (c) July 31 (covering April 1 – June 30)
- (d) December 31 (covering July 1 – September 30)

County shall submit payment to City within thirty (30) calendar days following receipt of a correct and complete invoice.

(g) Section 16.3 "Employees" is hereby amended by deleting it in its entirety and replacing it to read as follows:

16.3 Employees. The Parties acknowledge that all employees performing work pursuant to this Agreement are employees of the City. This Agreement shall have no effect upon the personnel policies of the City; or employment status or benefits of any City employee. City retains all authority and liability related to the employment of City's employees. This Agreement does not create an employment contract between the City or County and/or individuals with respect to continued employment or the provision of any benefit. County acknowledges that City intends that each employee is at will, and that either the employee or the City can terminate the employee's employment for any reason and at any time, with or without notice. The County shall not have any contractual or statutory liability for any employee of the City.

(h) Section 19.3 "City Address" is hereby amended by replacing "Carlos Rivera" with "Shannon Jones".

3. Incorporation. City and County hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, City and County hereby ratify all the terms and conditions of the Agreement. The Agreement, with the changes made in this Amendment, constitutes the entire agreement between the Parties and supersedes any prior undertaking, written or oral agreements, or representations between the Parties.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment is effective as of October 1, 2016.

[Signature Page to Follow]

CITY OF AUSTIN

AUSTIN/TRAVIS COUNTY HEALTH


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BY: 
Bert Lumbieras, Assistant City Manager


Date: 10/06/16

AND HUMAN SERVICES

BY: 
Shannon Jones, Director, Health and
Human Service Department

Date: 9/23/16

TRAVIS COUNTY

BY: 
SARAH ECKHARDT
Travis County Judge

Date: SEP 14 2016

County Approvals:

As to Legal Form:


Assistant County Attorney

Date: 9/2/2016

Funds Certified By:

SIGNATURE NOT REQUIRED

Nicki Riley, County Auditor

Date: _____

**FIFTH AMENDMENT AND RENEWAL OF THE INTERLOCAL COOPERATION
AGREEMENT BETWEEN THE CITY OF AUSTIN AND
TRAVIS COUNTY FOR PUBLIC HEALTH SERVICES**

This Fifth Amendment and Renewal ("Amendment") of the Interlocal Cooperation Agreement for Public Health Services ("Agreement") is by and between the City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County"). The City and County will herein be referred to collectively as "Parties."

RECITALS

On October 1, 2013, the City and County entered into the Agreement to provide public health services with an Initial Term of October 1, 2013 to September 30, 2014. The Parties subsequently extended the term through the First Renewal Term from October 1, 2014 to September 30, 2015, a Second Renewal Term from October 1, 2015 to September 30, 2016, a Third Renewal Term from October 1, 2016 to September 30, 2017, a Fourth Renewal Term from October 1, 2017 to December 31, 2017, and now agree to enter into a Fifth Renewal Term from January 1, 2018 to September 30, 2018.

Under the Agreement, the Parties intended for City and County to collaboratively provide public health services throughout the unincorporated areas of Travis County, which would further the achievement of a public purpose. The purpose of this Agreement is to set forth the terms and conditions under which City shall provide, and County shall pay for public health services in the unincorporated areas of Travis County located outside the jurisdiction of the City. These services are to be performed on an annual basis during the Initial Term and any subsequent renewal terms subject to approval of funding by City Council and the Commissioners Court during their respective budget process relating to any renewal term, as long as such renewal is evidenced by written approval of the Parties.

In consideration of these recitals and mutual covenants in this Amendment, the Parties agree as follows:

1. Fifth Renewal Term.

(a) Renewal Term. The Parties agree to renew the Agreement for an additional nine-month term beginning January 1, 2018, and continuing through September 30, 2018 ("Fifth Renewal Term"), unless earlier terminated pursuant to the terms of the Agreement.

(b) Ratification. The Parties agree to ratify continuation of the Parties' rights and obligations under the Agreement from January 1, 2018, until execution by both Parties of this Amendment.

2. Amendments.

(a) Section 5.2, "Attachments," is amended for the Fifth Renewal Term as follows:

- (1) Replace Attachment A-2017, "2017 Work Statement" with Attachment A-2018 "2018 Work Statement."
- (2) Replace Attachment B-2017, "2017 Cost Model" with Attachment B-2018, "2018 Cost Model," including Addendum 1 "Computational Example;"
- (3) Replace Attachment C-2017, "Financial Reports/Forms" with Attachment C-2018, "2018 Invoice Quarterly Billing";
- (4) Replace Attachment D-2017, "Performance Reports" of the Agreement with Attachment D-2018, "2018 Program Performance Reports;"
- (5) Attachment E – "County Personnel" is intentionally deleted for the 2018 Renewal Term;
- (5) Replace Attachment F, "Invoice Form" with Attachment F-2018, "2018 Invoice Form;" and
- (6) Replace Attachment G-2017, "Inventory of County Property" with Attachment F-2018, "2018 Inventory of County Property."

The attachments listed above (Attachments A through G) are included in this Amendment as Exhibit 1, and are hereby made a part of the Agreement, as amended, and constitute promised performance by the Parties in accordance with the terms of the Agreement. The Parties agree that Attachments C-2018, D-2018, and F-2018 may be sample in nature and that these specific forms may be adjusted, added or deleted by mutual agreement of the Parties.

The remainder of Section 5.0 shall remain the same.

(b) Section 4.5 of the Agreement "Transfer of Funds without Amendment" is hereby amended by deleting it in its entirety and replacing it to read as follows:

4.5 Transfer of Funds without Amendment.

Notwithstanding Section 4.0, and as specifically applicable, City may transfer budgeted funds of public health programs between one another without a written amendment to this Agreement ONLY if the transfer will not change the scope or objective of the programs funded under this Agreement.

4.5.1 Major Changes. If a transfer of budgeted funds between public health programs could result in a major change, City must provide written notification to the County Executive by electronic mail or pursuant to Section 19.0 of this Agreement. If the County Executive approves of the major change in program budget, then County Executive or their designee must provide written approval by electronic mail or pursuant to Section 19.0 of this Agreement. No major change in program budget will be effective without the approval of the County Executive or their designee. "Major" change is defined as any change which would result in an increase or decrease of a program budget by

more than fifty percent (50%). "Program" is defined as those program areas described in the Agreement and Attachment A, Work Statement.

4.5.2 Minor Changes. Any transfer of a program budget resulting in a minor change ["minor" being defined as a change which would increase or decrease a program budget by more than ten percent (10%) and equal to or less than fifty percent (50%)] will be noted by City in the "Budget Adjustments" and "Revised Budget" columns of the Quarterly Billing Invoice form to allow for possible discussion with County as requested. "Program" is defined as those program areas described in the Agreement and Attachment A, Work Statement.

The remainder of Section 4.0 shall remain the same.

(c) Section 6.1.3 (c) "Major Changes" of the Agreement is hereby amended by deleting it in its entirety and replacing it to read as follows:

6.1.3 Coordination of Services and Major Changes in Services.

(c) Major Changes.

(i) Annual Major Changes. City and County agree that any major changes in programs/service/activities provided under this Agreement will be discussed by the Parties and agreed to during the budget process prior to each Renewal Term and agreed to only by written amendment to this Agreement.

(ii) Major Changes in an Agreement Term. No major changes in ongoing programs/services/activities provided to County under this Agreement will be made by City during an Agreement Term without prior written approval by County Executive in the form of written notification from the County Executive. Such written approval may be provided by electronic mail or pursuant to Section 19.0 of this Agreement. "Major" changes will be defined basically as any change which would increase or decrease program performance or cost by more than fifty percent (50%). "Program" will be defined as those program areas described in the Agreement and Attachment A, Work Statement.

(iii) Changes Required by Law. The Parties agree that any change in the terms of this Agreement required by a change in federal, state, or local law, rule or regulation will be automatically incorporated herein effective on the date designated by such law, rule or regulation.

(iv) Failure to Agree. Either Party may seek termination under Section 14.2.1 if that Party is unable to conform to such

changes required by federal, state, and local law or regulations or unable to agree to other major changes as set forth in this Section 6.1.3.

(v) Minor Changes. Any minor change ["minor" being defined as a change which would increase or decrease program performance or cost by more than ten percent (10%) and less than or equal to fifty percent (50%)] will be noted by City in the Program Quarterly Performance Report in the Comments/Performance To Date Explanations Section, to allow for possible discussion with County as requested.

(d) Section 6.2.2 "Replacement" of the Agreement is hereby amended by deleting it in its entirety and replacing it to read as follows:

6.2.2 Replacement.

- (a) Capital Acquisition Property. For purposes of this Agreement, "Capital Acquisition Property" ("Property") shall be considered to be any tangible, non-expendable property with a value of more than five thousand dollars (\$5,000). Only property within this definition will be considered for reimbursement by County under this Agreement.
- (b) Cost to the City of Property required because of replacement or because of expanded services shall be:
 - (i) approved by City and County in the budget process related to the year in which the equipment will be purchased; and
 - (ii) charged to County in the year that Property is received by City. The County's responsibility for the cost of Property will be based on the percentage of the residents living in the unincorporated areas of Travis County.
- (c) At such time that the Property has received the appropriate City-level approval for purchase, City shall provide written notification to the County Executive as to the need and purchase price of the Property. Such written notification may be provided by electronic mail or pursuant to Section 19.0 of this Agreement. In order for the Property to be considered for reimbursement by County under this Agreement, the County Executive must approve such purchase in writing. Such written approval may be provided by electronic mail or pursuant to Section 19.0 of this Agreement.
- (d) Exigent Circumstance. Notwithstanding Subsection 6.2.2 (c) of this Agreement, City may purchase Property prior to receiving

County's approval, as described in Section 6.2.2 (c) of this Agreement of the purchase, if an exigent circumstance exists. An exigent circumstance is one that would cause a reasonable person to believe that harm to the program would occur if such purchase was not made immediately. In this situation, City must notify County pursuant to Section 19.0 of this Agreement of the need, purchase price, and provide an explanation of the exigent circumstance ten (10) business days from the date of purchase. County will review and notify City if County agrees to the purchase within ten (10) business days of receiving City's notification as referenced in this Subsection 6.2.2 (c) of this Agreement.

- (e) The County shall determine and be responsible for the disposition of County equipment that has been replaced. The City shall determine and be responsible for the disposition of City equipment that has been replaced.
- (f) In the event of termination of this Agreement by either Party prior to the completion of the useful life of the asset, the Parties will mutually agree to settlement of costs related to such asset.

The remainder of Section 6.0 shall remain the same.

- (e) Section 13.1.1 is hereby amended for the Fifth Renewal Term by replacing the funding amounts under the "Not-To-Exceed Amount" with the following amounts:

<u>CATEGORY</u>	<u>NOT-TO-EXCEED AMOUNT</u>
Total Amount:	\$ 3,234,036

- (f) Section 13.3.1 "Cost Model" is hereby amended by adding subsection (e) to read as follows:

- (e) OPEB Calculation. Other Post Employment Benefits (OPEB). OPEB is comprised of amounts paid to retirees for benefits other than pension benefits. In other words, pension benefits paid to the retired employee are not considered OPEB.

City will remove OPEB costs net of the retirees' contributions from quarterly billings by using the most recently available information from the City's publicly available budget documents. This will be achieved by determining the total retiree insurance expenditures (A), subtracting the total insurance revenues received from retirees (B), and dividing that resulting number by the total amount of insurance expenditures (retiree and current employees) (C), minus OPEB revenues (D). In other words: $(A - B) / (C - D)$. The resulting percentage will be applied to the total insurance billed, as illustrated in the computational example attached as Addendum 1 to Attachment B "Cost Model." When the new

Proposed Budget is published in the summer, a new OPEB calculation will accompany the last two quarterly invoices.

City will utilize the OPEB percentage reflected in the City's financial documents, which includes the Comprehensive Annual Financial Report (also known as the CAFR) and proposed budget, for Fiscal Year 2016 to calculate the first two quarters of the Fiscal Year 2018 invoice, and the Fiscal Year 2017 financial documents to calculate the last two quarters of the Fiscal Year 2018 invoice. The Parties will not adjust the OPEB amount against the final completion of Fiscal Year 2018 financial documents after City submits the last Fiscal Year 2018 quarterly invoice. The OPEB percentage will be applied to the insurance object codes 5185 and 5186 charged to APH, before the administrative cost percentage is applied to the "Adjusted Program Total" column in the cost model, and the resulting amount will be given as a credit to the County on a quarterly basis and reflected as such on the invoice.

OPEB expenses will also be removed from grant support, object code 6820, using the same methodology, but the removal of these charges will be reflected through financials via a journal entry. The City will provide detailed supporting documentation for these journal entries with the quarterly billings referenced in Attachment C-2018.

(g) Section 13.3.1 "Cost Model" is hereby amended by adding subsection (f) to read as follows:

(f) Incentives. Eligible expenses include the payment of incentives to eligible clients, including food and gifts, connected to the provision of the services as specified in the Agreement and Attachment A.

(h) Section 13.3.2 is hereby amended by deleting it in its entirety and replacing it to read as follows:

13.3.2 The cost model does NOT include, either directly or indirectly, any of the following:

(a) Other Post Employment Benefits (OPEB) for City employees whether or not those costs are for current year benefits, prior year benefits, or future year benefits;

(b) employee recognition, rewards or awards other than performance pay documented pursuant to Council adopted compensation schedules;

(c) entertainment and gifts, including food or beverages for City employees, even if related to a business purpose. This subsection (c) notwithstanding, the cost model WILL allow for payment for meal and beverage expenses for City employees incurred during out-of-town trips or conferences related to services provided under this Agreement

EXHIBIT A

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and incurred according to the City travel policy (a current copy of which has been provided to County; copies of amendments will be provided to County whenever changes are made).

(d) legislative consultant services;

(e) donations to non-profit or private organizations;

(f) legal services (the Parties agree that the City has no obligation to provide legal services to County under this Agreement);

(g) consulting services. This subsection (g) notwithstanding, the cost model WILL allow for payment for consulting services directly related to services provided within the scope of this Agreement.

(h) employee recruitment expenses. City may notify the County Executive or their designee of opportunities to participate in employee recruitment activities ("Recruitment Activities"), with a detailed list of related expenses. The County will be responsible for all expenses required for the participation of the County Executive or their designee in Recruitment Activities, and the expenses will not be charged to the cost model described in Section 13.3 of this Agreement. County will make arrangements and pay directly for any expenses related to the participation of County Executive or their designee in Recruitment Activities. City shall not be liable for any costs incurred by the County Executive or their designee associated with their participation in Recruitment Activities. The County Executive shall provide written notification to City confirming the participation of the County Executive or their designee in Recruitment Activities. Written notification by either Party under this subsection may be provided by electronic mail or pursuant to Section 19.0 of this Agreement.

The remainder of Section 13.0 shall remain the same.

All other terms and conditions remain the same, unless amended in this Amendment.

3. **Incorporation.** City and County hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, City and County hereby ratify all the terms and conditions of the Agreement. The Agreement, with the changes made in this Amendment, constitutes the entire agreement between the Parties and supersedes any prior undertaking, written or oral agreements, or representations between the Parties.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment is effective as of January 1, 2018.

EXHIBIT A

Page 8 of 121

[Signature Page to Follow]

EXHIBIT A

Page 9 of 121

CITY OF AUSTIN

BY: 

Sara Hensley, Interim Assistant City Manager

Date: 1-10-18

AUSTIN PUBLIC HEALTH

BY: 

Stephanie Hayden, Interim Director

Date: 01/10/18

TRAVIS COUNTY

BY: 

Sarah Eckhardt
County Judge

Date: DEC 19 2017

County Approvals:

As to Legal Form:



Assistant County Attorney

Date: 1/4/2018

Funds Certified By:



Nicki Riley, County Auditor

Date: 1/8/18

Purchasing:



Bonnie Floyd, Purchasing Agent

Date: 1-12-18

Sustainable Food Center

RFP 9100-SBR3001

Healthy Food Access Education and Outreach

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Sustainable Food Center
Attn: Robin O’Neil, Grants Manager
2921 E 17th St., Building C
Austin, TX 78702



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

SOLICITATION NO: RFP 9100-SBR3001

COMMODITY/SERVICE DESCRIPTION: Healthy Food Access
 Education and Outreach

DATE ISSUED: Monday, July 15, 2019

REQUISITION NO.: RQM 9100 19013000259

COMMODITY CODE: 95243
**FOR CONTRACTUAL AND TECHNICAL
 ISSUES CONTACT THE FOLLOWING
 AUTHORIZED CONTACT PERSON:**

PROPOSAL DUE PRIOR TO: Tuesday, August 6, 2019 at 2:00 PM

PROPOSAL OPENING TIME AND DATE: Tuesday, August 6, 2019
 at 3:00 PM

Primary Contact

Sarah Ramos
 Procurement Specialist II
 Phone: (512) 974-2554
 E-Mail: sarah.ramos@austintexas.gov

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

Secondary Contact

Claudia Rodriquez
 Procurement Specialist IV
 Phone: (512) 974-2959
 E-Mail: claudiar.rodriquez@austintexas.gov

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

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

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

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

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 # 9100-SBR3001	Purchasing Office-Response Enclosed for Solicitation # 9100-SBR3001
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.

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	SCOPE OF WORK	9
0600	PROPOSAL PREPARATION INSTRUCTIONS & EVALUATION FACTORS	4
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – <i>Complete and return</i>	2
0630	EXCEPTION FORM - <i>Complete and return</i>	1
0700	REFERENCE SHEET – <i>Complete and return</i>	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION– <i>Complete and return</i>	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION - <i>Complete and return</i>	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0835	NONRESIDENT BIDDER PROVISIONS – <i>Complete and return</i>	1
0840	SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE – <i>Complete and return</i>	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – <i>Complete & return</i>	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – <i>Complete and return if applicable</i>	3
Exhibit A	Travis County Interlocal for Public Health Services (FY18)	44
Exhibit B	Sixth Amendment and Renewal of Travis County Interlocal for Public Health Services (FY19)	4

*** 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: Sustainable Food Center

Company Address: 2921 E. 17th Street, Bldg. C

City, State, Zip: Austin, TX 78702

Vendor Registration No. AUS6000830

Printed Name of Officer or Authorized Representative: Ronda Rutledge

Title: Executive Director

Signature of Officer or Authorized Representative: 

Date: 8/5/2019

Email Address: ronda@sustainablefoodcenter.org

Phone Number: 512-220-1084

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

Section 0605: Local Business Presence Identification

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

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

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

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR:

Name of Local Firm	Sustainable Food Center	
Physical Address	2921 E 17th St., Building C, Austin, TX 78702	
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?	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?)	<input checked="" type="radio"/> Yes	No

SUBCONTRACTOR(S):

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

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

SUBCONTRACTOR(S):

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



**CITY OF AUSTIN
PURCHASING OFFICE
EXCEPTIONS
Section 0630 Exception Form**

Solicitation Number: RFP 9100-SBR3001

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

Place this attachment in Tab 7 – Exceptions to your Proposal. Copies of this form may be utilized if additional pages are needed.

☒ Accepted as written.

☐ Not accepted as written. See below:

Indicate:

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

Page Number	Section Number	Section Description
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Alternative Language:

Justification:

Responding Company Name Sustainable Food Center

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 Farmshare Austin
Name and Title of Contact Andrea Abel, Executive Director
Project Name Fresh for Less Mobile Markets & Farm Stands
Present Address 3608 River Rd
City, State, Zip Code Cedar Creek, TX 78612
Telephone Number (512) 337-2211 Fax Number ()
Email Address andrea@farmshareaustin.org

2. Company's Name Austin Public Health WIC Program
Name and Title of Contact Annette Phinney, Public Health Division Manager
Project Name Double Dollars
Present Address 7201 Levander Loop
City, State, Zip Code Austin, TX 78702
Telephone Number () Fax Number ()
Email Address Annette.Phinney@austintexas.gov

3. Company's Name People's Community Clinic
Name and Title of Contact Diana Guerra, Program Coordinator
Project Name The Happy Kitchen/La Cocina Alegre
Present Address 1101 Camino La Costa
City, State, Zip Code Austin, TX 78752
Telephone Number (512) 478-4939 Fax Number ()
Email Address Diana.Guerra@austinpcc.org

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

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

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

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

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

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

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

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

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

not continue.

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

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


Sanctions:

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

Term:

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

Dated this 5th day of August, 2019

CONTRACTOR	<u>Sustainable Food Center</u>
Authorized Signature	<u></u>
Title	<u>Executive Director</u>

Section 0835: Non-Resident Bidder Provisions

Company Name Sustainable Food Center

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

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

Answer: 1) Texas Resident Bidder

- (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: n/a Which State: _____

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

Answer: n/a

Section 0840, Service-Disabled Veteran Business Enterprise Preference

Offeror Name
[OFFEROR NAME]

Additional Solicitation Instructions.

- ☒ By checking this box, Offeror states they are NOT a certified Service-Disabled Veteran Business Enterprise seeking to claim preference points under the City of Austin's SDVBE Program.
- Offerors seeking to claim the Service-Disabled Veteran Business Enterprise (SDVBE) preference shall be certified **under one of the two following scenarios**. Offerors shall check one of the following boxes, input the data in the applicable table below and include this completed form in their Proposal.
 - ☐ **HUB/SV**. Offeror is certified as a Service-Disabled Veteran (SV) Historically Underutilized Business (HUB) by the Texas State Comptroller of Public Accounts.

Texas State HUB/SV Certification	
13-Digit Vendor ID (VID)	
HUB/SV Issue Date	
HUB/SV Expiration Date	

- ☐ **HUB/OTHER + Federal SDVOSB**. Offeror is certified by the Texas State Comptroller of Public Accounts as a Historically Underutilized Business in a HUB Eligibility Category other than Service-Disabled Veteran (SV) AND is verified by the US Veterans Administration as a Service-Disabled Veteran-Owned Small Business (SDVOSB). **Texas HUB Eligibility Categories:** HUB/BL (Black), HUB/AS (Asian), HUB/HI (Hispanic), HUB/AI (Native American), or HUB/WO (Women Owned).

Texas State HUB/OTHER Certification	
13-Digit Vendor ID (VID)	
HUB Eligibility Category	
HUB Issue Date	
HUB Expiration Date	

Federal SDVOSB Verification	
9-Digit DUNS	
SDVOSB Issue Date	
SDVOSB Expiration Date	

- Offeror Identity**. The Offeror submitting the Proposal shall be the same entity that is certified by the Texas State Comptroller of Public Accounts, AND if applicable as verified by the US Veterans Administration.
- Certification Status**. Offeror's certification(s) must be active on or before the Solicitation's due date for Proposals and shall not expire prior to the award and execution of any resulting contract.
- Confirmation of Certification(s)**. Upon receipt of this completed form, the City will confirm the Offeror's certification(s): State: <https://mycpa.cpa.state.tx.us/tpasscmbsearch>. Federal: <https://www.vip.vetbiz.gov/>. The City will direct any questions concerning an Offeror's State or Federal certification status to the Offeror's contact person as designated on the Offer Form of their Proposal.
- Misrepresentation**. If the City determines that the Offeror requesting this preference is not certified by the State or Federal government if applicable, the Offeror will not receive the preference points. If the City determines that this misrepresentation was intentional, the City may also find the Offeror not responsible and may report the Offeror to the Texas State Comptroller of Public Accounts or if applicable to the US Veterans Administration. If the misrepresentation is discovered after contract award, the City reserves the right to void the contract.

Section 0900: SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM

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:

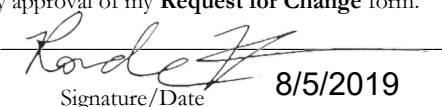
- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.
b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. **Offers that do not include the following required documents shall 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	Sustainable Food Center		
City Vendor ID Code	AUS6000830		
Physical Address	2921 E 17th St., Building C		
City, State Zip	Austin, TX 78702		
Phone Number	5122360074	Email Address	robineoneil@gmail.com
If 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		
<p>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.</p> <p>Ronda Rutledge, Executive Director</p> <div style="display: flex; justify-content: space-between;"> <div>Name and Title of Authorized Representative (Print or Type)</div> <div>  Signature/Date 8/5/2019 </div> </div>			

Section 0905: SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

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

GOOD FAITH EFFORTS CHECK LIST –

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

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

- ☒ **Follow up with responding M/WBE firms.** Offeror shall follow up with all M/WBE firms that respond to the Offeror's request. Offerors shall provide written evidence of their contact(s): emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.

- ☒ **Advertise.** Offerors shall place an advertisement of the subcontracting opportunity in a local publication (i.e. newspaper, minority or women organizations, or electronic/social media). Offerors shall include a copy of their advertisement, including the name of the local publication and the date the advertisement was published.

- ☒ **Use a Community Organization.** Offerors shall solicit the services of a community organization(s); minority persons/women contractors'/trade group(s); local, state, and federal minority persons/women business assistance office(s); and other organizations to help solicit M/WBE firms. Offerors shall provide written evidence of their Proof of contact(s) include: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, organization contacted, phone number, email address and contact person.

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

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

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

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

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

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

 Reviewing Counselor

 Date

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

 Director/Assistant Director or Designee

 Date



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

Solicitation: RFP 9100 SBR3001

Addendum No: 1

Date of Addendum: 7/17/19

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

I. Questions:

Question 1: Whether companies from Outside USA can apply for this? (like, from India or Canada)

Response: The Contractor shall have a minimum of two (2) years working in Austin, Texas and or Travis County.

Question 2: Whether we need to come over there for meetings?

Response: All meeting will take place in Austin, Texas and or Travis County areas.

Question 3: Can we perform the tasks (related to RFP) outside USA? (like, from India or Canada)

Response: No, all tasks will be performed in Austin, Texas and or Travis County areas.

Question 4: Can we submit the proposals via email?

Response: No. Email, facsimile, or electronic Offers will not be accepted.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: Sarah Ramos, Procurement Specialist II

ACKNOWLEDGED BY:

Ronda Rutledge

Name

Authorized Signature

8/5/2019

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
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS**

Solicitation: 9100-SBR3001

Addendum No: 2

Date of Addendum: 07/30/2019

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

I. Clarifications:

- I.1 Replace Section 0600: Proposal Preparation Instructions, with the attached updated version as of 7/30/19.

II. Questions & Answers:

Question1: We were unable to find a budget template on the website—is there a specific budget template that we should use for this proposal?

Answer: Provide an all-inclusive cost proposal that itemizes materials, supplies, labor, warranty, travel, and administrative burden to complete the project. Your organization's method of costing may or may not be used but shall be described. There is not a budget template provided, but please provide budgets using the following categories:

Personnel

- Salaries
- Fringe

Operating Expenses

- Supplies
- Consultants/contractual
- Travel (mileage)
- Equipment
- Other

Indirect Expenses (must be less than 10% of total contract)

The Section 0600 has been updated to reflect this information.

Question2: As we are going through the list of forms to be included in Tab 1 of the proposal, there are several that we believe are not applicable to us as an organization. Is it required that all of the forms listed in Tab 1 be included in the application, even if we specify on the form "N/A"? This would apply to Section 0805, 0835 and 0840. If we do need to submit all of these forms, we do not have Section 0805 and cannot find it on the website.

Answer: All of the forms listed in Tab 1 are City of Austin required forms and should be submitted with your proposal.

The 0805 does not require a response because it is incorporated by reference to this particular solicitation. You can find the form here:

https://assets.austintexas.gov/purchase/non_suspension_or_debarment_certification.pdf

The 0835 and 0840 are required to be filled out and returned. There are options on each form to select if the provision does not apply to your organization.

Question3: And on Tab 6 (Exceptions), instructions are to include Section 0630; but on that form it says it should be placed in Tab 7—there is not a Tab 7 listed. Confirming that this just a typo?

Answer: The exceptions form should be placed in Tab 6 (not Tab 7).

Question4: Will there be 10 active sites as of October 19? There are currently only 5 sites listed on Fresh for Less of the Austin website.

Answer: There will be 10 sites as of October 19.

Question5: How many weeks out of the year these sites will be open?

Answer: These sites will be open a minimum of 9 weeks. Respondents should note section 5.4.5 in the 0500 for the numbers of recipe samplings required.

5.4.5 Provide recipe sampling and basic nutrition information to mobile market customers. Recipe sampling shall take place for the full two (2) hours of mobile market operations. Each mobile market shall have sampling one (1) time per month

5.4.5.1 a minimum two (2) recipe samplings for each of 10 fall markets from contract start date through December 31st

5.4.5.2 a minimum of four (4) recipe samplings for each of 14 spring markets from January 1st through May 31st

5.4.5.3 a minimum of one (1) recipe sampling for each of 4 summer markets from June 1st through August 31st

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: _____
Claudia Rodriguez, Procurement Specialist IV
Purchasing Office, (512) 974-2959

Date

ACKNOWLEDGED BY:

Ronda Rutledge

Name



Authorized Signature

8/5/2019

Date

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

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CITY OF AUSTIN PURCHASING OFFICE
SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

****Updated 07/30/2019****

1. PROPOSAL FORMAT

The original copy shall be submitted on 8.5 x 11 inch paper, bound or in a 3-ring binder, shall be clearly labeled as “**ORIGINAL**” and shall include the original signature of the person authorized to sign on behalf of the Proposer.

The electronic copy shall be an exact replica of the original paper copy. The electronic proposal shall be saved as a single PDF file copy of the original submitted paper proposal.

Organize your Proposal in the information sequence described below. Use tabs to divide each part of your Proposal and include a Table of Contents with page numbers. Proposers should provide all details in the Proposal described below and any additional information you deem necessary to evaluate your Proposal:

Tab 1 - Required Documents:

Complete and submit the following documents:

- i. Signed Offer Sheet (pages 1-3)
- ii. Section 0605 - Local Business Presence Identification Form
- iii. Section 0630 – Exception Form - List any exceptions that your company is making to the solicitation in Section 0630. Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.
- iv. Section 0700 – Reference Sheet
- v. Section 0800 - Non-Discrimination and Retaliation Certification
- ~~vi. Section 0805 - Non-Suspension or Debarment Certification~~
- vii. Section 0835 - Nonresident Bidder Provision
- viii. Section 0840 - Service-Disabled Veteran Business Enterprise
- ix. Section 0900/0905 – Subcontracting/Sub-Consulting Utilization Form and/or Plan.
- x. Signed Addenda, if issued by the City

Tab 2 - Experience and Qualifications (37 points):

Provide the following information:

- i. Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal.
- ii. Full name and address of your non-profit organization; identify parent organization if you are a subsidiary. Include the State(s) in which incorporated or licensed to operate and how long your company has been in business. Provide documentation attesting to your organization's active 501(c)(3) status.
- iii. Experience and Qualifications. Describe your organization's experience in the following areas:
 - a) Experience conducting nutrition education, recipe sampling and/or outreach for low income populations and persons of color, including Spanish-speaking populations.
 - b) Experience engaging and establishing partnerships in underserved and low-income communities using a community health worker (CHW) or “promotora” model.
 - c) Have a minimum of two (2) years working in Austin, Texas and or Travis County to establish healthy communities.
- iv. Personnel Experience and Qualifications. Provide resumes or bios for leadership and key personnel who will provide services under the Contract. Describe each individual's experience and competencies in obtaining/creating and preparing recipes that feature Texas grown seasonal produce available at mobile markets for sampling, ability to manage logistics of nutrition education/recipe sampling and outreach at multiple mobile market sites, and ability to recruit, train, and manage a culturally competent workforce of promotoras/community health workers or other qualified staff who are reflective culturally and linguistically of the priority

SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH****Updated 07/30/2019****

populations for this RFP. Include details, such as educational background, previous experience with similar projects, position title, CHW or food handler certifications (if applicable), number of years with your firm, awards, past employment, etc.

Tab 3 - Approach, Methodology and Work Plan (40 points):

Describe how you plan to accomplish the project described in the Scope of Work (Section 0500) and include any additional information you deem necessary to evaluate your proposal. At a minimum, specifically provide or indicate the following:

- i. Approach and Methodology: Describe the approach and methodology to be employed, underlying philosophies that inform the approach/methodology, organizational values, and the result intended and desired. Provide details on how your approach/methodology will meet or exceed the requirements described in the Scope of Work. The approach/methodology should particularly address how you would: recruit and train a culturally competent workforce of CHWs/Promotoras to conduct outreach and nutrition education/recipe sampling, obtain recipes and prepare culturally appropriate, healthy samples that feature fruits and vegetables currently available at mobile market locations, assure that basic nutrition and food storage information is provided during mobile market sampling events, obtain all necessary City of Austin permits necessary for preparation and distribution of food samples, and conduct supplemental outreach in the priority area(s) chosen by mobile market operator and Austin Public Health (APH) to increase the customer base of the mobile markets with a focus on lower income individuals (under 200% of the Federal poverty level), individuals who receive Supplemental Nutrition Assistance Program (SNAP) benefits, and communities of color disproportionately impacted by chronic disease.
- ii. Work Plan:
 - a) Provide a detailed narrative of your proposed work plan for accomplishing the Scope of Work. Include a breakdown of the work by task and timeline. Include project deliverables provided in the Scope of Work and any other proposed milestones and deliverables as well as meetings, etc.
 - b) Proposed Project Team. Include names and titles of all professional personnel including the Project Manager who will be assigned to this project. State the primary work assigned to each person and the percentage of time each person will devote to this project. Specify project leadership, team personnel, and reporting responsibilities. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor. Please include if any proposed project staff are Bilingual in English and Spanish.

Tab 4 - Total Evaluated Cost (10 points):

Provide an all-inclusive cost proposal that itemizes materials, supplies, labor, warranty, travel, and administrative burden to complete the project. Your organization's method of costing may or may not be used but shall be described.

There is not a budget template provided, but please provide budgets using the following categories:

Personnel

- Salaries
- Fringe

Operating Expenses

- Supplies
- Consultants/contractual
- Travel (mileage)
- Equipment

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CITY OF AUSTIN PURCHASING OFFICE
SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

****Updated 07/30/2019****

- **Other**
Indirect Expenses (must be less than 10% of total contract)

Tab 5 - Authorized Negotiator:

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

Tab 6 - Exceptions to the Proposal: If applicable include this form in your Proposal package (Section 0630):

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

2. PROPOSAL ACCEPTANCE PERIOD: All proposals are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the proposal.

3. LOCAL BUSINESS PRESENCE: The City seeks opportunities for businesses in the Austin Corporate City Limits to participate on City contracts. 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. Points will be awarded through a combination of the Offeror's Local Business Presence and/or the Local Business Presence of their subcontractors. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of work as reflected in the Offeror's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. Specify if and by which definition the Offeror or Subcontractor(s) have a local business presence.

4. SERVICES-DISABLED VETERAN BUSINESS ENTERPRISE ("SDVBE"): Pursuant to the interim Service-Disabled Veteran Business Enterprise (SDVBE) Program, Offerors submitting proposals in response to a Request for Proposals shall receive a three point (3 percent) preference if the Offeror, at the same time the proposal is submitted, is certified by the State of Texas, Comptroller of Public Accounts as a Historically Underutilized Business and is a Service-Disabled Veteran Business Enterprise. This preference does not apply to subcontractors. To receive this preference, Offerors shall complete the enclosed Section 0840 Service-Disabled Veterans Business Enterprise Preference Form, in accordance with the Additional Solicitation Instructions included therein.

5. PROPRIETARY INFORMATION:

All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt. If a Proposer does not desire proprietary information in the proposal to be disclosed, each page must be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information must be

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CITY OF AUSTIN PURCHASING OFFICE
SECTION 0600: PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

****Updated 07/30/2019****

disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

6. PROPOSAL PREPARATION COSTS:

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

- 7. DEBRIEFINGS:** Any Offeror to this solicitation may request a debriefing up until 30 calendar days after the contract has been fully executed. Accepting debriefing requests after 30 days of contract execution will be at the sole discretion of the City. Debriefings will be scheduled at the availability of the authorized point of contact and will focus specifically on the offer submitted by the Offeror.

8. EVALUATION FACTORS AND AWARD:

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

B. **Evaluation Factors:**

a. 100 points

- | | |
|--|-----------|
| 1. Experience and Qualifications | 37 Points |
| 2. Approach, Methodology and Work Plan | 40 Points |
| 3. Total Evaluated Cost | 10 Points |
| 4. Local Business Presence | 10 Points |

Local Business Presence shall be scored according to this table:

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

- | | |
|---|----------|
| 5. Service-Disabled Veteran Business Enterprise | 3 Points |
|---|----------|

- b. The City will score proposals on the basis of the criteria listed above. The City may select a "short list" of Proposers based on those scores. "Short-listed" Proposers may be invited for presentations, demonstrations, or interviews with the City. The City reserves the right to re-score "short-listed" proposals as a result, and to make award recommendations on that basis.



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

Solicitation: 9100-SBR3001

Addendum No: 3

Date of Addendum: 07/31/2019

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

I. Question & Answer:

Question1: Quick question - in reading, just saw a line buried that says that only non-profits may submit for this RFP?

Answer: Eligible respondents for this RFP are non-profit entities.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Ronda Rutledge

Name

A handwritten signature in black ink, appearing to read "Ronda Rutledge", written over a horizontal line.

Authorized Signature

8/5/2019

Date

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

Solicitation: 9100-SBR3001

Addendum No: 4

Date of Addendum: 07/31/2019

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

I. Question & Answer:

Vendor Question: Is it just one or more agency getting awarded the grant?

Answer: This contract will be awarded to one vendor.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Ronda Rutledge

Name

Authorized Signature

8/5/2019

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.

TAB 2 – Experience & Qualifications

- i. Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal.

Sustainable Food Center (SFC) is a 501(c)(3) nonprofit organization located in Austin, Texas with a mission to cultivate a healthy community by strengthening the local food system and improving access to nutritious, affordable food. SFC envisions a food-secure community where all children and adults grow, share, and prepare healthy, local food.

Through this proposed contract, SFC will promote the healthy food access and education of Fresh for Less mobile market customers by utilizing and leveraging the existing assets developed by our Food Access and The Happy Kitchen/*La Cocina Alegre*® (THK) programs to meet the project's expressed goals. SFC remains a recognized leader in implementing peer-facilitated nutrition education programming to low-income, low-access, bilingual communities in Austin via our award-winning free six-week series nutrition education curriculum. Similarly, through our innovative Double Dollars program, SFC has successfully paved the way for direct-to-consumer markets to improve the financial and geographic access to healthy, affordable produce for low-income shoppers. In recent years, we have developed and improved upon new models for community engagement that promote the City's Fresh for Less Initiative mobile market and farm stand locations by developing community leadership around these healthy food assets. Our proposed project thus builds on our collective assets and knowledge to deliver results outlined in the contract's scope of work, including conducting recipe sampling events, organizing and implementing a *promotora* program to support mobile markets, and providing other nutrition education support.

Our approaches at fulfilling this proposed contract are outlined as follows:

- 1) Identify & select recipes from our THK cookbook and curriculum for use in recipe samplings at mobile markets and other community locations/events.
- 2) Adapt themes from THK curriculum into consolidated nutrition education messages to be used alongside recipe samplings
- 3) Identify, recruit & train *promotoras* to conduct recipe samplings at mobile markets and facilitate community dialogue
- 4) Train Fresh for Less *Promotoras*
- 5) Implement supplemental outreach and education strategies to drive sales and engagement at mobile markets

In implementing these approaches, we plan to achieve the following outputs/outcomes:

- Recruit & Train 3-4 *Promotoras* by November 2019
- Lead (at least) 90 recipe samplings that include nutrition education at mobile markets
- Conduct a minimum of 150 community outreach hours
- Co-locate 2-3 of SFC's The Happy Kitchen/*La Cocina Alegre*® classes in target zip codes

SFC will work closely with the City's evaluation contractor to ensure the highest quality outcome and process evaluation.

- ii. *Full name and address of your non-profit organization; identify parent organization if you are a subsidiary. Include the State(s) in which incorporated or licensed to operate and how long your company has been in business. Provide documentation attesting to your organization's active 501(c)(3) status.*

Sustainable Food Center, Inc.
2921 E 17th St., Building C
Austin, TX 78702

*501(c)3 IRS Determination Letter attached at end of Tab 2

- iii. Experience and Qualifications.
- a. *Experience conducting nutrition education, recipe sampling and/or outreach for low income populations and persons of color, including Spanish-speaking populations.*

Sustainable Food Center maintains over four decades of experience conducting programming aimed at promoting healthy food access and nutrition education in the Austin area – especially in low-income, low-access tracts of the city – beginning in 1975 with our inception as Austin Community Gardens and evolving over time to expand programming serving underserved and/or food insecure communities of Austin.

SFC first launched The Happy Kitchen/*La Cocina Alegre*® (THK) nutrition education program in 1995 with the primary aim of providing peer-facilitated cooking and nutrition classes targeting a low-income, mostly female, Spanish-speaking audience that may be at risk of food insecurity, obesity, and/or diet-related disease. The cornerstone of THK is the free six-week series which features a specially-designed (bilingual) curriculum that promotes long-lasting dietary behavior change through. Each six-week series includes hands-on instruction in preparing quick, healthy, culturally appropriate meals with an emphasis on seasonal and readily available ingredients. The program is reliant on and driven by a network of community leaders, trained using a *promotora* model of facilitation.

A high demand for the THK free six-week series exists each year; we offer 20-24 series to 500+ individuals annually. Last year, 84% of participants reported an increase in fruit and vegetable consumption as a result of the classes, and 94% reported gaining knowledge or skills to make healthier choices. Both figures are in line with our historical average for impact. Further, 80% of participants reported learning about farmers' markets and Fresh for Less sites through the series. In some cases, THK's highly effective nutrition education model has lent itself to replication at other organizations. For example, People's Community Clinic was trained in 2012 to use the THK curriculum; they now offer about eight free community cooking and nutrition series in English or Spanish each year.

Adding to our experience serving low-income populations, SFC launched Double Dollars in 2012 – the first nutritious food incentive program in Texas – to incentivize purchases of fruits and vegetables by households receiving public benefits (SNAP, WIC, and WIC FMNP) at direct-to-consumer markets in the Austin MSA. Double Dollars operates year-round and has expanded from one site in 2012 to eighteen sites in 2019, including all Fresh for Less sites, which make up the majority of Double Dollars locations.

SFC piloted and developed a farm stand program at various community-centered locations in south and southeast Austin (e.g. schools, community centers) a year prior to the launch of the Fresh for Less Initiative in 2016. This pilot was a direct response to requests SFC received from community leaders to

address barriers to food access – specifically high-quality fruit and vegetables that were easily accessible, affordable, and culturally appropriate. Farm stands were planned and organized in collaboration with these community leaders. The farm stand project later coalesced into a Fresh for Less-funded project when SFC contracted with Austin Public Health as part of the City’s multi-pronged to provide coordinated food access services. Sales nearly doubled from ~\$7,000 to ~\$12,000 over the first two years of the Fresh for Less Farm Stand project, indicating success of the program’s design and marketing to impact individual shopping habits; community members were purchasing greater quantities and more variety of produce year over year. To support the growth of farm stands, SFC saw an opportunity to broaden the scope of outreach by offering additional education and resources at the farm stands as a compliment to the community-based asset. Our staff began providing farm stand *promotoras* with comprehensive trainings to augment their capacity to engage with the community community, specifically training them on outreach and engagement tactics, Fresh for Less brand messaging, nutrition education, and how to conduct recipe samplings. These farm stands continued to be community-led as SFC expanded the project to 7 sites with funding through the City of Austin’s Healthy Food Access Initiative.

b. Experience engaging and establishing partnerships in underserved and low-income communities using a community health worker (CHW) or “promotora” model.

As previously expressed, SFC has utilized a *promotora* model of engagement in our work for over two decades, starting with THK in 1995. This model of engagement is generally reflective of SFC’s approach in working with underserved and low-income communities: the most sustainable solutions to improving health and food security are those that are community-driven. The long held success of THK’s model has allowed other organizations and SFC programs to adopt or overlay *promotora* models in their operations. To this day, THK maintains 43 active facilitators.

Double Dollars relies on an internally-tested system of outreach and engagement to attract new and returning shoppers to participating markets. We have iterated different strategies geared to low-income customer engagement, understand the importance of having bilingual materials and bilingual staff available to help customers navigate the markets and utilize their public benefits at our markets.

In the context of our food access/farm stand work, SFC defines *promotoras* as people from the community who can offer peer-to-peer support, identify with our customer base, and are already doing community-based service. The first farm stand *promotoras* mostly focused on “site-based outreach,” attending community events with the goal of providing visibility to their own specific neighborhood farm stand. This approach was critical in establishing and retaining a strong customer base; because they lived in the same communities where the farm stands were located, *promotoras* were able to tap into their existing relationships and inherent knowledge of their own communities, to build trusting relationships between the community and the farm stand. For instance, farm stand *promotoras* regularly received text messages from shoppers asking to hold a certain item, sharing what they had prepared with their purchases, and making specific requests for additional items they’d like to see being sold.

As SFC’s role with the Fresh for Less pivoted toward a deeper level of community engagement, we began contracting with additional *promotoras* to implement a “regional outreach strategy” that would collectively serve mobile market and farm stand sites clustered in broader tracts of the city. Unlike community leaders operating and supporting individual farm stands, this cohort was comprised of certified Community Health Workers. SFC first piloted an official “Fresh for Less *Promotora*” model in

the Rundberg/North Lamar neighborhood. Fresh for Less *Promotoras* led recipe samplings at farm stands and mobile markets, conducted outreach at community events, distributed flyers to partner organizations, and maintained communications with the community via social media and texting services. Between October 2018 – June 2019, *Promotoras* conducted 13 recipe sampling events, reaching a total of 325 people and distributed 9,225 Fresh for Less flyers directly to community members, as well as to partner sites.

- c. *Have a minimum of two (2) years working in Austin, Texas and or Travis County to establish healthy communities.*

SFC was officially incorporated in Austin, TX in 1993. In 1995, it merged with Austin Community Gardens (inc. 1975).

- d. *Provide resumes or bios for each individual who will provide services under the Contract.*

****Resumes/bios attached at end of Tab 2**

- iv. Describe the following for each leadership and key personnel:

This proposed work will be led by staff on Sustainable Food Center's Food Access and The Happy Kitchen/*La Cocina Alegre*® teams. Historically, these programs have operated largely independently. However, beginning in our 2020-2021 fiscal year, SFC will begin transitioning to a new "Food Access and Education" team that will consolidate the work of these two teams and built on their collective assets. This transition comes as part of a new, long-term vision of the organization – *Regenerate our Land, Reform our Food* – to dramatically increase consumption of regionally produced food in the Austin MSA. In recent years the two programs have moved toward more coordinated operational plans, beginning with the trial of a Fresh for Less *Promotora* program. In combining the educational (curriculum and recipes) and leadership development assets (*promotora* model) of THK with the established mechanisms (Double Dollars) and outreach strategies (digital and interpersonal) of our Food Access team, we believe there is even more value we can bring to low-income, low-access consumers of Austin through this proposed project. The project's activities would be led by the following SFC staff:

Simone Benz:

Simone is the Food Equity and Outreach Manager for Sustainable Food Center's Food Access department. She works closely with community leaders to increase awareness of food access points in high needs areas and engage a broad customer base, maintaining close relationships with community stakeholders to assess areas of greatest need and identify potential for collaboration. Simone began her work with Sustainable Food Center as a Community Outreach Coordinator for the newly-launched Double Dollars program. In that capacity, Simone built relationships with community leaders from South and Southeast Austin who expressed a strong interest in having food access in their own neighborhoods. As a result, Simone worked together with community leaders and partner organizations to design community Farm Stands. Simone managed all elements of community Farm Stands, including procurement, operations, outreach, and reporting. Simone was raised in Managua, Nicaragua and holds a Bachelor of Arts in Environmental Studies and a Bachelor of Arts in International Relations from Franklin University Switzerland. She is fluent in Spanish.

Molly Costigan:

Molly is the Program Director for Sustainable Food Center's The Happy Kitchen/*La Cocina Alegre*®. In that capacity, she manages the free six-week cooking and nutrition series, including conducting outreach in low-income communities and communities of color, maintaining a bilingual cookbook of healthy, seasonal recipes, updating the class curriculum, training and supervising a network of 43 community facilitators, and conducting program evaluation. Classes are taught in English or Spanish. Community facilitators are identified from among past class participants and are trained using a *promotora* model for peer-to-peer education. Molly started with SFC as a community health organizer through the AmeriCorps VISTA program. She has been with SFC for eight years and with The Happy Kitchen for six. Molly is a graduate of Elon University and a former recipient of a U.S. Fulbright Student Grant in Spain. She is fluent in Spanish and holds a Food Handler Certificate and Food Manager Certificate.

Adriana Prioleau:

Gloria Adriana Botello de Prioleau (Adriana) is the manager for Sustainable Food Center's The Happy Kitchen/*La Cocina Alegre*®. Adriana was born in Mexico City and her family moved to Monterrey when she was 16. She studied Civil Engineering and is still very adept at AutoCAD. Adriana loves her work with the public and her facilitators, coordinating classes for Spanish speakers who want to learn more about family nutrition and food preparation. She particularly enjoys menu planning for the classes. Adriana translates all of the recipes into Spanish for SFC's "Fresh Seasonal Recipes" cookbook. Adriana grows her own vegetables in her own garden, and she designed and manages SFC's herb garden, with herbs from many world cuisines available to SFC for cooking classes and any other need. She is a native Spanish speaker.

Sayuri Yamanaka:

Sayuri is the Community Engagement Manager for Sustainable Food Center. She works with teams within and outside of SFC to lead community engagement efforts and strengthen SFC's Food Access initiatives. In that capacity Sayuri ensures community buy-in by, utilizing an inclusive, multi-cultural approach. She developed a portfolio of community engagement/outreach services for low income audiences to increase awareness about food access, using culturally appropriate interventions. This includes building relationships with local stakeholders such as local government, private sectors, local NGOs, leaders and community organizers. She has been with SFC for three years. Sayuri holds a Master Degree in Environmental Sciences. She is a native Spanish speaker and holds a Food Handler Certificate.

SIMONE BENZ

Tel. (214) 449.9957

simone@sustainablefoodcenter.org

EMPLOYMENT HISTORY

Sustainable Food Center – Austin, TX

Food Equity and Outreach Manager

July 2019-Present

- Lead SNAP outreach strategy for Double Dollars (Double Up Food Bucks)
- Manage a team of *promotoras* who lead Food Access outreach, engagement and education initiatives
- Conduct partner engagement with key organizations and individuals
- Lead SFC's internal Equity Team

Food Access Projects Manager

July 2017-June 2019

- Managed logistics for all aspects of community Farm Stands, including selecting produce from local growers based on community feedback, coordinating with delivery services to get produce to 7 weekly stands, and securing contracts with city and school officials
- Recruited, trained and managed 11 of Promotoras who led operations and outreach efforts for community Farm Stands
- Provided training and oversight of all aspects of operations and outreach for community Farm Stands
- Developed partnerships with community organizations and key individuals

Community Outreach Coordinator

March 2013 – June 2017

- Conducted community outreach to promote SFC's newly-launched Food Access incentive initiative: Double Dollars
- Engaged with community members and SFC partners to promote and increase accessibility to SFC's programming and resources by conducting cooking demonstrations and recipe sampling, as well as giving presentations and attending community events
- Operated Food Access programming on-site at SFC Farmers' Markets, including the SFC Double Dollars Project (DD), WIC, SNAP and FMNP programs. Duties will include interacting with clients to conduct and record transactions and providing information to clients about using their benefits at markets.

Green Canary Sustainability Consulting – Austin, TX;

Intern

January 2012– December 2012

- Leveraged key partners and stakeholders to develop local and national social marketing strategies for shorebird conservation, child and infant safety, and energy conservation
- Conducted focus groups, in-depth interviews and surveys in English and Spanish to gauge perceptions and provide strategic direction for various statewide health and safety campaigns
- Engaged with target audiences in English and Spanish to promote statewide public health campaigns

International Union for the Conservation of Nature – Gland, Switzerland

Intern

June 2010 – August 2010

- Carried out and synthesized research on food security and resilience in a watershed community in Guatemala
- Designed and conducted interviews with IUCN regional leaders and project managers in English and Spanish
- Developed a case study linking food security to resilience and empowerment watershed environments

EDUCATION

Franklin University Switzerland

Bachelor of Arts, International Relations

May 2011

Thesis - Power and Property: Land Tenure Security in Sub-Saharan Africa

Bachelor of Arts, Environmental Studies

May 2011

Thesis - Resilience and Food Security in the Tacaná Watershed: A Case Study

American Nicaraguan School

June 2007

PROFESSIONAL SKILLS AND EXPERIENCE

Program Management

Public Speaking

Interpersonal Communication

Community Organizing

Systems Thinking

Languages: Fully bilingual (Spanish fluency); Conversational German and French

Molly M. Costigan

mollymcostigan@gmail.com • 502-330-9806

1200 W. 40th St, Apt 135 • Austin, TX 78756

molly@sustainablefoodcenter.org

WORK EXPERIENCE

Program Director for The Happy Kitchen/La Cocina Alegre®, SUSTAINABLE FOOD CENTER, Austin TX

October 2018-Present

- Leadership:
 - Serve on agency leadership team, participate in strategic planning and decision-making, guide programming & decision-making in alignment with agency mission and vision
 - Oversee fee-based classes and rental space as part of an earned-revenue model, bringing in \$73K annually
- Program Management (see below)
- Curriculum & Recipe Development (see below)
- Class Management (see below)

Program Manager for The Happy Kitchen/La Cocina Alegre®, SUSTAINABLE FOOD CENTER, Austin TX

June 2016-October 2018

- Program Management:
 - Lead program planning, budgeting, and reporting, train community facilitators to lead classes, supervise Program Coordinator
- Curriculum & Recipe Development:
 - Create and maintain curriculum and cookbook for free cooking & nutrition classes in English and Spanish
- Class Management (see below)

Program Coordinator for The Happy Kitchen/La Cocina Alegre®, SUSTAINABLE FOOD CENTER, Austin TX

August 2013-June 2016

- Class Management:
 - Coordinate outreach, implementation, and evaluation for free cooking & nutrition classes geared towards low-income communities and communities of color; communicate with volunteers, class facilitators, class participants, and community partners; maintain records of attendance and evaluation

AmeriCorps VISTA Community Health Organizer, SUSTAINABLE FOOD CENTER, Austin, TX

August 2011-August 2013

- Facilitated the development of parent and staff wellness teams at Title One elementary schools by identifying and cultivating community leaders and helping them achieve their goals for campus health

Fulbright English Teaching Assistant, CEIP BAUTISTA LLEDÓ, Benidorm, Spain

September 2010-June 2011

- Assisted the English teacher in the three-year olds' class as part of a pilot multilingual program; provided a model for a native English accent, organized activities, and carried out lesson plans; volunteered as a Spanish teacher for recent immigrants to the region

SKILLS, CERTIFICATIONS, AND MEMBERSHIPS

- | | |
|---|---|
| <ul style="list-style-type: none"> • Spanish Fluency • TOEFL Certification • ANSI Food Handler Certification • Food Manager Certificate • Central TX Diabetes Coalition Member | <ul style="list-style-type: none"> • Austin Cancer Support Coalition Member • Questionnaire Design for Social Surveys, Online Course Participant • Diabetes – the Essential Facts, Online Course Participant |
|---|---|

EDUCATION

Bachelor of Arts, Elon University, Elon, NC

May 2010

Major: Spanish; Minors: Human Services and Nonviolence Studies

GPA: 3.715

Study Abroad: Fall 2008 Foundation International Education, Universidad Europea de Madrid

HONORS

Elon Honors Fellow—a thesis-based, 4 year academic scholarship program admitting 40 incoming students per year

Phi Kappa Phi—Honor Society

Dean's List and President's List

Adriana Botello Prioleau

3622 Manchaca Rd. #224

Austin TX 78704-5992

gabp8dec65@hotmail.com (512) 653-0941

SKILLS

- Menu planning and cooking: delicious, nutritious, affordable and fun!
- Garden design and management. I grow much of our food.
- Expert in AutoCAD design software.
- English/Spanish bilingual (Spanish is the first language).

EXPERIENCE

Sustainable Food Center, Austin, Texas

Manager, The Happy Kitchen (La Cocina Alegre)

2019 -

Coordinator, The Happy Kitchen (La Cocina Alegre)

2010 - 2019

- Organize and manage classes for the public to learn more about nutrition and cooking excellent meals for their family.
- Translate course materials into appropriate Spanish.
- Help develop curricula and cookbooks.
- Train instructors to lead classes.
- Quality control function to ensure high standards of instruction in every class.
- Planned, designed and created an herb garden on SFC premises that features herb plots for various cuisines (Mexican, French, Italian, Indian, Thai, etc.).
- Extensive knowledge of family nutrition, menu planning and preparation, and how to evaluate the nutritional qualities of pre-prepared food from stores.

The Natural Gardener, Austin, Texas

Customer Service

2009 - 2010

- Help customers and take care of plant inventory.
- Advise on proper permaculture and xeriscaping, as well as planting calendar for vegetables and landscaping plants.

Austin Civil Engineering, Austin, Texas

AutoCAD Drafter

2006 - 2009

- Key civil engineering team member for commercial construction projects. Took architectural plans and modified them, according to the complex instructions of the civil engineer team lead, to meet the design and environmental requirements of city zoning and regulatory agencies.

EDUCATION

UNIVERSIDAD AUTONOMA de NUEVO LEON

Studied Civil Engineering.

SAYURI YAMANAKA

4607 Pelham Dr
Austin, TX, 78727
(512) 228-7231
sayuri.verde@gmail.com

PROFESSIONAL EXPERIENCE

THE MAGELLAN INTERNATIONAL SCHOOL, Austin, TX

Sustainability and Community Outreach, November 2010 – September 2016

Design the overall strategy for promoting a culture of sustainability for k-8 students. Responsibilities include setting goals and tactics for implementing distinctive sustainability projects (nutrition and wellness, organic gardening, zero-waste, renewable energy and conservation), managing team-works, supervising interns and volunteers, and designing the criteria for assessment.

In this role, I managed the Community Supported Agriculture for Magellan School during 6 seasons, and supported the creation and implementation of the Nutritional and Wellness Guidelines for students.

PUNTO VERDE CONSULTORES, Monterrey, NL, Mexico

Co-founder and Project Manager, August 2002 – July 2009

Provide guidance to teachers and staff regarding sustainability practices. Tasks included managing project timelines and contributors, generating content for training sessions, teaching training sessions, and designing environmental education assessments tools. Creating marketing materials, and conducting presentations for prospective donors was an important task of the job.

Projects were conducted in a variety of settings, such as a big corporate bank, rural and urban school districts, and community organizations. Some of the projects targeted bilingual audiences, such as K-12 teachers and students on the US-Mexico border, and they entailed managing relationships with US and Mexico sponsors.

TECNOLÓGICO DE MONTERREY, Monterrey, NL, Mexico

Project Manager, August 1999 – August 2002

Create and coordinate the sustainability curricula of an outreach program for university students. The program was a combination of lectures and hands-on activities focused on service-learning. Develop collaborative relations with cross-border non-profit organizations. Sponsors included Bat Conservation International, National Wildlife Federation, Environmental Defense, EPA, Semarnat and ProNatura.

EDUCATION EXPERIENCE

UNIVERSITY OF WISCONSIN-STEVENS POINT	Assessment in Environmental Education -Summer 2010
SCHUMACHER COLLEGE, Devon, UK	Earth Science and Systems Thinking -Summer 2005
TECNOLÓGICO DE MONTERREY, Monterrey, Mexico	Master Sciences (Environmental Systems) -1999-2001
TECNOLÓGICO DE MONTERREY, Morelos, Mexico	International Business Bachelor (Honors) -1994-1999

ADDITIONAL SKILLS

Bilingual in English and Spanish
Food Manager Certificate (DSHS)
Master Outdoor Leadership Training (TPWD)

AREAS OF INTEREST

Gender Equality and Sustainability
Food Systems
Nature Education
Systems Thinking and Ecopsychology

VOLUNTEER EXPERIENCE

Green Gate Farm
Hausbarn Farm
Keep Austin Beautiful
Texas Parks and Wildlife
Universidad Iberoamericana
The Biomimicry Institute

CURRENT BINATIONAL PROJECTS

Nutrimet: Celebrating a place, Universidad del Medio Ambiente. Valle de Bravo, MX

<http://www.umamexico.com/2016/portfolio/nutrimeto-una-clave-para-crear-proyectos-regenerativos/>

Taller de desarrollo profesional para desarrollar en agentes de cambio un entendimiento del lugar y su vinculación con el sistema de alimentos buscando el bienestar genuino hacia el desarrollo de comunidades sostenibles.

Annual Biomimicry and Design Workshop, Universidad Iberoamericana. Ciudad de México, MX

<https://twitter.com/argibero/status/727543420860944388>

Taller de biomimesis en español. Mi rol es traer los alimentos como vínculo social y ambiental en el diseño de proyectos con la comunidad.

ZQ *zygote quarterly*

<http://zqjournal.org/>

Ediciones en español de la revista electrónica con enfoque científico en el área de biomimesis

Internal Revenue Service

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: January 25, 2003

Sustainable Food Center, Inc.
1106 Clayton Ln Ste 480W
Austin, TX 78723-2491

Person to Contact:

S. Katherine Converse 31-07823
Customer Service Specialist

Toll Free Telephone Number:

8:00 a.m. to 6:30 p.m. EST
877-829-5500

Fax Number:

513-263-3756

Federal Identification Number:

[REDACTED]

Dear Sir or Madam:

This is in response to your request of January 9, 2003, regarding your organization's tax exempt status. We have updated our records to reflect the address change as indicated above.

Our records indicate that a determination letter issued in February 1987 granted your organization exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. That letter is still in effect.

Based on information subsequently submitted, we classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Code because it is an organization described in section 509(a)(1) and 170(b)(1)(A)(vi).

This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's sources of support, or its character, method of operations, or purposes have changed, please let us know so we can consider the effect of the change on the exempt status and foundation status of your organization.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of \$20 a day, up to a maximum of \$10,000, when a return is filed late, unless there is reasonable cause for the delay.

All exempt organizations (unless specifically excluded) are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more paid to each employee during a calendar year. Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes.

Donors may deduct contributions to your organization as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to your organization or for its use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

-2-

Sustainable Food Center, Inc.
[REDACTED]

Your organization is not required to file federal income tax returns unless it is subject to the tax on unrelated business income under section 511 of the Code. If your organization is subject to this tax, it must file an income tax return on the Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your organization's present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

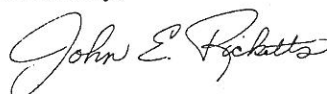
The law requires you to make your organization's annual return available for public inspection without charge for three years after the due date of the return. You are also required to make available for public inspection a copy of your organization's exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. You can charge only a reasonable fee for reproduction and actual postage costs for the copied materials. The law does not require you to provide copies of public inspection documents that are widely available, such as by posting them on the Internet (World Wide Web). You may be liable for a penalty of \$20 a day for each day you do not make these documents available for public inspection (up to a maximum of \$10,000 in the case of an annual return).

Because this letter could help resolve any questions about your organization's exempt status and foundation status, you should keep it with the organization's permanent records.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

This letter affirms your organization's exempt status.

Sincerely,



John E. Ricketts, Director, TE/GE
Customer Account Services

TAB 3 - Approach, Methodology and Work Plan

Approach & Methodology

Our proposed approach to providing healthy food access education and outreach builds off of the decades of experience in developing and testing methodologies that better enable underserved and low-income residents to gain financial, geographic, and cultural access to fresh, affordable food. The following steps outline our approach:

1) Identify & select recipes from THK cookbook for use in recipe samplings.

THK staff will recommend 10-12 recipes that: feature seasonal produce, can be easily adapted to a sampling activity, and are culturally relevant to the customer base of the Fresh for Less markets. Nutrition and cost analysis will be conducted on all potential recipes to ensure that they can be part of a healthy diet and will be budget-friendly. As with all THK recipes, selected recipes emphasize fresh produce, whole grains, and lean protein, and are naturally low in fat, sugar, and sodium. When fats are used, recipes recommend unsaturated fats over saturated fats. All of the recipes indicate the preferred season(s) to prepare the recipes (when most of the fresh produce can be found locally and for the lowest price), and will be available in English and Spanish for audiences that may be new to cooking. Recipes will be submitted to City of Austin and the mobile market contractor for approval. Once approved, recipes will be printed onto recipe cards for easy distribution. Recipes will also be featured online wherever necessary. Digital copies will include additional recipe details, such as nutrition facts information and costs per serving.

2) Adapt themes from THK curriculum into consolidated nutrition education messages to accompany in-person recipe samplings

THK staff will adapt themes from the curriculum into compact nutrition education messages that can be paired with that specific recipe and delivered in a few minutes, including language about food storage and cooking techniques. Each mini lesson plan will include 3-4 handouts from The Happy Kitchen curriculum that can be distributed to market shoppers. Similar to recipe cards, handouts are designed for a low-literacy audience and are available in English and Spanish. Working with the project's external evaluator, we will gain a deeper understanding of how to modify key program elements (messaging and recipe selection) to increase the effectiveness of THK's consolidated curriculum.

3) Identify & recruit *promotoras* to conduct 80-100 recipe samplings at mobile markets

SFC staff will identify, recruit and train a small cohort of 3-4 *promotoras* who will lead regional outreach strategies in targeted areas of Austin where Fresh for Less sites are clustered. We will prioritize *promotora* recruitment beginning with: a) our network of THK facilitators, leveraging their experience teaching community members how to prepare healthy meals, and then b) by connecting with partner organizations like El Buen Samaritano or Foundation Communities that already utilize *promotoras* who have gone through a Community Health Worker certification process. *Promotoras* will be screened to ensure they have deep connections to the target areas. The primary activity of the *promotoras* will be to conduct recipe sampling and provide nutrition education to shoppers at mobile markets.

4) Train Fresh for Less *Promotoras*

In addition to providing the *promotoras* with recipe cards and nutrition lessons, SFC's THK and Food Access teams will co-lead two (2) trainings to provide *promotoras* with a firm

understanding of SFC's philosophy and approach. For example, SFC believes in the health benefits of traditional diets. We also believe that a family should be able to choose what works for their tastes, lifestyle, budget, and dietary needs. We strike a balance between introducing ingredients that may be unfamiliar to some, like eggplant, without imposing negative values on ingredients that may be more familiar. The project team will leverage THK's experience developing best practices for peer-to-peer education in these training sessions, highlighting important parts of their curriculum like: bulk recipe preparation, food safety, the health benefits of choosing low-sodium, low-fat recipes utilizing seasonal produce that will be used in recipe sampling events. During these trainings, our Food Access staff will share tools and strategies for successful community outreach and engagement, including the use of our Facebook group, *Come Fresco y Sano en Austin* ("Eat Fresh and Healthy in Austin") – a forum for current and potential customers to exchange recipes, learn about each other's gardening practices and support healthy living, —texting services, and on-site dialogues about accessing public benefits and Double Dollars.

5) Implement supplemental outreach and education strategies to drive sales and engagement at FFL markets

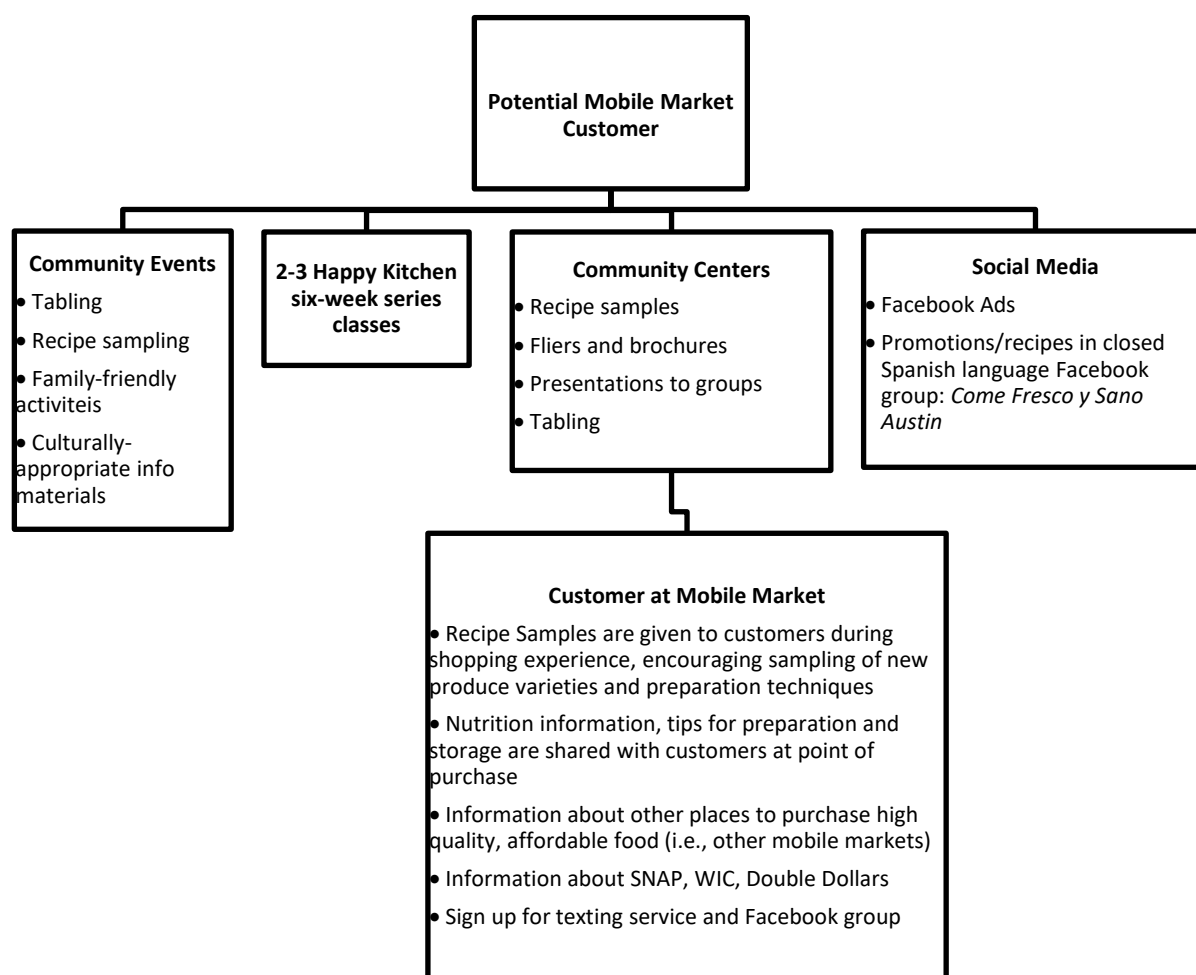
SFC has prior experience supporting outreach and marketing for both farmers' markets and farm stands simultaneously. While we outsource some of our marketing efforts, we have always maintained a strong presence on the ground with our community outreach and efforts. Our experience has taught us that different outreach strategies are more effective in different market settings. For example, larger farmers' markets benefit from large-scale advertising because they are year-round, offer a greater diversity/quantity of produce and can sustain fluctuations in a larger customer base over time, while smaller markets need hyper-localized strategies that hinge on developing repeat customers. When larger-scale marketing strategies focus on Fresh for Less markets, we see a surge in one-time customers shopping for that day, but not subsequent market days. Yet when we implement more localized strategies, we see a steep uptick in repeat shoppers.

SFC's localized outreach and education strategy is multi-tiered and ensures that engagement happens at various levels, thereby building recognition and trust with current and potential customers. Working with our strong community partner base that we have been developing over the years of our nutrition education and food access work, we maintain a strong presence in the communities with which we work. Our outreach strategy consists of tabling at health and family-focused community events, recipe sampling and tastings at community events and presentations, tabling and activities at school events, presentations at school and community meetings, neighborhood flyering, and maintenance of an active presence at community partner clinics. More broadly, SFC emphasizes the importance of our partnerships with service providers who are working with our target audience. SFC maintains a working relationship with 11 strategic community partners, who support outreach efforts for our food access programming. Our partnerships with providers such as WIC, the Mexican Consulate, and Community Care are an important component of our outreach work given our multi-pronged approach of direct-to-consumer marketing and training for the service providers that have established a strong rapport with our target customer base. These partnerships allow SFC to reinforce positive behaviors that are already being encouraged by providers in the fields of health and community wellness.

Last year, we trialed recipe samplings at Fresh for Less sites as a supplemental outreach and engagement strategy to encourage repeat shoppers and, thus, sustained and increased sales. We discovered that samplings were a great way to get people excited about cooking produce in a familiar context. For example, one of our *promotoras* created tamales using collard greens as a wrap, and brought samples to share. We saw an immediate change in customer behavior – collard greens sold out that day. We also discovered that having a direct line of communication between the customer and the *promotora* role was essential. *Promotoras* then became actively involved in social media engagement via our Spanish language Facebook Group: *Come Fresco y Sano en Austin* to showcase Fresh for Less produce and get new customers involved in the group. Additionally, through our text service, *promotoras* were able to engage in a dialogue with customers and invite them to the markets.

We plan to extend outreach through this proposed project by co-locating two to three THK free six-week class series at mobile market sites (where appropriate). By strategically planning classes in these target locations, we can further promote the health and engagement goals of Fresh for Less across a broader and deeper continuum of nutrition education services.

Table 1. SFC Model for Customer Engagement and Retention at Fresh for Less Markets



Workplan

[illegible]

[illegible]

TAB 4 - TOTAL EVALUATED COST

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CATEGORY	TOTAL AMOUNT	JUSTIFICATION	DETAIL
A. Personnel		SFC Food Equity & Outreach Manager @ 56% FTE	
	Salaries	SFC Food Access Manager @ 7% FTE	\$32,575
	Fringe		\$2,508
Subtotal Personnel & Fringe:			\$35,083
B. Operating Expenses (Direct Costs)			
		<u>Supplies</u>	
Supplies to prepare recipe samplings		\$12 for each recipe sampling event @ 90 events	\$1,080
Recipe sampling activity supplies		Sample cups and lids to package recipe samples 4,000 2oz portion cups @ \$129 4,000 lids for 2oz portion cups at \$102 2,000 compostable forks @ \$247 3x three-pocket waist apron @ 19/ea = \$57	\$535
Community outreach event supplies		3x clear plastic boxes for transport @ \$20/ea = \$60 3x stands to put on outreach table for attractiveness/dimensions @ \$16/ea = \$48 3 branded tablecloths @ \$100/ea = \$300	\$408
Giveaways for use during community outreach activities		\$4.05 for 575 SFC tote bags = \$2,025 \$0.65 for 500 SFC pens = \$325 130 sets of reusable veggie bags @ \$12.00 ea (15 units/set) = \$1,560	\$3,910
Ingredients and food/beverage for Promotora trainings		Ingredients for 2 recipe sampling trainings @ \$40 = \$80 Food to serve at 2 trainings @\$13/pp, 6 trainees = \$156 Coffee/beverage for 2 trainings @20 ea = \$40	\$276
		<u>Outside Services & Labor</u>	
Contractor time for recipe sampling activities		6 hours/event @ \$17/hr. (90 recipe sampling events) <i>Promotoras will be compensated for their time shopping, preparing, transporting, conducting the activity, and close-out tasks such as cleanup and reporting</i>	\$9,180
Staff time for outreach activities		180 hours of outreach @ \$17/hr = \$3,060	\$3,060
Staff time for training		6 hours of training @ \$17/hr for 4 Promotoras = \$408	\$408
Printing		Recipe cards = \$570, Nutrition info handouts = \$190	\$760
		<u>Permits & Fees</u>	
		Food Handlers Permits, booth fees	\$500
Subtotal Operating Expenses:			\$20,117
C. Indirect Costs			
		Business and auto insurance, Building maintenance and repairs, Office utilities, Internet service	
Subtotal Indirect Expenses:			\$4,800
D. Total Direct & Indirect			\$60,000

Exhibit A



City of Austin Best and Final Offer (BAFO)

RFP 9100-SBR3001: HEALTHY FOOD ACCESS EDUCATION AND OUTREACH

The City of Austin will utilize the information on this BAFO for analyzing competing proposals and selection purposes.

Vendor Name:	Sustainable Food Center
Vendor Signature:	
Date:	9/4/2019

Special Instructions:

An entry of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not pay for that item. Items listed below are required to have a price or an entry of 0.

If you accept the City's Counter Offer please sign and date and return this BAFO worksheet with your clarifications. You are also asked to provide additional details on how your organization will meet the City's counter offer request in your clarifications.

Item	Description	Contractor's Proposal	City's Counter Offer
Ingredients and food/beverage for Promotora trainings	Food to serve at 2 trainings	\$156.00	\$0.00
	Coffee/beverage for 2 trainings	\$40.00	\$0.00
Giveaways for use during community outreach activities	575 Tote Bags	\$2,025.00	The proposed incentive item budget does not calculate correctly. Please note that tote bags will be distributed by Farmshare at the markets, we recommend a different incentive item for SFC to distribute during outreach. Utilize Fresh for Less logo/branding for consistency. <i>The City recommends no more than \$3,000 for this budget line item.</i>
	500 Pens	\$325.00	
	130 sets of reusable veggie bags	\$1,560.00	

TAB 4 - TOTAL EVALUATED COST

Exhibit A

CATEGORY	TOTAL AMOUNT	JUSTIFICATION	ORIGINAL BUDGET	NEW BUDGET	\$ Change
		UPDATED BASED ON BAFO			
A. Personnel	Salaries	SFC Food Equity & Outreach Manager	\$32,575	\$33,653	\$1,078
		SFC Food Access Manager			
	Fringe		\$2,508	\$2,586	\$78
	Subtotal Personnel & Fringe:		\$35,083	\$36,239	\$1,156
B. Operating Expenses (Direct Costs)					
		Supplies			
	Supplies to prepare recipe samplings	\$12 for each recipe sampling event @ 90 events	\$1,080	\$1,080	\$0
	Recipe sampling activity supplies	Sample cups and lids to package recipe samples 4,000 2oz portion cups @ \$129 4,000 lids for 2oz portion cups at \$102 2,000 compostable forks @ \$247 3x three-pocket waist apron @ 19/ea = \$57	\$535	\$535	\$0
	Community outreach event supplies	3x clear plastic boxes for transport @ \$20/ea = \$60 3x stands to put on outreach table for attractiveness/dimensions @ \$16/ea = \$48 3 Fresh for Less branded tablecloths @ \$100/ea = \$300	\$408	\$408	\$0
	Giveaways for use during community outreach activities	UPDATED BASED ON BAFO 1,250 mesh bags for produce storage @\$6.99/set (5 units/set) = \$1,747.5 385 fruit and veggie bags @ \$15.95/set (7 units/set) = \$877.25 \$0.65 for 500 Fresh for Less pens = \$325	\$3,910	\$2,950	-\$960
	Ingredients for Promotora trainings	UPDATED BASED ON BAFO Ingredients for 2 recipe sampling trainings @ \$40 = \$80	\$276	\$80	-\$196
		Outside Services & Labor			
	Contractor time for recipe sampling activities	6 hours/event @ \$17/hr. (90 recipe samping events) <i>Promotoras will be compensated for their time shopping, preparing, transporting, conducting the activity, and close-out tasks such as cleanup and reporting</i>	\$9,180	\$9,180	\$0
	Staff time for outreach activities	180 hours of outreach @ \$17/hr = \$3,060	\$3,060	\$3,060	\$0
	Staff time for training	6 hours of training @ \$17/hr for 4 Promotoras = \$408	\$408	\$408	\$0
	Printing	Recipe cards = \$570, Nutrition info handouts = \$190	\$760	\$760	\$0
		Permits & Fees			
		Food Handlers Permits, booth fees	\$500	\$500	\$0
	Subtotal Operating Expenses:		\$20,117	\$18,961	-\$1,156
C. Indirect Costs		Business and auto insurance, Building maintenance and repairs, Office utilities, Internet service	\$4,800	\$4,800	\$0
	Subtotal Indirect Expenses:		\$4,800	\$4,800	\$0
D. Total Direct & Indirect			\$60,000	\$60,000	\$0

Exhibit A

Subject: Response to Best and Final Offer and Clarifications for RFP 9100-SBR3001, Healthy Food Access, Education and Outreach

1. BAFO Pricing Document Clarifications Required:

- a. *Food/beverages at the Promotora training is not an allowable expense.*

RESPONSE: We removed from budget.

- b. *Incentive item budget does not calculate correctly. Please note that tote bags will be distributed by Farmshare at the markets, we recommend a different incentive item for Sustainable Food Center (SFC) to distribute during outreach. Please utilize Fresh for Less Logo/branding for consistency. The City recommends no more than \$3,000 for incentive items.*

RESPONSE: We adjusted the expenses to ensure accurate calculations. We replaced tote bags with [mesh bags](#) for fruit and vegetable storage to engage customers at outreach events and educate them about fresh produce storage techniques. The bags will replace single use produce plastic bags. The [fruit and vegetable bags](#) included in the original budget are also giveaways that can be used at outreach events to attract potential new customers to the table. They fold up into the shapes of fruits and vegetables and attract children and adults to the table due to their bright coloring, shape and size. Neither bags allow for branding adjustments. However, the Fresh for Less Logo/branding will be used for pens and tablecloths. The descriptions have been adjusted in the budget.

2. Other required clarifications:

- a. *How will your outreach plan reach African American individuals?*

- i. *What specific outreach and engagement strategies will you utilize to reach African American individuals?*

RESPONSE:

1. Build upon current, long standing partnerships with the following churches to build awareness of Fresh for Less sites. These are current partner sites of SFC's The Happy Kitchen/La Cocina Alegre®:
 - Greater Mt. Zion Baptist Church
 - St. James Episcopal Church
 - Mt. Sinai Missionary Baptist Church
2. Build awareness of Fresh for Less sites among organizations and entities with whom we currently partner, and who work with African American families, such as:
 - Mama Sana Vibrant Women
 - 78744 Community Youth Development Program
 - Brighter Bites
 - Huston-Tillotson University
 - Housing Authority of the City of Austin

Exhibit A

3. Build new partnerships with city-wide initiatives that support African American Communities:
 - African American Quality of Life Initiative
 - Austin Public Health: Health Equity Unit
 - Greater Austin Black Chamber of Commerce
 4. Conduct outreach at schools with higher percentage of African American students that are in proximity to Fresh for Less sites
 5. Prioritize outreach event opportunities in areas with higher concentrations of African American families, such as St. John's, Colony Park, Del Valle and Dove Springs
- ii. *How will you assure that these services will be provided in a culturally competent manner?*

RESPONSE:

1. Grow current partnerships to stay abreast of current health trends and best practices for engaging African American communities
 2. Recruit Promotoras who have experience working in African American communities
 3. Align engagement strategies with SFC's internal Equity analysis
 4. SFC staff participate in racial justice trainings such as Undoing Racism and Beyond Diversity
 5. Integrate cultural competency training / expectations in Promotora training
- b. *Clarify how you will assure that the recipes will be tailored to feature produce that is available at the mobile market that week. Will you supplement with other, non Happy Kitchen recipes if needed?*

RESPONSE: All recipes from The Happy Kitchen/*La Cocina Alegre*® are tailored towards eating seasonally. At the beginning of the season, we will work with Farmshare Austin to select recipes that mirror their projected seasonal availability. If we do not have an appropriate recipe, we will supplement as needed and follow the guidelines provided below. Recipes will be submitted for approval to Austin Public Health.

At the beginning of the season, we will provide Farmshare a calendar for recipe samplings that will occur at the market during the season. We will indicate which recipes will be sampled on which date to ensure offerings at the market mirror the recipe sampling. If availability of produce is different than what was originally projected, we will work with Farmshare to select a different recipe from those that have been pre-approved by Austin Public Health.

- c. *Explain what guidelines were used to create the recipes. Were Happy Kitchen recipes developed with expertise from a dietitian or nutrition professional, or developed using nutrition standards?*

Exhibit A

RESPONSE: Recipes are often sourced from our community of facilitators and participants in order to ensure that they are culturally relevant. The recipe criteria used is as follows:

- Use of whole grains and fresh, seasonal vegetables, fruits and herbs
- Ingredients that are naturally low in fat or use healthier fats from plant sources
- Quick and easy to prepare (less than 30 minutes per recipe not including unsupervised cooking time)
- Can be made for less than \$2.32 per serving (with an average cost of \$.78 per serving)
- Use of ingredients commonly found in any grocery store or farmers' market

Additionally, we analyze each recipe based on USDA Dietary Guidelines and create a nutrition facts label for each recipe. If a recipe contains a high percentage of a daily value that we want to limit, we modify the recipe. Each recipe is analyzed to indicate whether or not it is a good source of fruits, vegetables, grains or proteins. For example, to be considered a good source of the following foods, the minimum amount of the type of food must be present in each serving:

- i. Fruit: at least ½ cup
- ii. Vegetables: at least ½ cup
- iii. Grains: at least ½ cup
- iv. Protein: at least 6 grams

The curriculum and recipes have been reviewed and approved by Dr. Stephen Pont, MD, MPH, Medical Director, Office of Science and Population Health, Texas Department of State Health Services; Lydia Steinman, RD, University of Texas at Austin; Yvonne Martinez, RDN, LD, Nutrition Education Program Specialist, Health and Human Services, Office of WIC

d. *Provide a detailed timeline for hiring and training CHW.*

RESPONSE: The following timeline for hiring and training CHW will commence immediately after contract award date.

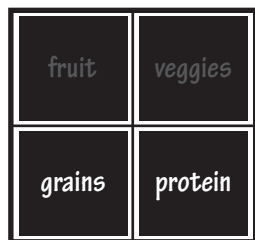
Weeks 1-2	-Work with strategic partners to recruit 3-4 CHWs for project -Design job description, interview guide and scoring criteria -Finalize CHW training -Finalize Recipe Sampling Process -Finalize Outreach Kit
Week 3	Onboard CHWs as SFC contractors. Process appropriate paperwork.
Week 4	Lead 2-3 hour training session for CHWs. Training to include seasonal recipes that will be promoted during the Fall season, key nutrition education messages and strategies for engaging with shoppers, tactics for leading outreach strategies in target communities, cultural competency, and reporting requirements.

Exhibit A

Week 5	One-on-One trainings and shadowing with CHWs: One outreach event and one recipe sampling with each CHW. Additional one-on-ones as needed.
Weeks 5-end of fall season	-Weekly check-in with CHWs -Weekly review of CHW performance
December 2019	Season-end performance reviews with individual CHWs to discuss success, challenges and adaptations needed for Spring season
Spring 2020	Second CHW training that features seasonal recipes, updated outreach strategies and cultural competency. Report out of fall activities and collective impact.

All information is due back to via email to the following email addresses by 4:00 PM local time, Wednesday, September 4, 2019: ClaudiaR.Rodriguez@austintexas.gov and cc: Sarah.Ramos@austintexas.gov.

Exhibit A



Smokey Black Bean Quinoa Salad

6 servings

cost per serving: \$1.13



INGREDIENTS

2 cups water
½ teaspoon salt
1 cup quinoa, rinsed and drained
4 green onions, thinly sliced
2 cups black beans, cooked
3 tablespoons olive oil
¼ cup fresh lime juice
¼ cup cilantro, chopped
(or more to taste)
1 clove garlic, finely chopped
1 canned chipotle pepper in
adobo sauce, finely chopped
1 teaspoon adobo sauce
½ teaspoon cumin

NUTRITION FACTS

Per Serving		%DV*
Serving Size:	1/3 recipe	
Calories	294	
Calories from fat	126	
Total Fat	14g	22%
Saturated Fat	2g	10%
Cholesterol	0mg	0%
Sodium	367mg	15%
Carbohydrate	33g	11%
Fiber	7g	30%
Protein	9g	

*based on a 2000 calorie diet

INSTRUCTIONS

In a medium saucepan, bring the 2 cups of water to a boil.

Add the salt and quinoa. Lower heat to medium low, cover, and cook for 15-20 minutes, or until all the water is absorbed.

Remove from heat, and allow quinoa to cool completely before preparing the salad.

To prepare the dressing, combine the olive oil, lime juice, garlic, chipotle pepper, adobo sauce, and cumin.

Whisk until combined.

Mix the dressing with the cooled quinoa, black beans, cilantro and green onions until well combined.

Serve cold or at room temperature.



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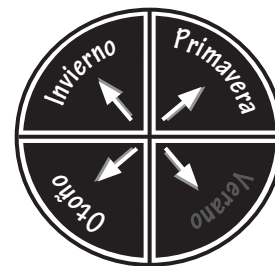
Exhibit A



Ensalada de Frijol Negro y Quínoa

6 porciones

costo por porción: \$1.13



INGREDIENTES

2 tazas de agua
½ cucharadita de sal
1 taza de quínoa, enjuagada y escurrida
4 cebollines, en rodajas finas
2 tazas de frijoles negros, cocidos
3 cucharadas de aceite de oliva
¼ taza de jugo de limón verde
¼ taza de cilantro, picado (o más, a su gusto)
1 diente de ajo, finamente picado
1 chile chipotle de lata, en adobo, finamente picado
1 cucharadita del adobo
½ cucharadita de comino

DATOS de NUTRICIÓN

Por Porción		%VD*
Tamaño de porción:	1/6 receta	
Calorías	294	
Calorías de Grasa	126	
Grasa	14g	22%
Grasa Saturada	2g	10%
Colesterol	0mg	0%
Sodio	367mg	15%
Carbohidrato	33g	11%
Fibra	7g	30%
Proteína	9g	

*Basado en una dieta de 2,000 calorías

INSTRUCCIONES

En una olla mediana ponga a hervir las 2 tazas de agua. Añada la sal y la quínoa. Ponga a fuego medio bajo, cubra y cocine de 15 a 20 minutos o hasta que toda el agua se absorba. Retire del fuego y permita que la quínoa se enfríe por completo antes de preparar la ensalada.

Para preparar el aderezo, mezcle el aceite de oliva, jugo de limón, chile chipotle, ajo, adobo y comino.

Bata hasta que se incorporen.

Mezcle la salsa con la quínoa ya fría, el frijol negro, cilantro y los cebollines hasta que estén bien combinados.

Sirva frío o a temperatura ambiente.



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