Amendment No. 2
to
Contract No.PA200000030
for
Disparity Study-Minority and Women Owned Business Enterprise (MDE/WBE) and
Disadvantaged Business Enterprises (DBE)
between
Colette Holt & Associates
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be February 24, 2021 through February 23, 2022. Zero options remain.

2.0 The total contract amount is increased by $0.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/24/2020 – 02/23/2021	$807,150.00	$807,150.00
Amendment No. 1: Supplemental Scope of Work	$192,850.00	$1,000,000.00
Amendment No. 2: Option 1 – Extension 02/24/2021 – 02/23/2022	$0.00	$1,000,000.00

3.0 MBE/WBE goals do not apply to this contract.

4.0 By signing this Amendment, the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Colette Holt 3/25/21

Printed Name: Colette Holt
Authorized Representative

Colette Holt & Associates
16 Carriage Hills
San Antonio, Texas 78257
mwbelaw.com
773-255-6844

Sign/Date: Cyrenthia Ellis

Digitally signed by Cyrenthia Ellis
DN: cn=Cyrenthia Ellis, o=City of Austin, ou=Purchasing Office, email=Cyrenthia.Ellis@austintexas.gov, c=US
Date: 2021.03.29 08:47:00 -05'00'

Cyrenthia Ellis
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

Amendment No. 1
to
Contract No. PA200000030
for
Disparity Study – Minority and Women Owned Business Enterprise (MDE/WBE) and Disadvantaged Business Enterprises (DBE)
between
Colette Holt & Associates
and the
City of Austin

1.0 The City hereby amends the above referenced contract as follows by adding the following to the Scope of Work for the above referenced contract:

1.1 **CONTRACT DATA COLLECTION**
Additional CHA staff time beyond what was anticipated in the original budget was spent on the task of collecting the initial contract data files. This included many phone meetings and review of multiple iterations of the multiple City files.

1.2 **ANECDOTAL DATA COLLECTION**

Stakeholder Sessions:
At the request of the City, CHA added two stakeholder sessions to the anecdotal schedule. This necessitated identifying which organizations should participate, developing the invitation, setting up distribution of the invitation, and detailed organization by CHA staff, as well as additional hours required by Colette Holt to conduct meetings

Advisor Committee Meeting:
At the request of the City, CHA added two meetings with the MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee. This necessitated developing the invitation, setting up distribution of the invitation, and detailed organization by CHA staff, as well as additional hours required by Colette Holt to conduct meetings.

Business owner Sessions:
The requirement to conduct all meetings remotely has necessitated offering several additional sessions. CHA has found that in order to create a productive virtual session, we need to reduce the potential number of participants in each session.

Program Review/Staff Interviews:
Due to the somewhat decentralized nature of the operations of the M/WBE program, CHA has found it necessary to interview many more staff members than was anticipated in the original budget.

M/WBE Program Assistance based on the Study Findings and Recommendations:
It is our understanding that the City Council has adopted a resolution appointing a Committee to respond to the Study's findings and recommendations. It is highly likely that this group, and City staff, will need assistance with interpreting the results and

considering responses to the Report, including making revisions to the Ordinance, the rules and other documents and processes. This is beyond the scope of the original contract.

2.0 Attachment A – Supplemental Services Price Sheet, for additional services as outlined in Section 1.0.

3.0 The total Contract actions are recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 01/24/2020 – 2/23/2021	$807,150.00	$ 807,150.00
Amendment No. 1: Supplemental Scope of Work	$192,850.00	$1,000,000.00

4.0 All other terms and conditions remain the same.

5.0 By signing this Amendment, the Contactor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

By THE SIGNATURES affixed below, Amendment No. 1 is hereby incorporated into and made a part of the above-referenced contract.

Colette Holt
Collette Holt & Associates

Colette Holt
Signature

Colette Holt
Printed Name of Authorized Person

Owner
Title

Date: 9/8/20

City of Austin

Cyrenthia Ellis Digitally signed by Cyrenthia Ellis DN: cn=Cyrenthia Ellis, o=City of Austin, ou=Purchasing Office, email=Cyrenthia.Ellis@austintexas.gov, c=US Date: 2020.09.09 08:50:07 -05'00'
Signature

Printed Name of Authorized Person

Procurement Manager
Title

Date: September 9, 2020

Exhibit:

Attachment: A – Supplemental Services Price Sheet

		ATTACHMENT A		
PRICE SHEET				
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise				
Deliverable	**Deliverable Description**	**Work Plan & Approach**	**Estimated Completion Date**	**Budget per Deliverable**
#5	**City of Austin' M/WBE and DBE Programs Review***			
	City Staff Interviews	CHA will conduct additional staff interviews, both in a group format and individual calls.	July 2020 - September 2020	$41,250.00
	M/WBE Program Assistance based on the Study Findings and Recommendations	CHA will assist City staff, and committee with interpreting the results and considering responses to the Report, including making revisions to the Ordinance, the rules and other documents and processes, etc.	N/A Post Study	$76,100.00
#6 (Includes City of Austin deliverable #21)	**Contract Data Collection**			
	Question and answer/ clarification of data; In reviewing the city's contract data, CHA will notify the City of any perceived irregularities in the data set specifically related to commodity codes, industry designation and other inconsistencies.	Additional CHA Staff time due to multiple files provided by the City for evaluation	March 2020- June 2020	$18,750

#8 (Includes City of Austin deliverable #11,12,13)	**Anecdotal Data Collection**			
	Stakeholder/ Business Owner/ Advisory Committee Interview Sessions	At the request of the City CHA has added two dedicated meetings for Stakeholder organiztions (as opposed to stakeholders as defined as business owners) and two dedicated meetings for the MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee	Aug-20	$26,875.00

	Stakeholder/ Business Owner Interview Sessions	CHA has added additional Business Owner Interview Sessions. The Covid 19 pandemic has necessitated that all meetings be conducted virtually. In order to conduct the most productive meetings, it has been necessary to reduce the number of participants in each meeting, and increase the number of meetings.	Sep-20	$29,875.00
TOTALS				**$192,850.00**

City of Austin
Disparity Study Supplemental Scope of Work

Contract Data Collection

Additional CHA staff time beyond what was anticipated in the original budget was spent on the task of collecting the initial contract data files. This included many phone meetings and review of multiple iterations of the multiple City files.

Anecdotal Data Collection

Stakeholder Sessions:
At the request of the City, CHA added two stakeholder sessions to the anecdotal schedule. This necessitated identifying which organizations should participate, developing the invitation, setting up distribution of the invitation, and detailed organization by CHA staff, as well as additional hours required by Colette Holt to conduct meetings.

Advisory Committee Meeting:
At the request of the City, CHA added two meetings with the MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee. This necessitated developing the invitation, setting up distribution of the invitation, and detailed organization by CHA staff, as well as additional hours required by Colette Holt to conduct meetings.

Business Owner Sessions:
The requirement to conduct all meetings remotely has necessitated offering several additional sessions. CHA has found that in order to create a productive virtual session, we need to reduce the potential number of participants in each session.

Program Review/ Staff Interviews:
Due to the somewhat decentralized nature of the operations of the M/WBE program, CHA has found it necessary to interview many more staff members than was anticipated in the original budget.

M/WBE Program Assistance based on the Study Findings and Recommendations:
It is our understanding that the City Council has adopted a resolution appointing a Committee to respond to the Study's findings and recommendations. It is highly likely that this group, and City staff, will need assistance with interpreting the results and considering responses to the Report, including making revisions to the Ordinance, the rules and other documents and processes. This is beyond the scope of our original contract.

16 Carriage Hills, San Antonio, TX 78257 ● 433 West Briar Place #11C, Chicago, Illinois 60657
773.255.6844 ● colette.holt@mwbelaw.com ● mwbelaw.com

Price Proposal

Task	**Dollars**
Contract Data Collection	$18,750
Stakeholder Sessions	$26,875
Business Owner Sessions	$29,875
Program Review/ Staff Interviews	$41,250
M/WBE Program Assistance based on the Study Findings and Recommendations	$76,100
Total:	**$192,850**

CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
Colette Holt & Associates ("Contractor")
for
Disparity Study – Minority and Women Owned Business Enterprise (MDE/WBE) and Disadvantaged Business Enterprises (DBE)
Master Agreement Number - PA200000030

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 Colette Holt & Associates having offices at 16 Carriage Hills, San Antonio, TX 78257 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 RFQS 7600 CTE4001.

1.1 **This Contract is composed of the following documents:**

1.1.1 This Contract

1.1.2 The City's Solicitation, RFQS, 7600 CTE4001 including all documents incorporated by reference

1.1.3 Colette Holt & Associates Offer, dated October 1, 2019, including subsequent clarifications

1.1.4 Exhibit 1, Price Sheet - RFQS 7600 CTE4001

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

1.2.1 This Contract

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

1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications.

1.2.4 The Contractor's Price Sheet as referenced in Section 1.1.4, Exhibit 1 Price Sheet - RFQS 7600 CTE4001

1.3 **Term of Contract**

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

1.3.1.1 Upon expiration of the contract, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably

necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not to exceed 120 calendar days unless mutually agreed on in writing).

1.4 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of $ 807,150.00 for the initial Contract. Payment shall be made upon successful completion of the services as outlined in the scope of work and the deliverables identified in Exhibit 1 – Price Sheet.

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

1.5.1 Exhibit 1 - Price Sheet - RFQS 7600 CTE4001

1.5.2 Exhibit 1 contains the Price sheet along with the estimated payment schedule for services provided. The specific months for completing services and payment of services will be defined during the contract kick-off meeting between the City and the Contractor.

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.

Colette Holt & Associates	**CITY OF AUSTIN**
Insert Name Colette Holt	Cyrenthia T. Ellis
Printed Name of Authorized Person	Printed Name of Authorized Person
Colette Holt	Cyrenthia Ellis
Signature	Signature
Insert Title Owner	Procurement Manager
Title:	Title:
Insert Date (Must be within the Offer acceptance period)	1/24/2020
Date: 1/22/20	Date:

LIST OF EXHITBITS:

Exhibit 1 Price Sheet - RFQS 7600 CTE4001

Exhibit 1

PRICE SHEET

RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

Deliverable	Deliverable Description	Work Plan & Approach	Staff Assigned to Deliverable and % of Time Dedicated to Deliverable	Estimated Completion Date	Budget per Deliverable	% of Total Funding
#1	**Project Kickoff Activities**		**1.7% staff time**		**$6,900**	**0.9%**
	Introductory telephone call with Study Manager	Telephone call to review all elements of the disparity study and roles and responsibilities. Review study guide provided by CHA.	Ilene Grossman Victoria Farrell	Month 1		
	Data collection introductory telephone phone call	Conduct pre-meeting planning for telephone conference; identify City individuals responsible for supplying all contract data; communicate study requirements and contract data requirements; develop documents.	Ilene Grossman Glenn Sullivan	Month 1		
	Internal Initiation Meeting with City staff	Conduct Internal Study Initiation Meeting with the City study team to facilitate the study process. Ms. Holt will make a PowerPoint presentation to explain the study elements, methodology, process and timeline. The City will identify key personnel to participate in the meeting.	Colette Holt Ilene Grossman Glenn Sullivan Victoria Farrell	Month 2		
#2	**Study Website**		**2.2% staff time**		**$13,600**	**1.7%**
	Develop and update dedicated study website	Develop dedicated study website to provide disparity study information and participation opportunities to the public; update website throughout the study process with relevant information.	Colette Holt Glenn Sullivan Ilene Grossman	**Month 1-12**		
#3	**Directory Collection**		**2.2% staff time**		**$13,900**	**1.7%**
	Perform directory collection and create Master Directory for availability analysis	CHA will collect all relevant directories and lists for anecdotal data collection and	Ilene Grossman Glenn Sullivan	Month 2-7		

Exhibit 1
PRICE SHEET
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

		availability estimates and create the Master D/M/WBE directory for the availability analysis.				
#4	**Legal Analysis and Update**		**2.3% staff time**		**$27,000**	**3.3%**
	Review case law and perform legal analysis	CHA will provide the legal and regulatory standards that form the governing principles of our methodology and the specific elements of the study, both to educate the reader about the elements of strict constitutional scrutiny and to provide a framework for a court in litigation. We will inform readers–including a court–of the approach we applied to meet strict scrutiny. We will discuss the case law in the Fifth Circuit Court of Appeals.	Colette Holt Joanne Lubart	Months 1-10		
#5	**City of Austin' M/WBE and DBE Programs Review***		**6.5% staff time**		**$46,900**	**5.8%**
	Submit request for Program documents	CHA will submit a program document request form to the City.	Colette Holt Joanne Lubart Victoria Farrell	Month 1		
	Review all documents to ensure full submittal	CHA will review all received documents to ensure full submittal.		Month 2		
	City Staff Interviews	CHA will interview agency staff.		Month 6		
	Review current programs	CHA will review all M/WBE and DBE program documents.		Month 3-10		
	*Note: Program information is also a topic discussed in small group business owner interview sessions.					
#6	**Contract Data Collection**		**31.4% staff time**		**$182,600**	**22.6%**
	Initial collection data files from the City	CHA will submit detailed instructions for the initial data request from the City. CHA will	Glenn Sullivan Ilene Grossman Colette Holt	Month 1		

Exhibit 1
PRICE SHEET
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

		request all data for contracts (construction, professional services, general services/non-professional services, and commodity industries) over $50,000 for Fiscal Years 2013-2018 for FAA and locally funded contracts	Steven Pitts Carol Borst Megan Schenk			
	Question and answer/ clarification of data; In reviewing the city's contract data, CHA will notify the City of any perceived irregularities in the data set specifically related to commodity codes, industry designation and other inconsistencies.	CHA will engage in a clarification and question and answer period about the initial contract data files submittal to ensure that all required information has been received to develop the Sample Data Files.		Month 2		
	Develop Sample Data Files	CHA's Economist will develop statistically valid Sample Data Files.		Month 2-3		
	Obtain missing data, including subcontract data	CHA's data collection team will follow up with prime contractors to collect any missing data and verify data in the file. CHA will research and assign any missing NAICS code and race and gender variables that are not available from the City or prime contractors.		Month 3-7		
#7	**Quantitative Analyses**		**15.5% staff time**		**$163,650**	**20.3%**
	Economy- Wide Analysis	CHA's Economist will conduct an economy-wide analysis on the wider Austin metropolitan area and the state of Texas.	Steven Pitts Colette Holt	Months 8-10		
	Analysis of relevant Geographic Market Area, Utilization, Availability, and Disparity analysis/ statistical significance tests on City's locally funded contracts	CHA's Economist will conduct a utilization analysis (to include determining the relevant geographic market area), availability, and disparity analysis and statistical		Months 8-10		

Exhibit 1
PRICE SHEET
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

		significance tests on the City's locally funded contracts for the study period.				
	Analysis of Relevant Geographic Market Area, Utilization, Availability of City's FAA funded contracts	CHA's Economist will conduct a utilization analysis (to include determining the relevant geographic market area) and availability analysis of the City's FAA funded contracts for the study period.		Months 8-10		
#8	**Anecdotal Data Collection**		**16.9% staff time**		**$177,450**	**21.9%**
	Public Introductory Meeting	CHA will conduct a Public Information Meeting to introduce the study process to the community and answer questions about the methodology and public involvement, as well as take any testimony on discrimination in the City's market.	Colette Holt Victoria Farrell Glenn Sullivan Cultural Strategies, Inc. Adisa Communications Pink Consulting	Month 3		
	Stakeholder/ Community Outreach	CHA will work with our local subconsultants to develop a relevant stakeholder list and conduct community outreach to inform about the disparity study and opportunities to participate.		Month 1- 6		
	Stakeholder/ Business Owner Interview Sessions	We will also conduct in depth stakeholder/business owner small group interviews. Interviews will be divided into M/W/DBEs and non-M/W/DBEs, and further divided by industry (construction, construction-related services, services and commodities).		Month 6		
	Development of Electronic Business Owner Survey/ Initial mailing	CHA will also design and administer an electronic survey of firms on the Master Business List to gain information from		Month 7-8		

		contractors, subcontractors, vendors and consultants (by ethnic group and gender) as to the type of work; capacity and utilization on various types of contracts; reasons for levels of utilization; identification of any forms and instances of discrimination (past or present) experienced by survey respondents; the effects and sources of past or present discrimination; and their interest in bidding or submitting proposals on City contracts.				
	Compilation of survey results	The results of the survey will be compiled, and the findings will inform our review of the current programs and recommendations for enhancements.		Month 9-10		
#9	**Disparity Study Findings, Recommendations and Draft Report**		**14.4% staff time**		**$124,850**	**15.5%**
	Develop narrowly tailored remedies and recommendations	The Report will include recommendations to remedy the effects of any discrimination identified, and to reduce or eliminate any other marketplace barriers that adversely affect the contract participation of small, minority- and women-owned businesses, including the extent to which the effects of discrimination can be addressed through race- and gender-neutral measures. This will include consideration of, and a methodology for, setting annual M/WBE goals for City funded contracts and the triennial DBE	Colette Holt Steven Pitts Joanne Lubart Glenn Sullivan Ilene Grossman Victoria Farrell	Months 11-12		

Exhibit 1
PRICE SHEET
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

		goal for FAA assisted contracts; whether the City can continue to set narrowly tailored contract goals for locally funded contracts and if so, a defensible methodology to do so; program administration and monitoring recommendations; supportive services initiatives; data collection and reporting requirements; and other enhancements to the City's current efforts.				
	Draft Disparity Study Report	Based on the study's findings, CHA will submit a Draft Disparity Study Report for the City's comments.		Months 11-12		
#10	**Disparity Study Final Report**		**4.3% staff time**		**$37,625**	**4.7%**
	Draft Final Disparity Study Report and written recommendations	Once all comments on the Draft Study Report have been received from the City, CHA will submit a Final Disparity Study Report as two hard copies and one electronic copy, incorporating all feedback from the City.	Colette Holt Steven Pitts Joanne Lubart Glenn Sullivan Ilene Grossman Victoria Farrell	Month 12		
#11	**Presentations**		**1% staff time**		**$8,225**	**1%**
	Presentation of Final Report as directed by the City	CHA will present the study findings and recommendations as directed by the City and will assist with facilitating dissemination of the Disparity Study results to the City and the public. Presentations will include a PowerPoint deck explaining the study's standards, elements, methodology, findings, and recommendations, and Ms. Holt will be available to answer questions.	Colette Holt Ilene Grossman Victoria Farrell	Date to be determined as directed by the City		

Exhibit 1
PRICE SHEET
RFQS 7600 CTE4001 – Disparity Study Minority and Women Owned Business Enterprise and Disadvantaged Business Enterprise

#12	**Monthly Progress Reports**		**1.1% staff time**		**$4,450**	**.6%**
	Monthly progress reports, including, when appropriate, progress of deliverables, summaries of meetings, analyses and assessments in progress or completed, and upcoming items.	CHA will submit monthly written progress reports that detail the actions and accomplishments of the prior month; upcoming tasks; any problems encountered, and solutions to ensure the project remains on track and on budget. CHA will conduct monthly telephone meetings with the City's study manager to review study progress.	Colette Holt Ilene Grossman Glenn Sullivan Victoria Farrell	Month 1-12		
#13	**Testimony**		**% N/A**		**N/A**	**N/A**
	In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan.	Colette Holt and Dr. Steven Pitts will be available for a period of six years after completion of the disparity study to provide support to the City in the event of a legal challenge to a program based upon the study, and to assist with the programs in any way that will be helpful to the City.	Colette Holt Dr. Steven Pitts	N/A N/A	Hourly Rate $450 Hourly Rate $400	N/A N/A
TOTALS					**$807,150**	**100%**

CITY OF AUSTIN, TEXAS

Purchasing Office

REQUEST FOR QUALIFICATION STATEMENTS (RFQS)

OFFER SHEET

SOLICITATION NO: RFQS 7600 CTE4001

DATE ISSUED: August 19, 2019

REQUISITION NO.: RQM 19072600684

COMMODITY CODE: 91826 and 91879

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

Primary Contact
Cyrenthia T. Ellis

Procurement Manager
Phone: (512) 974-1709

E-Mail: Cyrenthia.Ellis@austintexas.gov

Alternate Contacts:

1. Shawn Willet
   Deputy Procurement Officer

   Phone: (512) 974-2021
   E-Mail: Shawn.Willet@austintexas.gov

2. John Besser
   Procurement Specialist III

   Phone: (512) 974-2261
   E-Mail: John Besser@austintexas.gov

COMMODITY/SERVICE DESCRIPTION: Minority and Small Business Consulting; Communications: Public Relation Consulting

PRE-RESPONSE CONFERENCE TIME, DATE and LOCATION:
1:00 PM, Central Time, Thursday August 29, 2019

Purchasing Office,
124 West 8th Street, Ste 310
Austin, Texas 78701
Conference Call 512-974-9300; Access code 633927

RESPONSES DUE PRIOR TO:
2:00 PM, Central Time, Tuesday, October 1,2019

COMPLIANCE PLAN DUE PRIOR TO:
2:00 PM, Central Time, Tuesday, October 1,2019

RESPONSE OPENING TIME AND DATE:
3:00 PM, Central Time, Tuesday October 1, 2019

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

LIVE SOLICITATION OPENING ONLINE: For RFQS'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

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

*****

****SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 4 OF THIS DOCUMENT*****

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 # RFQS 7600 CTE4001	Purchasing Office-Response Enclosed for Solicitation # RFQS 7600 CTE4001
P.O. Box 1088	124 W 8th Street, Rm 310
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.

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	5
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 26, 2018	11
0300	STANDARD PURCHASE TERMS AND CONDITIONS	15
0400	SUPPLEMENTAL PURCHASE PROVISIONS	5
0500	SCOPE OF WORK	7
0600	RESPONSE PREPARATION INSTRUCTIONS & EVALUATION FACTORS	4
0630	Exceptions	1
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0835	Non-Resident Bidder provisions	1
	CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – **must be completed and returned**	19
	City of Austin Subcontract Vendor List	13
	City of Austin Vendor Mailing Labels	3

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

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

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

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

Company Name: Colette Holt & Associates

Company Address: 3350 Brunell Drive

City, State, Zip: Oakland, CA 94602

Vendor Registration No.

Printed Name of Officer or Authorized Representative: Colette Holt

Title: Owner

Signature of Officer or Authorized Representative: Colette Holt

Date: 10/1/19

Email Address: colette.holt@mwbelaw.com

Phone Number: 773-255-6844

*** Qualifications Statement must be submitted with this signed Offer sheet to be considered for award**

CITY OF AUSTIN
PURCHASING OFFICE
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:

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

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.

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.

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.

CITY OF AUSTIN
PURCHASING OFFICE
SOLICITATION INSTRUCTIONS V2 JUNE 26, 2018

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 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.

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.

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.

(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.

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.

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;

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 8th 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.

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

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;

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

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.

CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS

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

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.

5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.

6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".

7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City

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.

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

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.

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.

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 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 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.

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.

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 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.

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:

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

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

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

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

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

54. **EQUAL OPPORTUNITY**

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

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

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

A. Definitions. As used in this paragraph –

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

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

56. PROHIBITION OF BOYCOTT ISRAEL VERIFICATION

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

A. For the purposes of this Section only, the terms “company” and “boycott Israel” have the meaning assigned by Texas Government Code §2270.001.

B. If the **Principal Artist** qualifies as a “company”, then the **Principal Artist** verifies that he:
i. does not “boycott Israel”; and

ii. will not "boycott Israel" during the term of this **Contract**.

C. The **Principal Artist's** obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS

The following Supplemental Purchasing Provisions apply to this solicitation:

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

   All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by 5:00 PM CST, Tuesday, September 10, 2019

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

   Alternate Offers will not be considered.

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

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

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

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

         OR

         PURInsuranceCompliance@austintexas.gov

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

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

(a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
(b) Contractor/Subcontracted Work.
(c) Products/Completed Operations Liability for the duration of the warranty period.
(d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.

(2) The policy shall also include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability per accident.

(1) The policy shall include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

iv. **Professional Liability Insurance:** The Contractor shall provide coverage, at a minimum limit of $1,000,000.00 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission arising out of the performance of professional services under this Agreement.

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

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

4. **TERM OF CONTRACT:**

A. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 12 months. The Contract may be extended beyond the initial term for up to 1 additional 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.

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.

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

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

Invoices shall be mailed to the below address:

	City of Austin
Department	Small and Minority Business Resources Department
Attn:	Tamela Saldana
Address	4201 Ed Bluestein Blvd
City, State Zip Code	Austin, Texas 78721

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

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

A. On June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf and is also included in the Solicitation, Section 0200 V2, Solicitation Instructions June 26, 2018.

7. **NON-SOLICITATION:**

A. During the term of the Contract, and for a period of six (6) months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.

B. In the event that a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) 100 percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.

C. During the term of the Contract, and for a period of six (6) months following termination of the Contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.

D. In the event that a breach of Paragraph C occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual

compensation or (ii) 100%percent of the employee's annual compensation while employed by the Contractor.

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 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.

12. **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:

Tamela Saldana
4201 Ed Bluestein Blvd
Austin, Texas 78721
512-974-7844

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

CITY OF AUSTIN
PURCHASING OFFICE
REQUEST FOR QUALIFICATION STATEMENTS (RFQS)
SOLICITATION NUMBER: RFQS 7600 CTE4001
SCOPE OF WORK - Version 1.1 Revised 09132019

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

1. OBJECTIVE OF THE PROJECT:

The City of Austin (City) seeks responses to this Request for Qualifications Statements (RFQS) from contractors experienced in conducting Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE)) disparity studies. The selected contractor (Contractor) shall conduct a MBE/WBE/DBE disparity study (Disparity Study) consistent with constitutional mandates, governing law, and MBE/WBE/DBE best practices. The Contractor's final report shall outline the results of the Disparity Study and clearly and concisely offer the Contractor's recommendations consistent with the findings and governing law.

2. DEFINITIONS:

For purposes of this RFQS, the following terms have the meanings set out below:

a) **MBE:** refers to Minority-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §§2-9(A-C)-4(31) and §2-9D-4(32).
b) **WBE:** refers to Women-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §2-9A-4(47) and §§2-9(B-D)-4(48).
c) **MBE/WBE Ordinance:** refers to Chapter 2-9(A-D) of the City's Ordinance, found at https://library.municode.com/tx/austin/codes/code_of_ordinances.
d) **City's MBE/WBE Program:** refers to the City of Austin's Minority and Women Business Enterprise Procurement Program, as incorporated in the MBE/WBE Ordinance and the City's Program Rules, found at https://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/Rules/Rule_Adoption_SMBR_March_4_2019.pdf.
e) **DBE:** refers to Disadvantaged Business Enterprise, as the term is defined by the federal regulations at 49 CFR §26.5.
f) **City's DBE Plan:** refers to the program the City has established in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City's DBE Plan can be found at http://www.austintexas.gov/department/disadvantaged-business-enterprise-dbe-program

3. BACKGROUND:

CITY OF AUSTIN
PURCHASING OFFICE
REQUEST FOR QUALIFICATION STATEMENTS (RFQS)
SOLICITATION NUMBER: RFQS 7600 CTE4001
SCOPE OF WORK - Version 1.1 Revised 09132019

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The City's MBE/WBE Program is based on a series of disparity studies that were conducted in response to the 1989 U. S. Supreme Court decision, *City of Richmond v. J.A. Croson Co*, 488 U.S. 469 (1989). The *Croson* decision held that a local government may redress race discrimination in its contracting activities, if it can demonstrate through relevant evidence a compelling governmental interest sought to be remedied, and that the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

Even prior to *Croson*, in anticipation of the adoption of the City's first MBE/WBE Ordinance, the City Council determined the need for an affirmative action program based on evidence collected in 1987 showing disparities in MBE/WBEs performing work for the City as prime contractors and subcontractors.

In 1992, the City responded to *Croson* by engaging a Contractor to conduct a disparity study to measure the availability of MBE/WBEs in the City's marketplace and any disparities in the City's utilization of these businesses. Evidence continued to demonstrate that MBE/WBEs were being underutilized in contracting opportunities on City contracts as a result of private sector discrimination. The City Council adopted a revised MBE/WBE Ordinance to reflect these conclusions.

In 2003, the City engaged a contractor to conduct an updated disparity study of the availability and utilization of MBE/WBE firms. The 2003 study indicated that there continued to be an underutilization of MBE/WBEs available to perform the work on City contracts. These efforts resulted in a revised MBE/WBE Ordinance, based upon the new evidence and recent court rulings.

The City retained a contractor in 2005 to conduct an updated disparity study. Again, significant barriers to full and fair participation on City contracts remained. In response, the City amended the MBE/WBE Ordinance in 2006.

The City retained a contractor in 2008. The current MBE/WBE Ordinance reflects the findings of this study, which identified disparities between the number of available MBE/WBES and the number actually utilized on City contracts.

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The last disparity study was completed in 2015 and found discrimination continued in the City's marketplace.

The current MBE/WBE Ordinance sunsets on March 30, 2020. However, the City will extend this sunset date to allow sufficient time to complete and implement recommendations from this study, as appropriate.

As the owner and operator of Austin-Bergstrom International Airport (ABIA), the City has also established a program for DBEs (DBE Plan). The City's DBE Plan was designed to provide small businesses owned and controlled by socially and economically disadvantaged individuals an equal opportunity to participate in the City's airport concession DBEs, pursuant to 49 CFR Part 23, and in City contracts utilizing DOT federal contract dollars, pursuant to 49 CFR Part 26.

The City's Small and Minority Business Resources (SMBR) Department is responsible for managing, implementing, and operating the City's MBE/WBE Program and DBE Plan. SMBR performs an array of services including contractor certification, contract compliance (pre-award and post-award), community outreach, and coordination of City resource services (plan room and bonding assistance). It serves as an enforcement arm to ensure compliance with the MBE/WBE Ordinance by all City departments. The link for the City's governmental structure organization chart can be found at https://www.austintexas.gov/sites/default/files/files/City_Manager/COAOrgChart02_04_2019.pdf.

SMBR will be the pivotal department for the selected Contractor.

4. REQUIRED SERVICES:

The Contractor will perform a comprehensive Disparity Study to determine the availability of and opportunities for MBEs, WBEs, DBEs and ACDBEs to participate in the City's contracting and procurement. The Disparity Study shall be based on historical data from Fiscal Year 2013-through Fiscal Year2018, collected by the City. The City's data includes total contract amounts and total amounts paid to MBE/WBEs and DBEs, recorded by industry, race/ethnicity, and gender. The City has collected this data on prime contractors and subcontractors. The City's data has been catalogued using

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Advantage Financial and eCapris (in-house) software and is available in electronic format. The City's data for the 2008-2013 disparity study contained 475 contracts categorized as "construction", 1,539 contracts categorized as "commodity", 479 contracts categorized as "professional services", and 1,439 contracts categorized as "general services/non-professional services". In all, a total of 3,932 contracts/purchase orders were contained in the data sets.

The Disparity Study shall analyze whether a disparity exists between the number of available MBE/WBE/DBE/ACDBE-owned businesses' in the City's geographic and product markets and the number being utilized on City contracts. The Disparity Study will analyze MBE/WBE/DBE/ACDBE-owned businesses' availability and participation both as prime contractors and subcontractors in specific industries (identified by commodity codes) within the broader categories of construction, professional services, non-professional services, and commodities. The Contractor shall not be expected to analyze the data associated with contracts with a value of less than $50,000. More specifically, the selected Contractor must perform the following elements of work (collectively referred to as the Project):

a. Provide detailed and up-to-date overview of current constitutional standards and case law on race-conscious government efforts in public contracting;
b. Provide an outline and discuss in detail the legal requirements for both race- and gender-conscious programs operated by local governments, as set forth in *Croson*, and *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995) (*Adarand*) and any other decisions that bear on the abilities, legal rights and obligations of state and local governments to implement race- and gender-conscious preference programs in the context of the study and analysis described in the Study goal. The Study shall include an explanation of the methods and practices to be employed by the City to comply with such legal requirements and shall also specifically address:
    - The application of the strict scrutiny standard of review for race-conscious remedies and the intermediate scrutiny standard of review for gender-conscious remedies;
    - The method(s) by which identifiable discrimination against MBEs or WBEs directly related to public entities' contracts can be determined; and

- Analysis of any available judicial or administrative public hearing transcripts, summaries, or findings as to allegations of commercial discrimination made against contractors, subcontractors, vendors, contractors and Texas political subdivisions.

c. Determine the City's appropriate geographic market area.
d. Determine the City's product markets, or those industries within the major procurement categories (construction, professional services, non-professional services, and commodities) that are most indicative of work performed on City contracts.
e. Determine if there are disparities in the City's contracting and procurement;
f. Determine the availability of MBE/WBE/DBE-owned businesses' (classified by industry, race/ethnicity, and gender) in the City's geographic and product markets that are ready, willing, and able, with the capacity to do business with the City. The Contractor's methodology for determining availability shall rely on more than just census data to ensure most firms are captured and that ownership is verified. When determining DBE availability, the Contractor shall analyze whether an adjustment to the availability figures is warranted to account for any effects discrimination may have had on the availability of such firms, as is required under 49 CFR §26.45(d) of the DBE federal regulations (referred to as the "Step 2 adjustment") and 49 CFR §23.51(d);
g. Determine the City's utilization of available MBE/WBE/DBEs, classified by industry, race/ethnicity and gender in the City's geographic and product markets; Examine, document and detail if there is statistical evidence of disparities in the contracting and subcontracting activities within the City. If disparities as described above do exist, determine whether the effects of any past discrimination against MBE/WBE/DBEs and ACDBEs in the City's procurement of goods and services and professional services as well as in construction contracts and concession contracts exists or continues to exist within the geographical market, as a result of direct action by the City, or as a result of the City's role as a passive participant in discriminatory behavior practiced by entities that do business with the City.
h. If disparity as described above does exist between the utilization of MBE/WBE/DBEs and ACDBEs, that results from any cause or causes described in the second issue, whether the use of only race- or gender-neutral and/or economically-based measures would be effective to remedy such discrimination.

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

i. Determination of a basis by which the City will originate goals that apply to the participation of MBE/WBE/DBEs and ACDBEs.
j. If race- or gender-neutral and/or economically-based measures alone would not be effective to remedy such discrimination, the Contractor will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its MBE/WBE Program. The resultant formula should effectively offset past and present discrimination against MBE/WBE/DBEs and ACDBEs while remaining sufficiently narrowly tailored to refrain from needlessly violating the rights of non-MBE/WBE/DBEs and ACDBEs or their owners.
k. Collect and analyze anecdotal evidence on the experience of businesses in the City's markets, including business–owners and community stakeholder's input, which may include interviews, surveys and other methods approved by SMBR, to buttress identified statistical disparities.
l. To the extent necessary and possible, collect data regarding other public entities' utilization of MBE/WBE/DBEs with similar geographic and product markets. Document and explain the significance of these findings, including if the City is underutilizing MBEs, WBEs, DBEs and/or ACDBEs.
m. Determine whether and to what extent artificial barriers and/or discrimination exist in the private sector. This determination will require an analysis of MBE/WBE/DBE's and private sector success relative to non-MBE/WBE/DBE/ACDBEs private sector success.
n. Identify potential additional industries (not reflected in City's current data or the City's MBE/WBE Program) by commodity code with MBE/WBE availability
o. Based on analysis and review of the City's MBE/WBE Program (the MBE/WBE Ordinance and accompanying rules) and the City's DBE Plan and applicable governing law, provide recommendations, including race- and gender-neutral means, for addressing any identified disparities. These recommendations should address annual ethnic-specific goals (and provide guidance on determining project-specific goals), the certification process, and any other related compliance issues.

This Scope of Services does not include legal services, nor does it include a legal component other than what is specifically provided above. The City has separately retained legal counsel to provide legal advice to the City throughout this process.

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

5. Deliverables:

The contractor shall specifically deliver the following:

a. Monthly progress reports, including, when appropriate, progress of deliverables, summaries of meetings, analyses and assessments in progress or completed, and upcoming items.
b. A draft of the Contractor's final report for review and comment by the City, and a final version of all relevant reports, including, but not necessarily limited to, an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program.
c. A final report, revised based on feedback by the City on the draft report, on the Disparity Study, including an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program. The final report shall be written in clear and concise language using consistent terms; easy to understand; organized in a logical manner; fully illustrated with relevant examples; and consistent with widely accepted methodology. Unless otherwise permitted by the City, the final report and all data and records developed in conjunction with the final report and Disparity Study shall be submitted to the City as two hard copies and one electronic copy (in Microsoft Office 2007 or later) to permit future use by the City of Austin.
d. Present Disparity Study findings to relevant City Departments, relevant Boards and Commissions, and the City Council, and otherwise cooperate with the City in facilitating dissemination of the Disparity Study results to the City and the public.
e. In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan.

DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

6. QUALIFICATIONS:

a. The experience, knowledge, and capabilities of the Contractor's personnel and sub-contractors (the Project Team) will be thoroughly evaluated to determine the Contractor's ability to timely deliver a legally defensible Disparity Study developed consistent with best practices and meeting the legal requirements established by the Courts. It is the Contractor's responsibility to secure all services necessary to meet the requirements of this solicitation.

b. Staff Replacement
Proposed replacement staff throughout the life of the contract shall meet minimum qualifications and have experience comparable to the person(s) being replaced. Resume(s) and references may be requested for the proposed replacements. Substitution of professional personnel after the award may be a basis for termination of the Study contract unless agreed to by the City. The City retains the right to object to any subtraction, addition or substitution of proposer staff assigned to the Study made 10 days after the City's approval of the project award. If the City objects to any subtraction, addition or substitution of proposer's staff, proposer shall refrain from making any such change to the composition of its staff assigned to the Study.

7. SCHEDULE:

The MBE/WBE/DBE Disparity Study shall be completed by the Contractor within 12 months after issuance of notice to proceed from the City. The completed study shall be submitted to the City's Contract Manager.

8. ANTICIPATED BUDGET:

The City's estimated Fiscal year 2020 budget is $1,000,000, to be spent on the Contractor's contract, legal services, and any other associated costs. By submitting a response to this RFQS, the Contractor acknowledges this overall budget and represents that the Contractor believes its anticipated costs shall not cause the City to exceed the overall budget.

CITY OF AUSTIN
PURCHASING OFFICE
RESPONSE PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQS 7600 CTE4001 - Version 1.2 Revised 09272019

1. SUBMITTAL FORMAT:

Submit one original paper copy and an electronic copy of the original response in PDF version on a flash drive. The original response shall contain ink signatures and shall be typed on standard 8 ½" X 11" paper, double-sided, and have consecutively numbered pages.

The response itself shall be organized in the following format and informational sequence. Use tabs to divide each part of the response and include a Table of Contents:

Section I

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

A. Signed Offer Sheet
B. Section 0630 Exceptions, completed
C. Section 0800 Non-Discrimination and Non-Retaliation Certification Completed and signed
D. Section 0805 Non-suspension or Debarment Certification
E. Section 0810 V2 Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit
F. Section 0835 Non-Resident Bidder Provisions
E CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – Appendix A MBE/WBE COMPLIANCE PLAN
G. All signed Addendums (all pages)

Tab 2 – Authorized Negotiator: Provide name, mailing address, email address, and telephone number of the officer or other representative in your organization authorized to negotiate and execute binding contract terms.

Tab 3 – Executive Summary: In no more than three pages, provide an Executive Summary in brief, concise terms of your qualifications related to this RFQS. Include the number of years your organization has been in business, a summary of your organization's history and experience, and how your organization is the most qualified to carry out the Scope of Work (reference Section 0500).

Tab 4 – References: Provide a minimum of five references for organizations that have received comparable and satisfactory disparity, availability or utilization analysis services from the proposer within the past 10 years. Proposer shall include the following for each:

- Organization
- Organization contract manager name and title, phone number, and email address
- Detail of the work completed for the organization
- Year contract was awarded and length of contract
- Initial budget of project/contract
- Final invoiced amount of project/contract

Tab 5 – Personnel & Company Qualifications: Provide a general explanation and organizational chart for your company which specifies the structure and reporting responsibilities of personnel. If the use of subcontractors is proposed, identify their placement in the structure and provide a description for each subcontractor's responsibilities.

For Personnel listed above, please provide:

- Resumes and/or professional experience including Curriculum Vitas (CVs) if applicable and education for executive leadership listed on the organizational chart, including any professional trainings, degrees and/or certifications held.

Tab 6 – Company and Personnel Experience

A. **Company Information**: Respondents must include a profile of the Offeror's experience developing and conducting disparity, availability and utilization studies of M/WBE, SBE, DBE and ACDBE Programs. Respondents should demonstrate their ability to meet the constitutional requirements promulgated in Croson and subsequent cases. Profiles shall include, but not be limited to, any experience of Respondent's personnel serving as designated testimonial or consulting expert witnesses under the Federal Rules of Civil Procedure or comparable state rules, in Croson litigation or other lawsuits challenging race- or gender-conscious contracting programs.

B. **Principal Researcher**: Respondent's must identify a researcher who will be the principal point of contact and will exercise responsibility for the overall conduct, day-to-day activities and timeliness of the Study ("Principal Researcher"). The Principal Researcher should have served in this capacity on a similar disparity or availability study. Other professional team members must also be identified by name, title, qualifications and duties to be performed in producing the study. Respondent agrees that the Principal Researcher and other key staff assigned to the Study shall remain available for contact, direction, and management by the City during the entirety of the project throughout the term of the contract as long as that individual is employed by the Respondent. At least one member of Respondent's personnel assigned to the study must have a doctorate degree in economics or statistics from an accredited university and be able to apply statistical measurements in conformity with scientifically valid and accepted methods specific to disparity studies.

C. **Staffing/Staff Replacement** – Respondent shall provide a list of additional staff which may be assigned to the study and must demonstrate its ability, if necessary, to provide qualified additional and/or replacement staff to meet the Study's due date(s).

D. **Litigation Report** – Respondent shall provide a listing and disposition of all state and federal court cases, including its Principal Researcher, participated and which involved their research or consultation in disparity studies and availability and utilization studies.

Section II

Acceptance Period: All responses are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFQS closing date unless a longer acceptance period is offered in the response.

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

Preparation Costs: All costs directly or indirectly related to preparation of a response to the RFQS or any oral presentation required to supplement and/or clarify an offer which may be required by the City shall be the sole responsibility of the Offeror.

Compliance: The Offeror agrees to compliance with terms of this RFQS and with all applicable rules and regulations of Federal, State, and Local governing entities.

Section III

EVALUATION FACTORS AND AWARD:

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

B. Evaluation Factors: All responses will be evaluated based on the following criteria and rankings. **Maximum 100 points.**

1. **References** – reference Section I, tab 4 **(20 points)**
2. **Personnel & Company Qualifications** – reference Section I, Tab 5 and 6 **(80 points)**

A) **Experience of Project Lead** (15 points) - Please provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, designing, and leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the study was conducted; name of the entity which requested the study; price of the study; study description/scope; project lead duties and responsibilities for each project/study.

B) **Experience of Principal Researcher** (15 points) - Please provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, analyzing data, devising methodologies for data sets, and the magnitude of the data sets analyzed on disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the research was conducted; name of the entity which requested the research; study description/scope.

C) **Experience of Disparity Study Firm** (20 points) - Please provide no more than three (3) and no more than five (5) projects leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the entity which requested the study; final price of the study; study description; and your role in the study. Also, identify any projects that were intended to lead to a disparity study for a municipality, state or other jurisdiction over the past 10 years that did NOT lead to the intended disparity study. If you can, identify the entity requesting the work, your role in the work, and the reason(s) it did result in a finished disparity study.

D) **Proposed Methodology** (15 points) – the City is interested in the proposed methodology to be used to conduct this study. Proposers should provide a detailed discussion of your firm's approach, key considerations to the analysis (qualitative and quantitative) and the approach to identify and correct errors in quantitative data.

E) **Experience with Municipal Entities** (15 points) -. The Austin City Council adopted a strategic direction on March 8, 2018, guiding the City of Austin for the next three to five years. *Austin Strategic Direction 2023* outlines a shared vision and six priority Strategic Outcomes: *Together we strive to create a complete community where every Austinite has choices at every stage of life that allow us to experience and contribute to all of the following outcomes:*

- **Economic Opportunity and Affordability:** Having economic opportunities and resources that enable us to thrive in our community.
- **Mobility:** Getting us where we want to go, when we want to get there, safely and cost-effectively.
- **Safety:** Being safe in our home, at work, and in our community.
- **Health and Environment:** Enjoying a sustainable environment and a healthy life, physically and mentally.
- **Culture and Lifelong Learning:** Being enriched by Austin's unique civic, cultural, ethnic, and learning opportunities.
- **Government That Works for All:** Believing that city government works effectively and collaboratively for all of us - that it is equitable, ethical and innovative

SMBR and its MBE/WBE/DBE Programs are aligned with the Economic Opportunity and Affordability outcome. Please describe your experience in working with municipalities for disparity studies. Describe your experience with handling a disparity study analysis in conjunction with the unique challenges of municipal boundaries, authority, and regulatory environment and how the SMBR, the disparity study and ultimately its MBE/WBE program can best achieve the outcome of Economic Opportunity and Affordability as outlined in Strategic Direction 2023 (SD23). The link to SD23 is:
https://www.austintexas.gov/financeonline/afo_content.cfm?s=73&p=160

C. Reservations:

1. Presentations, Demonstrations Optional. The City will score submissions on the basis of the criteria listed above. The City reserves the right to select a “short list” of Offerors based on those scores. “Short-listed” Offerors may be invited for presentations or demonstrations with the City. The City reserves the right to re-score “short-listed” submissions as a result, and to make award recommendations on that basis.

2. The City reserves the right to require short listed vendors selected for demonstrations or presentations to provide a minimum of two (2) most recent years of audited annual reports that evidence the financial health of the organization. In the event that audited financial statements cannot be provided, the Vendor must provide financial information that will enable the City to accurately assess financial stability and viability. Vendors unwilling to provide this information or whose financial information is deemed as not demonstrating financial stability will not be considered for award.

EVALUATOR WORKSHEET

VENDOR: Colette Holt & Associates

Evaluators will complete this form for each Offer being evaluated. Comments should be strengths and weaknesses and page numbers for each criterion listed below.

Number	Criterion	Strengths (include page reference)	Weaknesses (include page reference)
1.	Experience of Project Lead		
2.	Experience of Principal Researcher		
3.	Experience of Disparity Study Firm		
4.	Proposed Methodology		
5.	Experience with Municipal Entities		
6.	References	Purchasing will evaluate along with Sponsoring Department	

EVALUATOR WORKSHEET

VENDOR: Colette Holt & Associates

Page Number	Topic/Item	Strengths (include page reference)	Weaknesses (include page reference)

* Copy this page as many times as necessary to capture all comments for this Offer.

CITY OF AUSTIN
PURCHASING OFFICE
EXCEPTIONS

Solicitation Number: RFQS 7600 CTE4001

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. Complete the exception information indicating each exception taken, provide alternative language, and justify the alternative language. Copies of this form may be utilized if additional pages are needed.

Failure to agree to the standard contract terms may result in the City choosing to move forward with an award of a contract to the next best Offeror.

The City, at its sole discretion, may negotiate exceptions that do not result in material deviations from the sections contained in the solicitation documents. Material deviations as determined by the City may result in the City deeming the Offer non-responsive. The Offeror that is awarded the contract shall be required to sign the contract with the provisions accepted or negotiated.

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

Page Number **Section Number** **Section Description**

Alternative Language:

Justification:

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 compliant, 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 filling. 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 _____ day of _____, _____

CONTRACTOR _____

Authorized Signature _____

Title _____

City of Austin, Texas
Section 0805
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. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of $25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Dated this 1st day of October, 2019

CONTRACTOR Colette Holt & Associates

Authorized Signature Colette Holt

Title Owner

CITY OF AUSTIN, TEXAS
SECTION 0810 V2
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION
June 26, 2018

The term **"Offeror"**, as used in this document, includes the individual or business entity submitting the Offer. For the purpose of this Affidavit, an Offeror includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and any person or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly: CH.

   a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.

   b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.

2. **Preparation of Solicitation and Contract Documents**. The Offeror has not received any CH. compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of CH. Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

4, **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest CH. regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.

5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a CH. substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.

6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local CH. Government Code, the Offeror:

   a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than $100 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror. and

c. does not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.

7. As required by 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.

   If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation with any solicitation responses on separate pages to be annexed hereto.

8. **Anti-Lobbying Ordinance.** On June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf and is also included in the Solicitation, Section 0200 V2, Solicitation Instructions June 26, 2018.

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO. RFQS 7600 CTE4001

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 – A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

(2) Nonresident Bidder – A Bidder who is not a Texas Resident Bidder.

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

Answer: _____ Which State:

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

Answer: _____

Bidder's Name: _____

Signature of Officer or Authorized Representative: _____ Date: _____

Printed Name: _____

Title _____

CITY OF AUSTIN

CITY CODE CHAPTER 2-9C
NON-PROFESSIONAL
MBE/WBE PROCUREMENT PROGRAM

Solicitation Name: 2019 Disparity Study

Solicitation Number: RFQS 7600 CTE4001

Issue Date: 08/19/2019

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LETTER TO POTENTIAL SUBCONTRACTORS ..... ERROR! BOOKMARK NOT DEFINED.

CONFIRMATION LETTER **18**

MBE/WBE GOALS

Annual/Project Participation Goals				Annual/Project Participation Subgoals		
MBE		%	OR	African American		%
WBE		%		Hispanic		%
Combined MBE/WBE	1.40	%		Asian/Native American		%
				WBE		%

OVERVIEW

This document should be read in conjunction with the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance for Commodities (Chapter 2-9C of the Austin City Code) and the Small and Minority Business Resources Department (SMBR) Rules. The definitions contained in Chapter 2-9C apply to this document. The City Code and Rules are amended from time to time and the Bidder is responsible for ensuring they have the most up to date version. The City Code and Rules are incorporated into this document by reference. Copies of Chapter 2-9C and SMBR Rules may be obtained online at http://www.austintexas.gov/smbrdocuments or from SMBR, 4201 Ed Bluestein, Austin, Texas 78721 (512) 974-7600.

Firms or individuals submitting responses to this Invitation for Bid agree to abide by the City's Minority-owned and Women-owned Business Enterprise (MBE/WBE) Procurement Program and Rules. The City's MBE/WBE Program is intended (1) to promote and encourage MBEs and WBEs to participate in business opportunities with the City of Austin; (2) to afford MBEs and WBEs an equal opportunity to compete for work on City contracts; and (3) to encourage contractors to provide subcontracting opportunities to certified MBEs and WBEs by soliciting such Firm for subcontracting opportunities. The City of Austin and its contractors shall not discriminate on the basis of race, color, national origin, disability, or gender in the award and performance of contracts.

The City encourages Bidders to achieve the MBE/WBE participation goals and subgoals for this contract. However, Bidders may comply with the City Code and Rules without achieving the participation goals so long as they make and document Good Faith Efforts that would allow MBE and WBE participation per Section 2-9C-21 of the City Code and Section 9.1 of the Rules. Bidders that do not meet the project's goals and subgoals are subject to Good Faith Efforts review.

Prior to the due date and time specified in the City's solicitation documents, all Bidders (including those Firms certified as MBE/WBEs) shall submit: (1) an *MBE/WBE Compliance Plan* (Appendix A) and (2) if it is anticipated the project goals will not be met, all appropriate documentation to demonstrate Good Faith Efforts to meet the project goals. Any questions regarding preparation of the *MBE/WBE Compliance Plan* should be directed to SMBR at SMBRComplianceDocuments@austintexas.gov. Such contact is not a violation of the Anti-Lobbying Ordinance.

The City has implemented Anti-Lobbying Ordinance (Chapter 2-7 of the Austin City Code). Under Chapter 2-7, there is a "no-contact" period from the date the City issues a solicitation until the contract is executed. During the "no-contact" period, a person responding to a City solicitation can speak only to the contract's authorized contact person regarding their solicitation response. Chapter 2-7 allows certain exceptions; for instance, a person responding to a City solicitation may speak to SMBR regarding this *MBE/WBE Compliance Plan*. See the full language of the City Code or solicitation documents for further details.

MBE/WBE COMPLIANCE PLAN INSTRUCTIONS
(See Appendix A)

If the *MBE/WBE Compliance Plan* and Good Faith Efforts documentation are not submitted prior to the due date specified in the solicitation documents, the bid will be deemed non-responsive and not be accepted for consideration.

SMBR may request written clarification of items listed on the *MBE/WBE Compliance Plan*. However, there will be no further opportunity for the Bidder to augment the MBE/WBE participation originally listed in the *MBE/WBE Compliance Plan* or to demonstrate Good Faith Efforts that were not made prior to the submission of the *MBE/WBE Compliance Plan*. Changes to the *MBE/WBE Compliance Plan* are permitted only after contract execution and only with prior written approval of SMBR.

Please type or clearly print all information, use "none" or "N/A" where appropriate. ***MBE/WBE Compliance Plans* not complying with the *MBE/WBE Compliance Plan* Instructions shall be rejected as non-responsive. Submissions not utilizing the forms provided with the solicitation may render the submission nonresponsive or noncompliant.**

Section I Project Identification and Goals

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Bidder does not need to fill in any information under Section I.

Section II Bidder Information

The Bidder should complete this section with its information and sign in the space provided. The portion of Section II marked as "Reserved for City of Austin SMBR Only" should be left blank.

Section III MBE/WBE Compliance Plan Summary

This section is a summary of subcontractor participation for this Bid. Bidder should complete Sections IV-VII, described below, before attempting to complete Section III. After completing Sections IV-VII, calculate the percentage of MBE/WBE participation for each goal and enter the information in the blanks provided. Because Section III is a summary, if there are any inconsistencies between Sections IV-VII and Section III, the calculations contained in Sections IV-VII will prevail. If the Bidder indicates that they do not anticipate meeting the goals with certified MBE/WBE firms, then the Bidder shall submit documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals. The MBE/WBE Compliance Plan will be reviewed and approved by the Small and Minority Business Resources Department.

Section IV Disclosure of MBE and WBE Subcontractors

Please list all certified MBE/WBEs subcontractors using the legal name under which they are registered to do business with the City of Austin and the value of the work they will be performing themselves except for subcontractor(s) that will be performing the trucking or hauling scope of work (see Section VII below). Do not include the value of work that the MBE/WBE's subcontractors will be subcontracting to second-level subcontractors. By listing certified MBE and WBE Firms on the MBE/WBE Compliance Plan, the Bidder indicates that both parties acknowledge the price and scope of work and that they are prepared to contract for that price and scope if the City awards the project to the Bidder. Unit price subcontracts are acceptable if appropriate to the type of work being performed. A Letter of Intent (LOI) does not replace a binding contract between a prime contractor and a subcontractor.

Before completing Section IV of the *MBE/WBE Compliance Plan*, please read the following instructions regarding how to count MBE/WBE participation:

(A) Only the value of the work actually performed by the MBE/WBE shall be counted toward the goals. This includes:

(1) work performed by the MBE/WBE's own forces;

(2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the MBE/WBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the goal); and

(3) fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

(B) When a Bidder purchases supplies, materials, or equipment from an MBE/WBE, the cost of those supplies, materials, or equipment shall be counted toward the goals as follows:

(1) If the supplies, materials, or equipment are obtained from an MBE/WBE that is a Manufacturer or Regular Dealer, 100 percent of the payment for the supplies, materials, or equipment shall be counted toward the goals.

(2) If the supplies, materials, or equipment are obtained from an MBE/WBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the goals. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the goals if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

(C) When an MBE/WBE subcontractor listed on the MBE/WBE Compliance Plan subcontracts part of the work of its contract to another Firm, the value of that second-level subcontracted work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. Please see Section VI for an explanation of how to count the value of second-level subcontractors' work.

(D) A Firm owned by a minority woman may be certified as both an MBE and a WBE (dual certified). On a single contract, the value of the work performed by a dual certified subcontractor may not be counted toward both the MBE and the WBE goals. The Bidder must decide whether to designate the dual certified subcontractor as an MBE or a WBE in the MBE/WBE Compliance Plan for the purpose of meeting the goals set for that contract. That designation may not be changed for the duration of the contract.

(E) When an MBE/WBE performs as a participant in a certified Joint Venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the MBE/WBE performs with its own forces and for which it is at risk shall be counted towards the project goals. For more specific information regarding requirements and evaluations of certified MBE/WBE Joint Ventures, please see the City's MBE/WBE Procurement Program Rules or contact SMBR's Certification Division.

(F) Only expenditures to an MBE/WBE contractor that is performing a Commercially Useful Function shall be counted toward the project goals. If SMBR makes an initial determination that an MBE/WBE is not

performing a Commercially Useful Function given the type of work involved and normal industry practices, the MBE/WBE may present evidence to rebut this presumption.

(G) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date to submit the MBE/WBE Compliance Plan as specified in the City's solicitation documents. A Firm that is certified as an MBE/WBE at the time that the MBE/WBE Compliance Plan is filed may cease to be a certified Firm before the contract is completed. Only the value of the work performed by such a Firm while it is certified may be counted toward the project goals.

Section V Disclosure of Non-Certified Subcontractors

Please list all known non-certified subcontractors, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Bidder will not use any non-certified Firms, please write "N/A" in the first box on this page.

The scopes of work indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If Bidder did not meet the project goals, Bidder must explain in the space provided why MBEs/WBEs were not used as subcontractors and ***submit documentation for the stated reason if applicable.*** If Bidder did meet the project goals, please indicate "Goals Met" in the space provided.

Section VI Disclosure of Second-Level Subcontractors

Please complete this section if Bidders knows that one or more of Bidder's subcontractors will subcontract part of the work of their contracts to second-level subcontractors. In the last line of each entry box, please write the name of the first-level subcontractor that will be subcontracting work to the second-level subcontractor. Identify second-level subcontractors by the legal name under which they will be registered to do business with the City. The first-level subcontractor should be listed in Section IV or Section V. If Bidder is not aware of any second-level subcontractors, please write "N/A" in the first box on this page.

As discussed in Section IV above, when an MBE/WBE subcontractor subcontracts part of the work of its contract to another Firm, the value of that second-level subcontractor work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. The value of the second-level subcontractor work may be counted toward the project goals only based on the second-level subcontractor's own MBE/WBE certification, if any. Work that an MBE/WBE subcontracts to a non-certified firm does not count toward the goals. Work that an MBE/WBE subcontractor contracts to another certified firm shall not be counted twice towards the goal.

Section VII MBE/WBE Compliance Plan Checklist

Please complete the *MBE/WBE Compliance Plan Checklist* with the information requested if the stated project goal(s) are not met.

GOOD FAITH EFFORTS INSTRUCTIONS
(See *Appendices B and D)*

The Bidder has a responsibility to make a portion of the work available to MBE/WBE subcontractors so as to facilitate meeting the goals or subgoals. If the Bidder cannot achieve the goals or subgoals, documentation of the Bidder's Good Faith Efforts to achieve the goals or subgoals must be submitted at the same time as the MBE/WBE Compliance Plan. The SMBR Director will review the documentation provided and determine if the Bidder made sufficient Good Faith Efforts. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Bidder's failure to meet the goals and subgoals, as long as such costs are reasonable. However, a Bidder is not required to accept a higher quote from a subcontractor in order to meet a goal or subgoal.

Contacting Potential MBE/WBE Subcontractors

The City has determined the scopes of work for this project and provided an Availability List of all the MBE and WBE firms certified to perform those scopes. The *Availability List* (Appendix D) is included with the solicitation documents and has two sections: *Vendors Within the Significant Local Business Presence (SLBP) Area* and *Vendors Outside the Significant Local Business Presence (SLBP) Area*. As part of Good Faith Efforts, Bidders ***must*** contact ***all*** firms listed in the *Vendors Within the SLBP Area* section. Please note that every firm on the Availability List – outside the SLBP – is City-certified as an MBE or WBE for purposes of meeting the project goals, and Bidders are encouraged to contact all the firms. If a Bidder identifies an additional scope of work for this project not identified in the solicitation, the Bidder must request from SMBR an Availability List for that scope of work and contact all firms, if any, on such list. The SMBR Director determines whether the Bidder has made sufficient Good Faith Efforts if goals or subgoals are not met.

The City neither warrants the capacity or availability of any Firm, nor does the City guarantee the performance of any Firm indicated on the availability list.

The availability list is sorted in numerical sequence by National Institute of Governmental Purchasing (NIGP) Commodity Code. It includes all certified MBE/WBE vendors for the scopes of work identified by the City as being potentially applicable to this project. However, the availability list is not a comprehensive identification of all areas of potential subcontracting opportunities. If a Bidder identifies one or more work areas that are appropriate subcontracting opportunities that not included on the availability list, the Bidder shall contact SMBR to request the availability list for MBE and WBE Firms in those areas. Requests for supplemental availability lists will be evaluated as a part of the Bidder's Good Faith Efforts to meet the goals.

If the Bidder believes any of the work areas on the availability list are not applicable to the project's scope of work or if the Bidder believes that the lists are inaccurate, the Bidder shall notify the authorized contact person of the concern immediately and prior to submission of the response to the solicitation. All Bidders will be notified in writing of any inaccuracy by addendum to the solicitation. Concerns about a particular MBEs/WBE's certification status may be addressed to SMBR at SMBRComplianceDocuments@austintexas.gov. If the Bidder wants to use a certified subcontractor that does not appear on this list, Bidder may request from SMBR or visit https://www.ci.austin.tx.us/financeonline/vendor_connection/search/vendors/certvendor.cfm for proof of certification and the specific work areas for which the subcontractor has been certified.

Appendix B provides a format for collecting required information from the subcontractors on the *Availability List*. The information must be obtained at least seven (7) business days prior to the submission of the *MBE/WBE Compliance Plan*; alternate formats may be acceptable as long as they gather the same required information. Included with the solicitation documents is an alphabetized list containing the names and addresses of the MBE/WBE Firms listed on the Appendix D. This list is in label format and is designed to facilitate the printing of mailing labels.

The following codes are used on the availability lists:

F	Female	M	Male
AA/B	African American	H	Hispanic
A/NA	Asian/Native American	W/C	Caucasian
LOC	A firm's two-digit location code (e.g., SL or TX)	AU	Austin
SL	Significant Local Business Presence (SLBP)	TX	Outside SLBP
MBE	A firm certified as a Minority-owned Business Enterprise	WBE	A firm certified as a Woman-owned Business Enterprise
MWB	A firm certified as both a Minority-owned & Woman-owned Business Enterprise	WMB	A firm certified as both a Woman-owned & Minority-owned Business Enterprise
MWDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise	WMDB	A firm certified as a Woman-owned, Minority-owned, and Disadvantaged Business Enterprise

Good Faith Efforts Review

If goals are not met, SMBR will examine the *MBE/WBE Compliance Plan* and the Good Faith Efforts documentation submitted with the *MBE/WBE Compliance Plan* to ensure that the Bidder made Good Faith Efforts to meet the project goals or subgoals. In determining whether the Bidder has made Good Faith Efforts, SMBR will consider, at a minimum, the Bidder's efforts to do the following:

(A) Solicit certified MBE/WBE subcontractors with a Significant Local Business Presence (SLBP) and request a response from those interested subcontractors who believe they have the capability to perform the work of the contract through at least two reasonable, available, and verifiable means. The Bidder must solicit this interest more than seven (7) business days prior to submission of the *MBE/WBE Compliance Plan* to allow sufficient time for the MBEs or WBEs to respond. (The date bids/proposals are due to the City should not be included in the seven day solicitation criteria). The Bidder must state a specific and verifiable reason for not contacting each certified Firm with a significant local business presence.

(B) Provide interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a proposal.

(C) Negotiate in good faith with interested MBEs/WBEs that have submitted bids/proposals to the Bidder. An MBE/WBE that has submitted a bid to a Bidder but has not been contacted within five (5) business days of submission of the bid may contact SMBR to request a meeting with the Bidder. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work. Bid shopping is prohibited.

(D) Select portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE/WBE goals or subgoals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces.

(E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media).

(F) Use the services of available community organizations; minority persons/women consultants' or groups in the applicable field for the type of work described in this solicitation; local, state, and federal minority persons/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs.

(G) Seek guidance from SMBR on any questions regarding compliance with this section.

The following factors may also be considered by SMBR in determining compliance through good faith efforts; however, they are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive:

(A) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or consultant.

(B) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

In assessing minimum good faith efforts, SMBR may consider whether the Bidder sought assistance from SMBR on any questions related to compliance with this section. In addition, SMBR may also consider the performance of other Bidders successfully meeting the goals.

The ability or desire of a Bidder to perform the work of a contract with its own organization does not relieve the Bidder of the responsibility to make Good Faith Efforts.

Bidders may reject MBE/WBEs as unqualified only following thorough investigation of their capabilities. The MBE/WBE's membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Bidder's efforts to meet the project goals or subgoals.

At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):

- Fax logs, emails, and/or copies of documents sent to firms within the SLBP area
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media
- Other communications regarding contacts with trade associations and Chambers of Commerce

The following additional Good Faith Efforts factors may also be considered:

- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance (as required by City or Consultant)
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials, or services
- Copies of all proposals received in response to Bidder contacting other Firms

POST-AWARD INSTRUCTIONS
(See Appendix C)

Confirmation Letters

All Bidders are required to include copies of the confirmation letters received from subcontractors, confirming the Subcontractors' willingness to provide services should the contract be awarded.

Changes to the *MBE/WBE Compliance Plan* including additions, deletions, contract changes, or substitutions of subcontractors are permitted only after contract execution and only with prior written approval of SMBR. Request for changes to the *MBE/WBE Compliance Plan* must be submitted on the Request for Change of *MBE/WBE Compliance Plan* Form for all levels of subcontracting and must be approved by the SMBR Director prior to adding, deleting, changing or substituting any subcontractor.

Post-Award Monitoring

The City will monitor post-award compliance information regarding the use of certified MBE/WBE Firm(s) listed on the *MBE/WBE Compliance Plan*. The Bidder will be required to submit post award reports detailing the utilization of all subcontractors. The reports and other information regarding post-award compliance will be discussed with the successful Bidder. The following information on Payment Verification, Change Order/Contract Amendments, and Progressive Sanctions provides an overview of some of the post-award monitoring process.

- **Payment Verification**

Bidders are advised that the contract resulting from this solicitation includes a subcontractor payments clause. This clause requires all subcontractors to be paid within ten (10) calendar days from the date that the Bidder has been paid by the City for invoices submitted by subcontractors.

The Bidder shall submit a *Subcontractor/Supplier Awards and Expenditures Report* to the project manager and/or contract administrator at the time specified by the managing department. The report shall be in the format required by the City and shall include all awards and payments to subcontractors for goods and services provided under the contract during the previous month. This report may be used by the City to verify utilization of and payment to MBEs and WBEs.

The Bidder and/or any subcontractor whose subcontracts are being counted toward the MBE/WBE requirements shall allow the City access to records relating to the contract, including but not limited to, subcontracts, payroll records, tax information, and accounting records, for the purpose of determining whether the MBEs/WBEs are performing the scheduled subcontract work.

In determining achievement of MBE/WBE goals, the participation of an MBE/WBE subcontractor shall not be counted until the amount being counted toward the goal has been paid.

- **Change Order/Contract Amendments**

The goals on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project. The Bidder is required to make Good Faith Efforts to obtain MBE/WBE participation for additional scopes of work.

Change orders that do not alter the type of trades originally required to accomplish the project may be undertaken using the subcontractors already under contract to the Bidder. Project managers will have automatic SMBR approval

to authorize any change order that **increases** the contract amount for an **existing** certified subcontractor and is **within** the existing scope being performed by that subcontractor.

- **Progressive Sanctions**

The successful Bidder's MBE/WBE Compliance Plan will be incorporated into the resulting contract with the City and shall be considered part of the consultant's performance requirements. Progressive sanctions may be imposed for failure to comply with Chapter 2-9C of the City Code, including:

- Providing false or misleading information in Good Faith Efforts documentation, post award compliance, or other Program operations;
- Substituting Subcontractors without first receiving approval for such substitutions, which may include the addition of an unapproved Subcontractor and failure to use a Subcontractor listed in the approved MBE/WBE Compliance Plan ; and
- Failure to comply with the approved MBE/WBE Compliance Plan without an approved Request for Change, an approved Change Order, or other approved change to the Contract.

Please refer to Section 2-9C-25 of the City Code and SMBR Rule 11.5 for additional information.

Appendix A

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

Section I — Project Identification and Goals

Project Name	2019 Disparity Study
Solicitation Number	RFQS 7600 CTE4001

Project Goals or Subgoals	
Combined MBE/WBE	1.40 %
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

Section II — Bidder Company Information

Company Name		
Address		
City, State Zip		
Phone		
Fax		E-Mail
Name of Contact Person		
Is your company registered on Vendor Connection?	Yes ☐ *If yes, provide Vendor Code* _____ No ☐ All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.austintexas.gov/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes ☐ No ☐ *(If yes, please indicate type below)* 1. MBE ☐ WBE ☐ MBE/WBE ☐ Joint Venture ☐ 2. AA ☐ H ☐ A/N ☐ WBE ☐	

City of Austin SMBR Use Only

I have reviewed this Compliance Plan and found that the Bidder ***HAS*** ☐ ***HAS NOT*** ☐ *complied as per the City Code Chapter 2-9A through GFE.*

Reviewing Counselor _____ Date _____

I have reviewed this Compliance Plan and have found the Bidder ***COMPLIANT*** ☐ ***NON-COMPLIANT*** ☐

Director /Assistant Director _____	Date _____

Section III — MBE/WBE Compliance Plan Summary

Directions:

- For each subcontractor listed in Sections IV, V, VI or VII, fill in all blanks (if applicable).
- For project participation numbers use an EXACT number.
- Goal percentages should be based on the Base Bid amount only. Allowances are not included.
- Alternates are not recorded on this MBE/WBE Compliance Plan.
- If bidder is a certified M/WBE, include participation details in the Bidder box ONLY.
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.

Is the stated project goal of the solicitation met? *(If no, attach documentation of Good Faith Efforts)* Yes ☐ No ☐

PROPOSED PARTICIPATION GOALS **Use this section to calculate participation.** **Include all details including the total dollar amount and percentage for each category where applicable.**		
	MBE/WBE Project Goal	**Bidder Participation Goal**
African American	%	%
Hispanic	%	%
Asian/Native American	%	%
WBE	%	%
MBE	%	%
MBE/WBE Combined	**1.40 %**	%
Non-Certified		%
Total Subcontractor Percentage Amount		%
Bidder's Own Participation **(less any subcontracted amount)** Are you counting your own participation toward the goals? **(if yes, indicate below)** ☐ AA ☐ HIS ☐ A/NA ☐ WBE ☐ MBE		%

For SMBR Use Only:

Verified participation for each category:

African-American _____ % **Hispanic** _____ % **Asian/Native American** _____ % **WBE** _____ %

MBE _____ % **WBE** _____ % **Combined MBE/WBE** _____ %

Prime _____ % **Non-Certified** _____ %

Section IV — Disclosure of MBE and WBE Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Section V — Disclosure of Non-Certified Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? **Yes** ☐ **No** ☐ **If no, state reason(s) below and attach documentation:**

Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		

Section VI — Disclosure of Second-Level Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes ☐ No ☐

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII ***must*** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE *Compliance Plan.*** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes ☐	No ☐
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes ☐	No ☐
• Copy of advertisements placed in local publication	Yes ☐	No ☐
• Copy of notices sent to Minority and Women organizations	Yes ☐	No ☐
• Documentation that demonstrates additional GFEs: o Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor o Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services o Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice	Yes ☐	No ☐

Were additional elements of work identified to achieve the goals or subgoals? Yes ☐ No ☐

If yes, please explain: _____

Was SMBR contacted for assistance? Yes ☐ No ☐

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes ☐ No ☐

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

Appendix C

CONFIRMATION LETTER

Name of Prime Contractor: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Contract Amount:

Project/Solicitation Number: ___ _____

Project Name: _____

Type of Agreement *(check one)*: ☐ Lump Sum ☐ Unit Price ☐ Commodity

Period of Performance: _____ Level of Subcontracting (*check one):* ☐ 1st ☐ 2nd ☐ 3rd

Legal Name of Subcontractor*: _____

Subcontractor* Vendor Code: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Subcontract Amount: _____

Commodity Code and description of work to be performed by Subcontractor Firm:

_____

_____

The Prime Contractor and the Subcontractor listed above agree that the Prime Contractor has provided the Subcontractor with a copy of the City's prevailing wage requirements

Prime Contractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

Subcontractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

***Including Suppliers, Manufacturers, Alternates**

SAMPLE

COLETTE HOLT & ASSOCIATES

October 1, 2019

Cyrenthia T. Ellis
Procurement Manager
City of Austin
Municipal Building, 124 W 8th Street
Rm 308
Austin, Texas 78701

RE: RFQS 7600 CTE4001 Disparity Study – Minority and Women Owned Business Enterprise (MBE/WBE) and Disadvantaged Business Enterprise (DBE)

Dear Ms. Ellis:

Enclosed please find the proposal of Colette Holt & Associates ("CHA") in response to RFQS 7600 CTE4001 Disparity Study – Minority and Women Owned Business Enterprise (MBE/WBE) and Disadvantaged Business Enterprise (DBE).

We are confident that we have assembled the nation's most qualified legal, economics, and data collection team to provide all the elements of the RFQS. If chosen, CHA will be the prime consultant for the study. We guarantee this proposal for one hundred and eighty (180) calendar days from the RFQ due date. There is no proprietary or confidential information contained in this submittal. We agree to comply with all terms of this RFQS and with all applicable rules and regulations of Federal, State, and Local governing entities.

I will be the direct contact for Colette Holt & Associates for this proposal.

Thank you for the opportunity to present this proposal.

Sincerely,

Colette Holt

Colette Holt
3350 Brunell Drive
Oakland, CA 94602
Tel: (773) 255-6844
Fax: (855) 692-3529
Email: colette.holt@mwbelaw.com

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TAB 1 – CITY OF AUSTIN PURCHASING OFFICE DOCUMENTS

A. Signed Offer Sheet

B. Section 0630 Exceptions, completed

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E CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – Appendix A MBE/WBE COMPLIANCE PLAN

G. All signed Addendums (all pages)

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: Colette Holt & Associates

Company Address: 3350 Brunell Drive

City, State, Zip: Oakland, CA 94602

Vendor Registration No.

Printed Name of Officer or Authorized Representative: Colette Holt

Title: Owner

Signature of Officer or Authorized Representative: Colette Holt

Date: 10/1/19

Email Address: colette.holt@mwbelaw.com

Phone Number: 773-255-6844

*** Qualifications Statement must be submitted with this signed Offer sheet to be considered for award**

CITY OF AUSTIN
PURCHASING OFFICE
EXCEPTIONS

Solicitation Number: RFQS 7600 CTE4001

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. Complete the exception information indicating each exception taken, provide alternative language, and justify the alternative language. Copies of this form may be utilized if additional pages are needed.

Failure to agree to the standard contract terms may result in the City choosing to move forward with an award of a contract to the next best Offeror.

The City, at its sole discretion, may negotiate exceptions that do not result in material deviations from the sections contained in the solicitation documents. Material deviations as determined by the City may result in the City deeming the Offer non-responsive. The Offeror that is awarded the contract shall be required to sign the contract with the provisions accepted or negotiated.

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

Page Number	**Section Number**	**Section Description**

Alternative Language:

Justification:

No Exceptions CH.

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 compliant, 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 filling. 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 1st day of October, 2019

CONTRACTOR Colette Holt & Associates

Authorized Signature Colette Holt

Title Owner

City of Austin, Texas
Section 0805
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. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of $25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Dated this 1st day of October, 2019

CONTRACTOR Colette Holt & Associates

Authorized Signature Colette Holt

Title Owner

CITY OF AUSTIN, TEXAS
SECTION 0810 V2
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION
June 26, 2018

The term **"Offeror"**, as used in this document, includes the individual or business entity submitting the Offer. For the purpose of this Affidavit, an Offeror includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and any person or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly: CH.

   a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.

   b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.

2. **Preparation of Solicitation and Contract Documents**. The Offeror has not received any CH. compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of CH. Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

4, **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest CH. regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.

5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a CH. substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.

6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local CH. Government Code, the Offeror:

   a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than $100 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror. and

c. does not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.

7. As required by 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.

   If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation with any solicitation responses on separate pages to be annexed hereto.

8. **Anti-Lobbying Ordinance.** On June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf and is also included in the Solicitation, Section 0200 V2, Solicitation Instructions June 26, 2018.

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO. RFQS 7600 CTE4001

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: Non - resident

(1) Texas Resident Bidder – A Bidder whose principal 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 NO Which State: California

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

Bidder's Name: Colette Holt & Associates

Signature of Officer or Authorized Representative: Colette Holt Date: 10/1/19

Printed Name: Colette Holt

Title Owner

Appendix A

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

Section I — Project Identification and Goals

Project Name	2019 Disparity Study
Solicitation Number	RFQS 7600 CTE4001

Project Goals or Subgoals	
Combined MBE/WBE	1.40 %
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

Section II — Bidder Company Information

Company Name	Colette Holt & Associates	
Address	3350 Brunell Drive	
City, State Zip	Oakland, CA 94602	
Phone	773-255-6844	
Fax	855-692-3529	E-Mail colette.holt@mwbelaw.com
Name of Contact Person	Colette Holt	
Is your company registered on Vendor Connection?	Yes ☒ *If yes, provide Vendor Code* COL7050550 No ☐ All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.austintexas.gov/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes ☐ No ☒ *(If yes, please indicate type below)* 1. MBE ☐ WBE ☐ MBE/WBE ☐ Joint Venture ☐ 2. AA ☐ H ☐ A/N ☐ WBE ☐	

City of Austin SMBR Use Only

I have reviewed this Compliance Plan and found that the Bidder ***HAS*** ☐ ***HAS NOT*** ☐ *complied as per the City Code Chapter 2-9A through GFE.*

Reviewing Counselor _____ Date _____

I have reviewed this Compliance Plan and have found the Bidder ***COMPLIANT*** ☐ ***NON-COMPLIANT*** ☐

Director /Assistant Director _____ Date _____

Section III — MBE/WBE Compliance Plan Summary

Directions:

- For each subcontractor listed in Sections IV, V, VI or VII, fill in all blanks (if applicable).
- For project participation numbers use an EXACT number.
- Goal percentages should be based on the Base Bid amount only. Allowances are not included.
- Alternates are not recorded on this MBE/WBE Compliance Plan.
- If bidder is a certified M/WBE, include participation details in the Bidder box ONLY.
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.

Is the stated project goal of the solicitation met? *(If no, attach documentation of Good Faith Efforts)* Yes ☒ No ☐

PROPOSED PARTICIPATION GOALS Use this section to calculate participation. Include all details including the total dollar amount and percentage for each category where applicable.		
	MBE/WBE Project Goal	**Bidder Participation Goal**
African American	%	2 %
Hispanic	%	5 %
Asian/Native American	%	%
WBE	%	%
MBE	%	%
MBE/WBE Combined	**1.40 %**	%
Non-Certified		%
Total Subcontractor Percentage Amount		7%
Bidder's Own Participation **(less any subcontracted amount)** Are you counting your own participation toward the goals? **(if yes, indicate below)** NO ☐ AA ☐ HIS ☐ A/NA ☐ WBE ☐ MBE		0 %

For SMBR Use Only:

Verified participation for each category:

African-American _____ % **Hispanic** _____ % **Asian/Native American** _____ % **WBE** _____ %

MBE _____ % **WBE** _____ % **Combined MBE/WBE** _____ %

Prime _____ % **Non-Certified** _____ %

Section IV — Disclosure of MBE and WBE Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm	Cultural Strategies, Inc
City of Austin Certification Data	[X] MBE [ ] WBE Gender/ Ethnicity: Hispanic
Vendor Code	VS0000024713
Address/ City / State / Zip	1700 S. Lamar Blvd. #338 Austin, Texas 78704
Contact Person & Phone #	Sebastian Puente 512-501-4971 ext. 701
Fax & Email Address	512-501-4971, spuente@cultural-strategies.com
Commodity Codes	91879
Commodity Codes Descriptions	Minority and Small Business Consulting

Name of MBE/WBE Certified Firm	Adisa Public Relations, Inc.
City of Austin Certification Data	[X] MBE [X] WBE Gender/ Ethnicity: Afican American
Vendor Code	ADI8313185
Address/ City / State / Zip	1033 La Posada Drive, 220, Austin, Texas 78752
Contact Person & Phone #	Shuronda Robinson 512-472-6112
Fax & Email Address	512-646-1478, srobinson@makingthingsclear.com
Commodity Codes	91826
Commodity Codes Descriptions	Communications Public Relations Consulting

Name of MBE/WBE Certified Firm	Bobbie Garza- Hernandez dba Pink Consulting
City of Austin Certification Data	[X] MBE [X] WBE Gender/ Ethnicity: Hispanic
Vendor Code	VC0000101188
Address/ City / State / Zip	122 Riviera, San Marcos, Texas 78666
Contact Person & Phone #	Bobbie Garza-Hernandez 512-878-2246
Fax & Email Address	512-878-2244, bobbie@pinkpr.biz
Commodity Codes	91826
Commodity Codes Descriptions	Communications and Public Relations Consulting

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	[ ] MBE [ ] WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	

Section V — Disclosure of Non-Certified Subcontractors

(Duplicate as Needed)

Note:
- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? **Yes** ☒ **No** ☐ **If no, state reason(s) below and attach documentation:**

Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
First-Level Subcontractor	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
First-Level Subcontractor	
Reason Certified Firm not used	

Section VI — Disclosure of Second-Level Subcontractors

(Duplicate as Needed)

Note:
- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes ☒ No ☐

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII ***must*** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE *Compliance Plan.*** The completion and submission of this form is not required if the above question is answered *Yes.*

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes ☐	No ☐
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes ☐	No ☐
• Copy of advertisements placed in local publication	Yes ☐	No ☐
• Copy of notices sent to Minority and Women organizations	Yes ☐	No ☐
• Documentation that demonstrates additional GFEs: o Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor o Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services o Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice	Yes ☐	No ☐

Were additional elements of work identified to achieve the goals or subgoals? Yes ☐ No ☐

If yes, please explain: _____

Was SMBR contacted for assistance? Yes ☐ No ☐

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes ☐ No ☐

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 1 **Date of Addendum: 8/16/19**

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

I. **Clarifications:**

Replace in its entirety **Complete Solicitation Packet all Documents**, with **Complete Solicitation Packet all Documents version 1.0 Revised 081919** included with this addendum

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

III. ACKNOWLEDGED BY:

Colette Holt | 10/1/19

Name | Authorized Signature | 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: RFQS 7600 CTE4001 **Addendum No: 2** **Date of Addendum:** **August 30, 2019**

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

I. **Additional Information**:
   I.1 Attached is the sign-in sheet from the Pre-Proposal meeting on Thursday, August 29, 2019 at 1:00 PM
   I.2 Attached is the SMBR Packet present during Pre-Proposal meeting on Thursday, August 29, 2019 at 1:00 PM

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

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

Callie Hoffert 10/1/19

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 3 **Date of Addendum: 9/23/2019**

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

I. Clarifications:

1. Delete in its entirety **Section 0500 Scope of Work** replace with **Section 0500 Scope of Work Version 1.1 Revised 092319**

2. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319**

3. Delete in its entirety **CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREEMNT PROGRAM PACKAGE** replace with **Revised CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREEMNT PROGRAM PACKAGE**

II. Questions:

Q1) Has the City identified outside legal counsel for the Disparity study?

A1) The City has not identified Outside Council. The City's Law Department will determine if, and when, outside counsel is needed for the Disparity Study.

Q2) Will airport concessions be included in the scope of the study?

A2) Airport Concession has been removed from this scope of work.

Q3) Where in the proposal should the detailed description of methodology go?

A3) Updates to information regarding the detailed description methodology has been included in this addendum and referenced in **Section 0500 Scope of Work Version 1.1 Revised 092319** and **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319.**

Q4) Was this project previously presented as a suggested sole source project?

A4) Prior Disparity Studies for the City were not completed as a Sole Source

Q5) Does the City intend to issue another revised RFQ to address issues related to Airport Concessions DBE, size of contract, etc.

A5) The City will not issue a separate RFQS for an Airport Concessions DBE.

Q6) Page 3 of the RFQS states, "The City's data includes...total amounts paid to MBE/WBEs and DBEs..." Please clarify, does the City maintain electronic data on payments to non-MWDBE subcontractors?

A6) The City maintains electronic data on all payments to Primes and all subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q7) For the prime contract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Unique contract number.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Contract title.***
- ***Contract description.***
- ***Industry category description.***
- ***Industry category code, such as NAICS or NIGP.***
- ***Whether there was a MWBE or DBE goal.***
- ***Funding.***

A7) For all contract data, the City maintains the information outlined for both the Prime and the subcontractor. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q8) "For the subcontract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts. Please indicate whether the data are available electronically or only in hard copy. Please answer separately for MWDBE subs and non-MWDBE subs.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Prime contract number.***
- ***Prime contract title.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Type of work performed.***
- ***Industry category code, such as NAICS or NIGP."***

A8) For all contract data, the City maintains the information outlined above for both the Prime and the subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q9) If the required participation goal is met, is good faith effort (GFE) documentation required?

A9) If the solicitation goal is met using certified COA M/WBEs then GFE is not required.

Q10) What date is the MBE/WBE Compliance Plan due?

A10) The M/WBE Compliance Plan is due on the same date and time as the solicitation due date provided on the coversheet for the solicitation.

Q11) What was the budget for the previous Disparity Study?

A11) The budget was also estimated at under $1 million.

Q12) The compliance plan requires the prime firm to subconsultant 1.4 % of their efforts for the project. How can this be applied if the estimated contract amount is not known?

A12) The combined MBE/WBE Goal of 1.4% will be applied to the negotiated contract value.

Q13) Will a performance bond be required for this project?

A13) A performance bond is not required.

Q14) Since this is not an IFB, is the proposed bid dollar section within the compliance plan applicable?

A14) The bid dollar section is not applicable for this type of procurement method. A revised compliance plan has been included in this addendum.

Q15) Why were projects less than $50,000.00 not included?

A15) Projects below the $50,0000.00 threshold are not reviewed by SMBR for application of the MBE/WBE Program.

Q16) Is a schedule to complete the Disparity Study, required at the time the responses are due?

A16) A schedule is not required at the time the response due. The schedule will be determined after the contractor is selected.

Q17) How do you access the form 0810?

A17) Form 810 should be accessed via the link included in the solicitation: Activate the page and select Procurement >Solicitations>Standard Bid Documents, you are then able to scroll down to the selected form

Q18) How many firms will be short-listed?

A18) The number of firms shortlisted will depend on the number of responses and the overall scores allocated to each response?

Q19) Will the legal Council the City has identified for this Disparity Study be able to respond to this solicitation?

A19) On the issue of providing legal services, those services will be handled by the City's Law Department. If outside counsel is needed, the Law Department will follow the proper procedure to obtain those. Issues of conflict of interest will be handled at that time, if needed.

Q20) What forms of contact are applicable for Good Faith Efforts?

A20) Please see the instructions for Good Faith Efforts contained within the MBE/WBE Procurement Program packet contained in the solicitation.

Q21) When is the compliance plan due and how should it be submitted?

A21) The Compliance plan is due at the same time responses are due. The compliance plan should be submitted in a separate, signed envelope entitled Compliance Plan and containing the project name.

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

IV. ACKNOWLEDGED BY:

Colette Holt	Colette Holt	10/1/19
Name	Authorized Signature	Date

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ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 4 **Date of Addendum: 9/24/2019**

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

I. **Clarifications:**

1. Delete in its entirety **Addendum 3** replace with **Addendum 4**

2. Delete in its entirety **Section 0500 Scope of Work** replace with **Section 0500 Scope of Work Version 1.1 Revised 092319**

3. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319**

4. Delete in its entirety **CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE** replace with **Revised CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE**

II. **Questions:**

Q1) Has the City identified outside legal counsel for the Disparity study?

A1) The City has not identified Outside counsel. The City's Law Department will determine if, and when, outside counsel is needed for the Disparity Study.

Q2) Will airport concessions be included in the scope of the study?

A2) Airport Concession has been removed from this scope of work.

Q3) Where in the proposal should the detailed description of methodology go?

A3) Updates to information regarding the detailed description methodology has been included in this addendum and referenced in Section **0500 Scope of Work Version 1.1 Revised 092319** and **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319**.

Q4) Was this project previously presented as a suggested sole source project?

A4) This project was never suggested as a sole source project. The City requested a Professional Services exemption and identified a firm for City Council consideration.

Q5) Does the City intend to issue another revised RFQ to address issues related to Airport Concessions DBE, size of contract, etc.

A5) The City will not issue a separate RFQS for an Airport Concessions DBE.

Q6) Page 3 of the RFQS states, "The City's data includes...total amounts paid to MBE/WBEs and DBEs..." Please clarify, does the City maintain electronic data on payments to non-MWDBE subcontractors?

A6) The City maintains electronic data on all payments to Primes and all subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q7) For the prime contract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
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- ***Contract title.***
- ***Contract description.***
- ***Industry category description.***
- ***Industry category code, such as NAICS or NIGP.***
- ***Whether there was a MWBE or DBE goal.***
- ***Funding.***

A7) For all contract data, the City maintains the information outlined for both the Prime and the subcontractor. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q8) "For the subcontract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts. Please indicate whether the data are available electronically or only in hard copy. Please answer separately for MWDBE subs and non-MWDBE subs.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Prime contract number.***
- ***Prime contract title.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Type of work performed.***
- ***Industry category code, such as NAICS or NIGP."***

A8) For all contract data, the City maintains the information outlined above for both the Prime and the subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q9) If the required participation goal is met, is good faith effort (GFE) documentation required?

A9) If the solicitation goal is met using certified COA M/WBEs then GFE is not required.

Q10) What date is the MBE/WBE Compliance Plan due?

A10) The M/WBE Compliance Plan is due on the same date and time as the solicitation due date provided on the coversheet for the solicitation.

Q11) What was the budget for the previous Disparity Study?

A11) The budget was also estimated at under $1 million.

Q12) The compliance plan requires the prime firm to subconsultant 1.4 % of their efforts for the project. How can this be applied if the estimated contract amount is not known?

A12) The combined MBE/WBE Goal of 1.4% will be applied to the negotiated contract value.

Q13) Will a performance bond be required for this project?

A13) A performance bond is not required.

Q14) Since this is not an IFB, is the proposed bid dollar section within the compliance plan applicable?

A14) The bid dollar section is not applicable for this type of procurement method. A revised compliance plan has been included in this addendum.

Q15) Why were projects less than $50,000.00 not included?

A15) Projects below the $50,0000.00 threshold are not reviewed by SMBR for application of the MBE/WBE Program.

Q16) Is a schedule to complete the Disparity Study, required at the time the responses are due?

A16) A schedule is not required at the time the response due. The schedule will be determined after the contractor is selected. Please reference the scope, it states the City anticipates that the study will be completed by the contractor within 12 months after a Notice To Proceed has been issued.

Q17) How do you access the form 0810?

A17) Form 810 should be accessed via the link included in the solicitation: Activate the page and select Procurement >Solicitations>Standard Bid Documents, you are then able to scroll down to the selected form

Q18) How many firms will be short-listed?

A18) The number of firms shortlisted will depend on the number of responses and the overall scores allocated to each response.

Q19) Will the legal Council the City has identified for this Disparity Study be able to respond to this solicitation?

A19) On the issue of providing legal services, those services will be handled by the City's Law Department. If outside counsel is needed, the Law Department will follow the proper procedure to obtain those. Issues of conflict of interest will be handled at that time, if needed.

Q20) What forms of contact are applicable for Good Faith Efforts?

A20) Please see the instructions for Good Faith Efforts contained within the MBE/WBE Procurement Program packet contained in the solicitation.

Q21) When is the compliance plan due and how should it be submitted?

A21) The Compliance plan is due at the same time responses are due. The compliance plan should be submitted in a separate, signed envelope entitled Compliance Plan and containing the project name.

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

IV. ACKNOWLEDGED BY:

Colette Holt	Colette Holt	10/1/19
Name	Authorized Signature	Date

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ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 5 **Date of Addendum: 9/27/2019**

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

I. **Extension: The proposal due dates are hereby extended,**
   a. **RESPONSES DUE PRIOR TO: 2:00 PM, Central Time, Thursday, October 3, 2019.**
   b. **COMPLIANCE PLAN DUE PRIOR TO: 2:00 PM, Central Time, Thursday, October 3, 2019.**

II. **Clarifications:**

1. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 revised 092317** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.2 Revised 092719**
2. **Reference Section 0500 Scope of Work Section 4(j), first sentence,**
   Remove: "and/or economically based".
   Replace with: If race- or gender-neutral measures alone would not be effective to remedy such discrimination, the Contractor will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its MBE/WBE Program.

III. **Questions (Q) and Answers (A):**

1. ***(Q) This scope of work was originally proposed as a sole source or professional exemption. Is it now truly a competitive bidding situation or do you already know who you want to conduct the study?***
   (A) This procurement is a competitive process and all responses will be evaluated in accordance with the criteria in the RFQS. If the City were going to exercise the professional services exemption, it would not issue this RFQS

2. ***(Q) What commodity code is used by the City of Austin? (NAICS, NIGP, etc)***
   (A) The commodity code for this solicitation may be found on the Request for Qualifications (RFQS) Offer Sheet. The Commodity codes listed are 91826 and 91879.

3. ***(Q) Why are contracts under $50,000 being excluded? Can the bidder propose to include all contracts under $50,000, but perhaps above a small amount like $1000?***

(A) The M/WBE Program does not apply to procurements under $50,000 and therefore are excluded from this study and will not be considered.

4. ***(Q) Is the airport, including the airport's Triennial goal-setting and ACDBE analysis, included in the Scope of Work?***
   (A) No, the airport's Triennial goal setting and ACDBE analysis is not included in the scope.

5. ***(Q) What City departments and agencies are included in the Study?***
   (A) All City of Austin departments are applicable to this study.

6. ***(Q) Page 5, section 4(n). Please clarify why other industries, other than those utilized by the City are being included in the study?***
   (A) The study will review private industry practices which may contain industries outside of the city's procurement catalog.

7. ***(Q) Who is the legal counsel hired by the City? Is that person or firm permitted to bid on this scope of work?***
   (A) No outside counsel has been retained at this time. Reference Addendum 4.

8. ***(Q) Please clarify that bidder is not submitting a methodology, timeline, or proposed fee?***
   (A) The City is requesting a section on the proposed methodology to be used by the proposer. The city is also requesting a proposed schedule meeting the timeline as presented in the scope of work.

9. ***(Q) Section I Tab 6A . Is SBE or ACDBE analysis included in this study?***
   (A) No SBE or ACDBE analysis is included in this study.

10. ***(Q) Section I Tab 6B. Is it permitted that the bidder has a Principal Researcher who is the subject matter expert and PhD in Economics and a separate Project Manager who manages the day-to-day operation of the project (including schedule, budget, deliverables, etc.)?***
    (A) Yes, that is permitted.

11. ***(Q) Section I Tab 6 C o. Is this still required since Page 6, last paragraph of section 4, states that the scope of services does not include legal services or a legal analysis?***
    (A) Tab 6 C in the Section 0600, Response Preparation Instructions... is no longer required and should be deleted.

12. ***(Q) Section II Tab 6 A.-- Is the Project Lead and the Principal Researcher the same person?***
    (A) Yes, the Project Lead and Principal Researcher can be the same person. The City has revised its evaluation criteria to include both the Project Lead and Principal Researcher roles.

13. ***(Q) Does the City of Austin track all subcontractor data for MWBEs, DBEs and non-WBE/DBEs? If not, is that information reasonably accessible from PDFs or on hard copy forms.***
    (A) The City maintains this information electronically. See Addendum 4.

14. ***(Q) Does the City of Austin maintain award, bidder, payment, and vendor data that is in electronic spreadsheets (e.g. Excel)? If not what format are they in?***
    (A) Yes, the City has an electronic system to maintain the award, bidder, payment...information. see Addendum 4.

15. ***(Q) Do vendors have a consistent vendor ID number in all of the data files?***
    (A) Yes, vendors do have a consistent vendor ID number on all of the data files.

16. ***(Q) Does the City of Austin have a centralized procurement data system where all data is captured? If not, please explain what data departments and agencies maintain?***

Yes, the City has a centralized data system to capture data.

17. ***(Q) Does the City of Austin have a centralized procurement process or are City departments responsible for conducting their own procurement?***
(A) The City of Austin has a centralized procurement process for procurements relating to this Study.

18. ***(Q) Does the City of Austin procure for the Austin-Bergstrom Airport?***
(A) Yes, however not all ABIA procurements are a part of the DBE Program.

19. ***(Q) In addition to total contracts and payments to MWBE and DBE firms, does the City maintain Non-MWBE/Non-DBE subcontractor spending?***
Yes, the City maintains Non-MWBE/Non-DBE subcontractor spending.

20. ***(Q) Does the City DBE spending also include ACDBE spending?***
(A) No, the City's DBE spending does not include ACDBE spending.

21. ***(Q) Does the City track MWBE/DBE spending in the Advantage Financial and eCapris systems or does the City utilize any other compliance software for tracking of electronic MWBE/DBE spending?***
(A) The City uses its Advantage Financial system to capture expenditures for City contracts. There is no other software. The awarded proposer will be provided with an electronic file of data.

22. ***(Q) Sections 4(f) and 4(g) (pages 4 and 5) reference MBE/WBE/and DBE analysis in availability and utilization, independently, but do not specifically reference ACDBEs despite being included in the analysis on page 3. Is it to be presumed in every area of the RFQ where MBE/WBE/DBE is referenced is also inclusive of ACDBE firms?***
(A) ACDBEs are excluded from this study. See addendum 4.

23. ***(Q) Similarly, In Section 4(g) and 4(h) ACDBE firms are listed to determine the effects of past discrimination and the disparity analysis, but they are not listed under section 4(f) or 4(g) with reference to availability and utilization. Can you confirm that ACDBE should be included in the measure of availability and utilization?***
(A) ACDBE firms are included as a part of the general market study of available firms, however procurement data for the ACDBE program will not be a part of this study.

24. ***(Q) Section 4(j) makes reference to "economically-based measures" in addition to race and gender neutral measures used to help remedy discrimination. Can you clarify what components of the City's current program that would fit under this classification for consideration?***
(A) This is not applicable to this study and has been deleted.

25. ***(Q) On page, 6 it is referenced that the scope of services "does not include legal services, nor does it include a legal component other than what is specifically provided above. The City has separately retained legal counsel to provide legal advice to the City throughout this process." Can you clarify whether "legal component" is also synonymous for "Legal Analysis" or an analysis of relevant local case law?***
(A) Legal Analysis means work and analysis that requires a current law license to provide as advice.

26. ***(Q) Who is the outside legal counsel working with the City?***
(A) See addendum 4. No outside counsel has been retained.

27. ***(Q) Is this legal counsel expected to provide oversight to the consultant and project manager or solely serve as legal guidance to the City?***

(A) The City does not anticipate the legal counsel to provide oversight to the consultant. Outside counsel would provide advice to the City directly, while the City will still directly interact with the consultant.

28. (Q) To what extent is the selected consultant expected to work alongside outside legal counsel?
(A) To the extent necessary to address questions related to the final study and to provide recommendations to the City on if and how it should revise its Minority-Owned and Women-Owned Business Enterprise Procurement Program to resolve identified disparities.

29. (Q) Is it expected that this legal counsel will have ultimate approval over work process, methodology and work product?
(A) No

30. (Q) With a legal analysis typically serving as a critical component guiding methodology and approach, is the City averse to the selected consultant providing its own legal analysis as consistent with the traditional components of a Croson analysis?
(A) No, the City is not averse to this approach, however the City is not requesting legal counsel as part of this study. The consultant is not being selected to be an outside counsel to the City. The selected consultant should ensure that its advice does not assume an attorney-client relationship with the City.

31. (Q) Section 5 (e) of the RFQ (page 6) references that "In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan." Tab 6(a) of the Response Preparation Factors and Instructions references the need for the consultant to provide profile on "Respondent's personnel serving as designated testimonial or consulting expert witnesses".

With the City obtaining outside legal counsel for the study, is it the City's expectation that, in the event of a challenge, their outside legal counsel will serve as the primary expert witness defending the study, MBE/WBE program, or the DBE Plan, or the study consultant?
(A) The City's outside counsel will lead any effort to defend the study. This depends on the nature of the challenge. If the challenge is about how the consultant conducted the study, the consultant will have to be a primary expert.

IV. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

V. ACKNOWLEDGED BY:

Colette Holt	Colette Holt	10/1/19
Name	Authorized Signature	Date

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TAB 2 – AUTHORIZED NEGOTIATOR

Colette Holt & Associates

Colette Holt is the main contact in regard to the proposal, and the representative authorized to negotiate and execute binding contract terms.

3350 Brunell Drive
Oakland, CA 94602
Email: colette.holt@mwbelaw.com

Tel: (773) 255-6844
Fax: (855) 692-3529

TAB 3 – EXECUTIVE SUMMARY

Colette Holt & Associates ("CHA") is the national leader in conducting availability and disparity studies that fully meet all legal, regulatory and research requirements. We have conducted dozens of successful studies; drafted effective Minority- and Women-Owned Business Enterprise ("M/WBE") and Disadvantaged Business Enterprise ("DBE") programs and goal submissions; and always successfully defended our work product. CHA has been in business for 25 years.

Ms. Holt and the CHA team are fully conversant with the legal and regulatory standards governing availability and disparity studies; the development of legally defensible goals; and best practices to ensure equal opportunities for all firms. Ms. Holt is the co-author of the National Model Disparity Study Guidelines, which have become the roadmap for agencies to conduct studies that can withstand juridical and community scrutiny. Our extensive experience, including with the City of Austin, other Texas agencies and the Federal Aviation Administration ("FAA"), court-approved methodology, and litigation expertise and success make our team the best candidate to provide the City of Austin with the services requested in this Request for Qualifications ("RFQ"). Our deep knowledge of the City and the Austin business community will ensure the City receives a report that is comprehensive, defensible and useful.

We set the national standards for best practices and legal defensibility. We are the only firm that combines all of the needed experience and skills for a successful study process; defensible and targeted outcomes; strategies for implementation, including annual and contract goal setting; and defense of our work product. Members of our team have extensive experience working together on availability and disparity studies and developing M/W/DBE programs. Unlike other consultants, CHA hires and retains highly experienced people rather than cobbling together *ad hoc* teams, study-by-study, of inexperienced temporary staff to perform critical study elements.

The City of Austin was Ms. Holt's first client in 1994. She was retained to review the work of another consultant when questions were raised about the legal sufficiency of the work product. Since then, she has worked with the City to develop evidence to support the M/WBE and DBE programs, including serving as counsel to earlier disparity studies. She has also provided counsel about compliance with strict scrutiny and other program issues.

In addition to work for the City, CHA has been engaged by numerous other Texas agencies to provide legal counsel, program development consulting, and disparity and availability studies. We are completing the City of Houston's Disparity Study, the Disparity Study for the Dallas Fort Worth International Airport, and the Texas Department of Transportation, and are currently conducting studies for Harris County and the cities of Arlington and Fort Worth. CHA conducted the studies for Dallas County, and Parkland Health and Hospital Systems. Ms. Holt further served as Counsel to the study for Capital

Metro and has worked with Travis County to enhance their business opportunity initiatives. She also worked with a team to conduct a DBE program audit for VIA Transit.

CHA stands out from other consultants in many ways:

1. We have conducted, or participated in, over 80 disparity and availability studies that have been brought to successful completion and adoption. We know what it takes to conduct a legally defensible study, to meet the DBE program standards for the Airport, to interface with the community, and to develop achievable recommendations that meet all legal requirements.
2. We are the only team that provides the highly detailed availability data necessary to set narrowly tailored annual and contract goals, a requirement of strict constitutional scrutiny under the
3. *Croson* and *Adarand* cases and 49 C.F.R. Part 26. Unlike other consultants, we go beyond broad categorizations of, for example, "construction" and dive deeply into the contract records to develop availability at the 6-digit industry code level. Our approach will permit the City to weight the scopes of individual contracts to set reasonable, achievable, and defensible goals. Our detailed methodology vastly reduces both the need for good faith efforts reviews and possible legal challenges, because bidders, subcontractors and agency personnel know that the goals are data driven. Our approach also addresses the recent litigation trend to challenge programs not on the basis of the evidence of discrimination, but on whether the goals and the program's administration are defensible.
4. We have unparalleled data collection systems to ensure the greatest detail and accuracy of all data. Rather than assign status based on surveys with low response rates or the first NAICS or other code that appears in a directory, we assign race and gender to each business in the Final Contract Data File based on research into the firm's ownership.
5. In addition, we do not assume that the firm's "primary" NAICS code is correct on a specific contract; instead, we assign the code based on research of the actual work performed on the contract, thereby greatly increasing the accuracy of the data to permit a truly narrowly tailored program. We are the only team that is committed to collecting all the missing subcontractor data necessary to meet any legal challenge. Other consultants too often shrug off this admittedly burdensome task, leaving the agency with thin results and a weak defense.
6. Our anecdotal data collection protocols create the widest possible participation by all segments of the contracting community. Rather than using only one method of outreach, such as scripted telephone interviews, we provide multiple avenues for interested parties to participate and provide feedback. We create every opportunity possible to hear what the community has to say.
7. We understand how M/W/DBE programs work. In addition to providing a legal defense and ensuring regulatory compliance, a study should delve deeply into the agency's program implementation. CHA's work for the City and agencies across the country will permit us to provide detailed and targeted recommendations and

enhancements to current approaches. Our study will provide a thorough evaluation of the City of Austin's current programs and provide recommendations to ensure compliance with the DBE program requirements, as well as to reduce barriers and enhance opportunities.

8. We are the only team with substantial experience in implementing study results, drafting programs and assisting with community engagement
9. . CHA has worked with dozens of agencies across the country, including the City, to draft programs and goals, implement race- and gender-conscious remedies and conduct community engagement and outreach initiatives, many on a repeat basis.
10. Through our 30 years of practice in this area of law and research, we have a deep understanding of all actors' viewpoints and experiences. From prime contractors and consultants to minority- and women-owned firms to federal regulators, to community stakeholders, we generate support and participation, and manage expectations, by explaining the study standards and process. We understand the concerns of all parties and respect all points of view.
11. We are expert communicators and presenters. We have decades of experience in explaining complex quantitative and legal concepts and outcomes. We make our results intelligible to the layperson, while maintaining the rigor and detail necessary to provide expert witness reports and testimony to federal courts.
12. We also focus on program compliance and integrity. We are experts on issues related to fraud in MD/WBE programs. Ms. Holt has been approved by the federal court as the monitor in a DBE fraud case and is serving as a Special Assistant Attorney General for Washington State in its investigation of possible Title VI violations. Ms. Holt has served for 19 years as General Counsel to the American Contract Compliance Association, the national group that provides university-level classes on these issues.

TAB 4 – REFERENCES

Disparity Study, Washington State Department of Transportation, 2017

Earl Key, Director, Office of Equal Opportunity
360-705-7095
keye@wsdot.wa.gov

CHA conducted a comprehensive Disparity Study for WSDOT of its construction and construction-related services contracts. The Study analyzed contract data for the years 2012 through 2015. The Study separately analyzed contracts funded by the Federal Highway Administration, the Federal Transit Administration, and the State of Washington, including WSDOT's 5 Divisions and 83 local program recipients. The study analyzed four years of data, totaling approximately $3.5 billion in contracts. It determined the Department's utilization of DBEs; the availability of DBEs in WSDOT's market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. WSDOT accepted the Study and it formed the basis for the Department's submissions to FHWA and FTA.

The contract was awarded in 2016 as a 12-month contract. The initial budget was $933,660 and the final invoiced amount for the project was $933,660.

Disparity Study, State of Washington, 2019

Rex Brown, Esq. Department of Enterprise Services, Assistant Director, Business Diversity Washington State Office of Minority and Business Enterprises
360.664.9769
RexB@omwbe.wa.gov

CHA was retained by the Washington State Department of Enterprise Services to perform a Disparity Study of its 31 agencies and two universities. The Study analyzed contract data for the years 2012 through 2016. It determined the agencies' utilization of M/WBEs; the availability of M/WBEs in the State's market area; any disparities between its utilization and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. The State has accepted the Study and is moving forward on its recommendations.

The contract was awarded in 2017 as a 24-month contract. The initial budget was $982,925 and the final invoiced amount for the project was $982,925.

Disparity Study, Port of Portland, 2018

Kimberly Mitchell-Phillips, Small Business Development Program Manager
503-415-6587
Kimberly.Mitchell-Phillips@portofportland.com

CHA was retained by the Port of Portland to perform a Disparity Study in conformance with 49 C.F.R Part 26 and 49 C.F.R. Part 23. The Study analyzed contract data for the years 2012 through 2016. We determined the Port's utilization of DBEs and ACDBEs; the availability of DBEs and ACDBEs in its market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Port's program; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. We also made recommendations for the DBE, ACDBE and small business development programs. The Study was accepted by the Port and it formed the basis for the agency's submissions to the FAA.

The contract was awarded in 2017 as a 12-month contract. The initial budget was $450,000 and the final invoiced amount for the project was $450,000.

Dallas Fort Worth International Airport Disparity Study, 2019

Tamela Lee, Vice President Business Diversity and Development Department
(972) 973 5515
tblee@dfwairport.com

CHA was retained by the City to perform a study of its locally funded contracts as well as its Federal Aviation Administration contracts and airport concession contracts. We analyzed contract data for federal fiscal years 2012 through 2017. We determined the Airport's utilization of M/WDBEs and ACDBEs; the availability of M/W/DBEs and ACDBEs in its market area; any disparities between its utilization and M/WBE availability for its locally-funded contracts; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Airport's programs; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis for its locally-funded contracts. We also made recommendations for the programs.

The contract was awarded in 2018 as a 12-month contract. The initial budget t was $710,000 and the final invoiced amount for the project was $710,000.

Kansas City Missouri Disparity Study Consortium Disparity Studies, 2016

- City of Kansas City, Missouri
- Jackson County, Missouri
- Kansas City Public Schools
- Kansas City Area Transit Authority

Philip Yelder, Director, Human Rights Department
816-513-1801
phillip_yelder@kcmo.org

CHA was retained by a study consortium consisting of KCMO, the Kansas City Area Transportation Authority, Jackson County, Missouri and the Kansas City Public Schools. We analyzed purchase order and contract data for calendar years 2008 through 2013. CHA determined each agency's utilization of M/WBEs; the availability of M/W/DBEs in each agency's market area; conducted an economy-wide analysis; reviewed the legal standards; reviewed the agencies' programs; gathered anecdotal evidence; and evaluated their M/WBE programs. We were also made recommendations for their programs. The agencies are implementing the recommendations. Ms. Holt continues to advise the City about implementation of study recommendations.

The contract was awarded in 2015 as a 12-month contract. The initial budget t was $784,110 and the final invoiced amount for the project was $784,110.

Disparity Study, Illinois State Toll Highway Authority, 2016

Gustavo Giraldo, former Chief of Diversity and Strategic Development
773-717-6726
gustavogiraldo@rcn.com

CHA conducted a Disparity Study for the Illinois Tollway to revise its DBE program and provide litigation expertise for its defense of the DBE program. The Study analyzed contract data for federal fiscal years 2010 through 2012. The Study covered construction and construction-related professional and non-professional services. It determined the Tollway's utilization of DBEs; the availability of DBEs in the agency's market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. Ms. Holt served as the Tollway's testifying expert in Midwest Fence, Inc. v. Illinois Tollway et al, a challenge to the agency's DBE program that she authored. Ms. Holt was qualified as an expert and provided expert statistical and program opinions in the case. The program has been upheld by the federal district and appellate courts and the U.S Supreme Court

denied review. The Tollway has revised its program based upon the Study and Ms. Holt's counsel on program development.

The contract was awarded in 2013 as a 24-month contract. The initial budget of the contract was $314,801.64 and the final invoiced amount for the project was $314,801.64.

Cook County Disparity Studies, 2016

- Cook County, Illinois
- Cook County Hospital Systems
- Forest Preserve District of Cook County

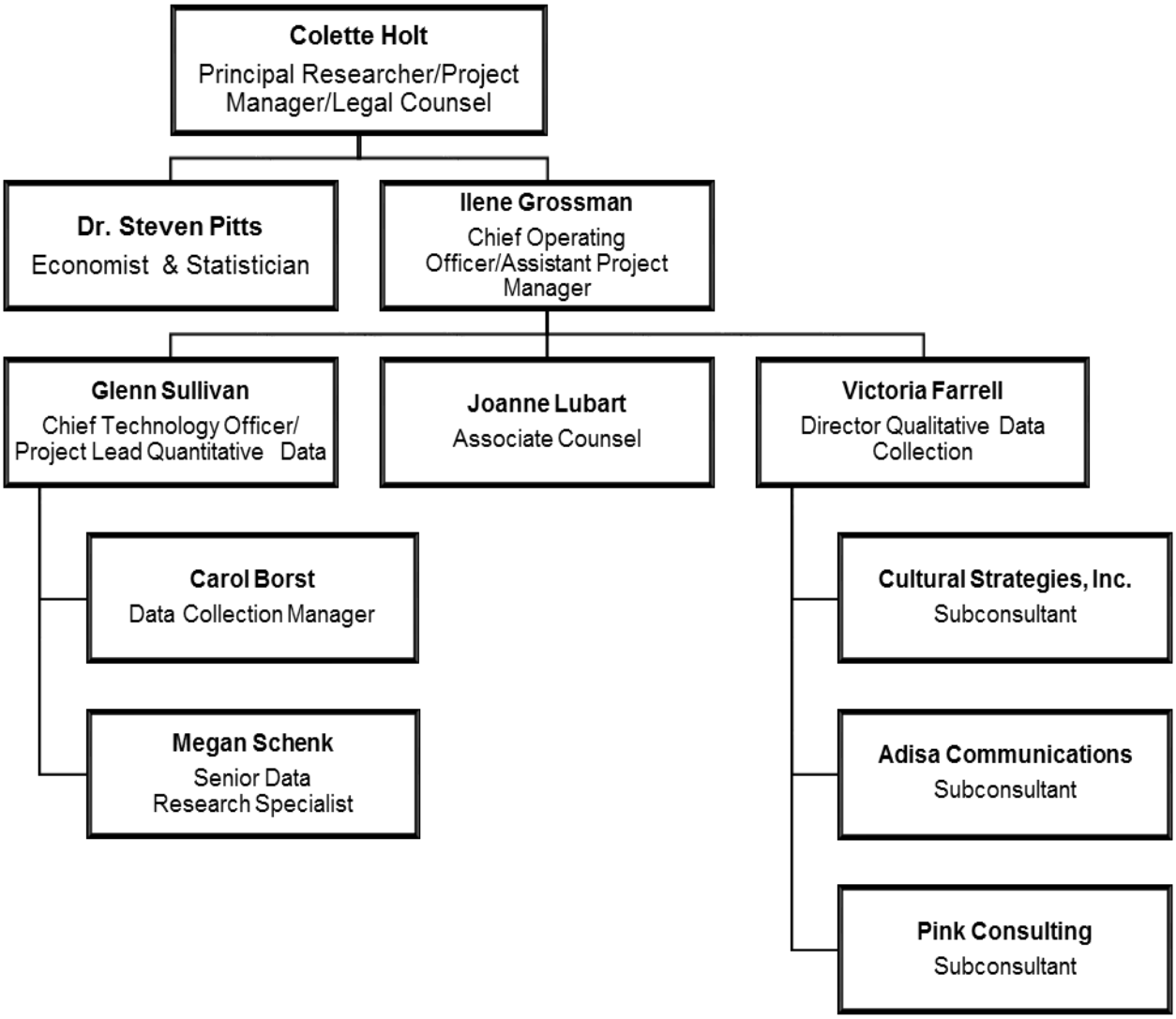
Jacqueline Gomez, Former Director, Office of Contract Compliance
312-625-3163
jgomez@obama.org

CHA was retained by Cook County, Illinois, the Cook County Hospital Systems, and the Forest Preserve District of Cook County to perform a study of possible disparities on the basis of race and gender in access to their prime contracting and associated subcontracting opportunities. Separate reports were produced for each agency. We analyzed purchase order and contract data from July 2009 through July 2014. We determined each agency's utilization of M/WBEs; the availability of M/WBEs in their market area; any disparities between each agency's utilization and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards; reviewed each agency's program; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. We were also tasked with making recommendations for the M/WBE programs. The agencies are implementing the recommendations.

The contract was awarded in 2013 as a 12-month contract. The initial budget was $673,506.50 and the final invoiced amount for the project was $673,506.50.

TAB 5 – PERSONNEL & COMPANY QUALIFICATIONS

Organization Chart



Colette Holt & Associates

Colette Holt, J.D., Project Manager, Legal Counsel

Ms. Holt is the nation's foremost attorney and consultant in the specialty of contracting affirmative action issues, including disparity studies and M/WDBE program development and defense. She has been counseling the City since 1994, when she was retained to review the work of another study consultant when questions were raised about the legal sufficiency of the work [product. Ms. Holt has been seminal to the design, enforcement and defense of affirmative action programs across the country for over 25 years. She has a 100-percent-winning litigation track record as a testifying and consulting expert,

having successfully defended clients' programs based on the firm's work product. Ms. Holt has also been retained to review other consultants' work when an agency's counsel has raised questions about the quality or defensibility of the study. She is a nationally sought-after speaker, author and trainer, including for many federal, state and local agencies and trade associations. She has served as the General Counsel for the American Contract Compliance Association for over 19 years and regularly mentors other professionals in the contracting affirmative action field.

Ms. Holt received her B.A. in Philosophy from Yale University and her J.D. from the University of Chicago.

Steven Pitts, Ph.D., Economist and Statistician

Dr. Steven Pitts is a nationally recognized economist and statistician at the University of California at Berkeley and one of the nation's foremost African American economists. Dr. Pitts has concentrated his professional efforts for over 35 years in the area of and on the effects of race discrimination on economic opportunities. He has published over 20 articles on these issues and made dozens of presentations regarding the interplay of race and economics. Dr. Pitts has been collaborating with CHA since 2009. He has extensive experience in using large databases, including those of the Census Bureau, to perform statistical analyses of labor and employment issues. He has offered expert witness testimony on race and employment issues and has been honored for his work with significant grants from many foundations. Dr. Pitts has taught statistics and economics for many years and is thoroughly familiar with the principles of these disciplines and their application to real world problems. Dr. Pitts is responsible for all quantitative analysis for the study. He will be working on this project from CHA's Oakland, CA office.

Dr. Pitts received his B.A. in Economics from Harvard University and his Ph.D. in Economics with an emphasis on Urban Economics from the University of Houston.

Joanne Lubart, J.D., Associate Counsel

Ms. Lubart joined CHA after over 30 years of DBE and government contract law practice. She served in the Office of Chief Counsel to the Pennsylvania Department of Transportation, where she became a national expert on M/W/DBE programs and disparity studies. Her work included serving as the statewide adviser on federal DBE regulations and contracting equity program issues; drafting certification, goal-setting, commercially useful function and good faith efforts guidance documents; serving as Legal Adviser to the Pennsylvania DBE Unified Certification Program and its Appeals Committee; and providing frequent trainings and lectures on DBE certification, as well as the legal issues associated with M/W/DBE programs. Ms. Lubart has been honored with the appointment as Chair of the DBE Committee of the Transportation Research Board of the National Academies. Ms. Lubart will be responsible for assisting with all legal research and program elements of the study. She will be performing work from her office in Pennsylvania.

Ms. Lubart received her B.A. in Sociology from University of Pennsylvania and her J.D. from American University Law School.

Glenn Sullivan, B.S., Chief Technology Officer, Project Lead for Quantitative Data

Mr. Sullivan, who began consulting with CHA 2014, has over 30 years working in the high-tech industry. Mr. Sullivan is a proven results-oriented business professional with demonstrated abilities in strategic and tactical planning, managing projects, improving efficiency of operations, team building, and detailing project information to determine effective processes for operations. He identifies, develops and implements company policies, standards, changes in operation, and systems that optimize productivity and our work products. Mr. Sullivan is responsible for managing all data processes and oversees all quantitative data collection elements of the study. He works from CHA's Oakland, CA office.

Mr. Sullivan received his B.S. in Business Management from University of Phoenix.

Ilene Grossman, B.S., Chief Operating Officer, Assistant Project Manager

Ms. Grossman has extensive experience in project management with government and corporate clients and excels in her ability to oversee the larger structure of a project, for example the disparity study for the State of Washington. She regularly coordinates all project requirements and oversees all outside firm resources. She coordinates internal scheduling and project timelines and oversees all departmental communication. She has worked with CHA on multiple disparity studies in this capacity. All team departments report directly to Ms. Grossman on all aspects of the study process. She is the direct liaison with the agency to obtain all contract data records and works closely with Mr. Sullivan to create complete original contract data files. Ms. Grossman works from CHA's Oakland, CA office.

Ms. Grossman received her B.S. from Syracuse University.

Victoria Farrell, M.B.A., Project Lead for Qualitative Data,

Ms. Farrell has vast business and organizational experience and has worked extensively on all aspects of disparity studies with CHA. Ms. Farrell currently manages all subcontractor interactions and anecdotal data collection activities. Ms. Farrell also designs and administers all online anecdotal surveys. She assists in coordination of all elements of the draft study report. Ms. Farrell works from her San Jose, CA office.

Ms. Farrell received her B.A. from Skidmore College and her M.B.A from George Washington University.

Carol Borst, Quantitative Data Collection Specialist

Ms. Borst is an expert in contract data collection and follow up for the CHA team and has successfully completed multiple studies as a member of CHA. Ms. Borst oversees and coordinates our data collection team to ensure complete contract data files are developed. She is responsible for managing the CHA data collection team; all contract data follow up requirements; and training and communicating with team members on all necessary tasks. Ms. Borst works from CHA's Oakland, CA office.

Megan Schenck, Senior Data Research Specialist

Ms. Schenk is an expert in data research and an integral part of the CHA's data collection team. She performs all research necessary to complete contract data files. She is also involved in training all additional research team members. Ms. Schenk works from CHA's Oakland, CA office.

Ms. Schenk received her BS from California Polytechnic State University.

Local Subconsultants

Cultural Strategies, Inc

Cultural Strategies, Inc, ("CS") headed by President Sebastian Puente**,** is an Austin certified MBE firm focusing on important civic projects and education campaigns for local institutions or private enterprises. Founded in 2009, CS provides effective community engagement strategies for an ever more multicultural Central Texas. With rich experience in multicultural and multilingual marketing, advertising, outreach, and communications, CS helps build effective communications and outreach strategies for respected institutions in a variety of industries such as local government, public services, health care, education, nonprofits and private businesses. CS is fully dedicated to effectively and efficiently engaging with the diverse residents of the Austin community.

CS will assist with community outreach and anecdotal data collection for the study.

Adisa Communications

Founded in 1995 by its president and CEO, Shuronda Robinson, Adisa Communications is an award-winning City of Austin MWBE certified public involvement and communications firm based in Austin. The firm provides a full spectrum of public involvement and communications services. Adisa has led public sector, nonprofit, and private sector communications and outreach campaigns to successful completion through creative public involvement facilitation service. Clients have included the Austin Independent School District, the City of Austin, Capital Metro and private sector construction companies.

Adisa will assist with community outreach and anecdotal data collection for the study.

Pink Consulting

Pink Consulting, a City of Austin MWBE, provides communications services on public and private projects. The firm focuses on the development and implementation of community outreach initiatives, with emphasis in minority communities. Principal Bobbie Garza-Hernandez has been providing communications services on large-scale public xand private projects since 1997. She possesses extensive experience with public participation processes, strategic planning, marketing, fundraising and event/conference planning and coordination. Ms. Garza-Hernandez has 30 plus years of experience working with extremely diverse segments of the Austin and Central Texas communities, including governmental entities and private sector, community based and neighborhood organizations.

Pink Consulting will assist with community outreach and anecdotal data collections for the study.

Colette Holt

colette.holt@mwbelaw.com
773-255-6844

Experience

Colette Holt provides legal counsel and consulting services to governments and businesses on procurement and contracting; employment discrimination; regulatory compliance; organizational change; program development, evaluation and implementation; and issues relating to inclusion, diversity and affirmative action. Ms. Holt is a nationally recognized expert in designing, implementing and defending affirmative action programs. She has concentrated her practice in these areas for over 25 years, after serving in senior legal and management government positions. Colette Holt & Associates was founded in 1994, and has become the nation's premier law and consulting firm on these issues.

In particular, she provides expert witness testimony and consultations in suits involving public and private procurement and employment policies. Ms. Holt evaluates the effectiveness of employment and contracting policies and processes, and proposes solutions to support leadership's commitment to improvement and innovation. She has served as co-consultant with and counsel to economics consulting firms in conducting numerous studies of contracting and employment discrimination. In addition to work for public sector clients, the firm counsels government vendors on compliance with federal employment and procurement regulations, including serving as a court appointed compliance monitor for firms entering into consent decrees with prosecutors.

Ms. Holt is General Counsel to the American Contract Compliance Association, the national organization of officials responsible for minority, women and disadvantaged business initiatives. Ms. Holt is a frequent author and media commentator on affirmative action, and employment topics. She is the former Vice-Chair of the American Bar Association's Public Contract Law Section. Ms. Holt has been appointed an Adjunct Professor at the Loyola University School of Law and The John Marshall Law School.

Education

Yale University, B.A., Philosophy
University of Chicago, J.D.

Prior Experience

Associate Superintendent, Chicago Park District

Chief Operating Officer of $350 million/year independent municipal agency with 4,000 employees. Implemented contracting and procurement systems to improve processes and service delivery, reduce costs, and support budgeting and auditing functions. Developed and implemented agency's first minority and women business program. Led District's fundraising and first Strategic Planning process. Created professional fundraising and community relations departments, including missions statements, structures, budgets, and personnel requirements. Developed model community councils program to provide citizen input into park operations.

Senior Attorney, Legal Counsel Division, Dept. of Law, City of Chicago

Provided advice to the Mayor, City Council, and City departments regarding legislation and policy development, administrative and municipal law, public contracting, first amendment issues, land use and public incentives, and zoning. Developed groundbreaking minority and women business program for City departments.

Associate, Schiff Hardin & Waite, Chicago, Illinois

Specialized in federal and state litigation, municipal bonds, administrative law, and employment discrimination.

Law Clerk to the Honorable Thomas E. Fairchild, Former Chief Judge, United States Court of Appeals for the Seventh Circuit

Assisted federal appellate judge with research and drafting opinions.

Public Sector Clients

U. S. Department of Justice
U.S. Department of Transportation
Amtrak
National Academy of Sciences
Connecticut Academy of Science and Engineering
Commonwealth of Massachusetts
State of Hawaii
State of Illinois
Illinois State Toll Highway Authority
State of Maryland
State of Minnesota
State of Missouri
State of New York
State of North Carolina
State of Texas
State of Washington
City of Arlington
City of Augusta
City of Aurora
City of Austin
City of Baltimore
City of Birmingham
City of Chicago
City of Cleveland
City and County of Denver
City of Dayton
City of Durham
City of Fayetteville
City of Fort Worth
City of Houston
City of Jacksonville
City of Kansas City, Missouri
City of Memphis
City of Minneapolis
City of Oakland
City of St. Louis
City and County of San Francisco
City of South Bend
City of Tampa
Bi-State Development Agency d/b/a Metro St. Louis
Capital Metro Transportation Authority
Chicago Transit Authority
Greater Cleveland Regional Transit Authority
Dallas Area Rapid Transit
Hampton Roads Transit Authority
Regional Transportation Authority of Illinois
Jacksonville Transportation Authority
Kansas City Area Transportation Authority
Los Angeles Metro
Northeast Illinois Regional Commuter Railroad Corporation d/b/a Metra
Pace Bus System
Southeastern Pennsylvania Transportation Authority
VIA Transit, San Antonio
Baltimore Washington International Airport
Dallas/Fort Worth International Airport
Jackson Municipal Airport Authority
Lambert International Airport
Memphis-Shelby County Airport Authority
Metro. Nashville Airport Authority
Port of Portland
Salt Lake City International Airport

Tampa International Airport
Metropolitan Sewer District of Cincinnati
Metropolitan Water Reclamation District of Greater Chicago
Northeast Ohio Regional Sewer District
Broward County, Florida
Cook County, Illinois
Dallas County, Texas
Jackson County, Missouri
Hennepin County, Minnesota
Miami-Dade County, Florida
Ramsey County, Minnesota
St. Louis County, Missouri
Travis County, Texas
Cook County Hospitals
Parkland Health and Hospital System
Portland Development Commission
Metropolitan Pier & Exposition Authority
Portland Housing Authority
City Colleges of Chicago
Chicago Public Schools
Kansas City Public Schools
Newark Public Schools

Private Sector Clients

Advocate Health Care Systems
Aldridge Electric, Inc.
Arrow Messenger Services, Inc.
Ativo Capital Management
Baker & Hostetler, LLP
Burr & Smith, LLP
Chicago United
Chico & Nunes, LLP
Colson Associates, Inc.
DLZ, Inc.
Doyle Dickerson Terrazzo
Equal Justice Society
F.H. Paschen, S.N. Nielsen
Gaffney PMI, Inc.
GlobeFlex
Hill International
Infotech, Inc
Intralot, Inc.
Kelly Garnsey Hubbell & Lass, LLC
Landon & Rian, LLC
Lathrop & Gage, LLC
Louis Jones Enterprises, Inc.
Mayer Brown, LLP
James A. McHugh Construction Co.
MCI, Inc.
NAL, Inc.
National Economic Research Associates, Inc.
Parsons Brinckerhoff, Inc.
Perkins Coie, PC
Pugh, Jones & Johnson, PC
The Obama Foundation
Reggio's Pizza, Inc.
Sprint, Inc.
Sterling Bay
Stetler & Duffy, PC
System Development Integration, LLC
The TAC Companies, LLC
Thompson Coburn, LLP
Total Safety Holdings, Inc.
University of Chicago
US West, Inc.
Van Wagner Communications, LLC
W.E. O'Neil Company, Inc.
Webber, Inc,
Williams & Mullen, LLP

Expert Witness Experience

Midwest Fence Corp. v. Illinois Tollway, 840 F.3d 932 (7th Circ. 2016), *cert. denied*, 137 S.Ct. 2292.

Richardson v. ICV Capital Partners, LLC, No. 1425007789, 2011 (JAMS Commercial Arbitration Tribunal, 2012)

Kevcon, Inc. v. United States, USCFC No. 09-625CAAA (U.S. Ct. Fed. Claims 2010).

Kline, Inc. v. Pocari, the Maryland Dept. of Transportation, et al, Civil Case No. RDB-08-03197 (D. Mar. 2009).

AAA National Maintenance v. City and County of Denver, No: 1:09-cv-00007-REB-MEH (D. Col. 2009).

Mason Tillman Associates, LTD. v. City of Dayton, Case No. 2008 CV 0085 (S. D. Ohio 2008).

Suburban Grading & Utilities, Inc. v. Transportation District Commission of Hampton Roads, Case No. CL08-2640 (Va. Cir. Ct. 2008).

Moore Security Services, Inc. v. Root Brothers Manufacturing & Supply Company, Case No. 51 181 Y 00457 08 (American Arbitration Association 2008).

United States v. Siemens Medical Solutions USA, et al, No. 05 CR 792 (N.D. Ill. 2007).

Northern Contracting, Inc. v. Illinois Dept. of Transportation, No. C 4515 (N.D. Ill. 2004).

Western States Paving Co., Inc. v. Washington Dept of Transportation et al, C00-5204 RB (W.D. Wash. 2003).

Builders Association of Greater Chicago v. City of Chicago, 96 C 1122 (N.D. Ill. 2003).

Utility Contractors Assoc. of North Florida, Inc. v. City of Jacksonville, 3:02-CV-137-J-32-TEM (M.D. Fla. 2002).

National Black Chamber of Commerce, Inc. v. US West, Inc., CV 96-1331 (D. Colo. 2001).

Florida State Conference of NAACP Branches, et al. v. Polk County, Florida, Case No. 98-2322-CIV-T-25a (M.D. Fla. 1999).

Selected Presentations

Airports Council International
Airports Minority Advisory Council
American Association for Affirmative Action
American Association of Airport Executives
American Association of State Highway Transportation Officials
American Bar Association
American Contract Compliance Association
American Public Transportation Association
Bay Area Contract Compliance Officers Association
California Association of Equal Rights Professionals
Conference of Minority Transportation Officials
Conference of Minority Public Administrators
Dallas Black Chamber of Commerce
Florida Airports Council
Florida Association of Minority Business Officials
Federal Aviation Administration
Federal Highway Administration
Federal Transit Administration
Lorman Education Services
National Academy of Sciences
National Association of Minority Contractors
National Association of Women in Construction
National Bar Association
National Forum for Black Public Administrators
National Institute of Government Purchasing
National Minority Supplier Development Council
North Carolina MWBE Coordinators Network

Selected Publications

"U.S. DOT's Disadvantaged Business Enterprise Program: Key Components and Issues," *TR News,* The National Academies, Transportation Research Board, November-December 2018

"The Trump Administration: What Might be Ahead for DBEs," *American DBE Magazine*, Summer 2017

"DBE Program Update: Litigation Victory in Chicago and USDOT Guidance on Retainage Payments," *American DBE Magazine*, Fall 2016

"What DBEs Need to Know Now," *American DBE Magazine*, Fall 2013

"The Limited Impact of *Rothe VII* on M/W/DBE Programs," *Contract Management Magazine*, 2010.

*"*Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program," Transportation Research Board of the National Academy of Sciences, *NCHRP Report, Issue No. 644, 2010*.

"Western States Paving Company v. Washington State Department of Transportation," American Bar Association, The Transportation Antitrust Update, 2007.

"Meeting the *Western States* Challenge: Setting Disadvantaged Business Enterprise Goals on USDOT Contracts," *Small Business Exchange*., Vol. 22, No. 18, July 2006.

"Strict Constitutional Scrutiny is Not Fatal in Fact: Federal Courts Uphold Affirmative Action Programs in Public Contracting," Labor *Law Journal*, Winter 2003.

"Business Enterprise Program Survives Legal Challenges," *Contract Management Magazine*, 2002.

"USDOT Revises Disadvantaged Business Enterprise Program," www.airportplanning.com, March 2000.

"Strict in Theory or Fatal in Fact? Federal Courts Send Mixed Signals on Disadvantaged Business Enterprise Programs," *Contract Management Magazine*, 1999.

Professional Honors and Awards

Civil Rights Champion, American Association of State Highway Transportation Officials

Women Business Champion of the Year, US Small Business Administration

Advocacy Award, Women's Business Development Center

Advocacy Award, Federation of Women Contractors

Founder's Award, Black Contractors United

President's Award, National Black Chamber of Commerce

Eagle Award, National Eagle Leadership Institute

Achievement Award, Black Students Alliance at Yale

COLETTE HOLT & ASSOCIATES

Steven C. Pitts, Ph.D.

steven.pitts@mwbelaw.com

Experience

Dr. Steven Pitts directs Colette Holt & Associates' economics and statistical data collection and analysis for availability and disparity studies, and other projects. has studied market issues regarding minorities foar over 25 years. Dr. Pitts focuses on issues related to opportunities and conditions for Black workers. He has extensive experience in using large databases, including those of the Census Bureau, to perform statistical analyses of labor and employment issues.

Dr. Pitts is the Associate Chair of the Center for Labor Research and Education, Institute for Labor Research and Education, University of California at Berkeley.

Education

University of Houston	Ph.D. in Economics.
Harvard University	A.B. in Economics, with Honors

Selected Publications

"Data Brief: Black Employment and Unemployment." (co-authored with Sylvia Allegretto and Ary Amerikaner) Monthly, (UC-Berkeley Center for Labor Research and Education).

"Black Workers and the Public Sector," April 2011 (UC-Berkeley Center for Labor Research and Education).

"The Great Recession, Jobless Recoveries and Black Workers" (co-authored with Sylvia Allegretto) Focus Magazine (October – November 2010)

"The End of the Recession? How Blacks Might Fare in the Jobless Recovery," (co-authored with Sylvia Allegretto) October 2010, (UC-Berkeley Center for Labor Research and Education).

"The State of Black Workers before the Great Recession," (co-authored with Sylvia Allegretto) July 2010, (UC-Berkeley Center for Labor Research and Education).

"Unionization and Black Workers," The American Prospect (October 2008)

"Beyond the Mountaintop: King's Prescription for Poverty," (co-authored with William E. Spriggs) April 2008 (UC-Berkeley Center for Labor Research and Education)

"Job Quality and Black Workers: An Examination of the San Francisco Bay Area, Los Angeles, Chicago, and New York," August 2007 (UC-Berkeley Center for Labor Research and Education).

"The Fight for Quality Jobs: Our Battle against Neo-liberalism," 2007. Race, Poverty, & the Environment Vol XIV, #1.

"Bad Jobs: The Overlooked Crisis in the Black Community," New Labor Forum (Winter 2007).

"Black Workers in the Bay Area: Employment Trends and Job Quality: 1970 and 2000," November 2006 (UC-Berkeley Center for Labor Research and Education).

"Organizing Around Work in the Black Community: The Struggle against Bad Jobs Held by African Americans," in Race and Labors Matters in America, edited by Manning Marable, Immanuel Ness, and Joseph Wilson (Rowman & Littlefield Publishers, 2006).

“Black Workers in the Bay Area: 1970-2000 – A Data Brief,” (co-authored with Steve Wertheim)

September 2005 (UC-Berkeley Center for Labor Research and Education).

“Transit Unions: Key Allies in the Struggle for Transportation Justice,” 2005. Race, Poverty, & the Environment Vol XII, #1.

“African Americans, Income Inequality and Corporate Globalization,” (co-authored with Jessica Nembhard) in African Americans in the U.S. Economy, edited by John Whitehead, et al. (Rowman & Littlefield Publishers, 2005).

“’Black Freedom Fighters in Steel: The Struggle for Democratic Unionism’ by Ruth Needleman: A Book Review,” 2004. Labor Studies Journal Vol 29, #2.

“Health Care Hazard,” 2004. Race, Poverty, & the Environment Vol XI, #1.

“Organize…to Improve the Quality of Jobs in the Black Community,” 2004. (UC-Berkeley Center for Labor Research and Education).

“New Millennium: Progress and Prospects,” 1999. With Russell H. Jackson for the Houston Area Urban League.

“The Impact of Land Use Restrictions in a Multicentric City,” 1997. Presented with Steven G. Craig and Janet E. Kohlhase at the American Economic Association Meetings, New Orleans.

“Government Employment and Procurement Patterns in the 1990s,” 1996. (Institute for African American Policy Research).

“Houston’s African-American’s and the New Economy: Employment Status and Development Strategies—An Analysis for the Houston Area Urban League,” 1995. With Russell H. Jackson.

“The Impact of Central City Annexation on Suburban Property Values." 1993.

COLETTE HOLT & ASSOCIATES

Joanne L. Lubart

joanne.lubart@mwbelaw.com

Education

The American University Law School, Washington, D.C. Juris Doctor Degree, May 1980
Executive Editor, American University International Law Citation Manual and Source Book (1979-1980)

University of Pennsylvania, Philadelphia, Pennsylvania Bachelor of Arts, Sociobiology, 1976
Magna Cum Laude Graduate
Research Assistant - Sociology Department

Bar Membership: Pennsylvania, admitted December, 1980;
Supreme Court of the United States, admitted June, 1984.

Experience

Associate Counsel, Colette Holt & Associates

Responsible for legal research and analysis, program reviews, drafting documents, and other duties as assigned.

Staff Attorney, Office of Chief Counsel, Pennsylvania Department of Transportation

Staff attorney for an executive agency of the Commonwealth of Pennsylvania. Legal work involved nearly all phases of the Department's operations with special concentration in the Disadvantaged Business Enterprise Program. Projects included:

- Statewide adviser on federal DBE regulations set forth in 49 C.F.R. Part 26 and Part 23.
- Draft DBE certification, goal-setting, commercially useful function and good faith efforts guidance documents.
- Legal adviser to the Pennsylvania DBE Unified Certification Program (PA UCP)
- Drafted agreement to create the PA UCP (executed by 64 signatories).
- Legal adviser to the PA UCP Appeals Committee – compose detailed denial letters (where necessary) for appeal to the United States Department of Transportation's Office of Civil Rights.
- Legal adviser to the Department's DBE Good Faith Efforts Review Committees.
- Frequent trainer and lecturer on DBE certification as well as the legal issues associated with the DBE program.

Publications

Legal Challenges to Behavior Modification, The Lawyer's Medical Journal November, 1980.

Intellectual Property, Pennsylvania Bar Institute, 2002.

Making Intellectual Property Less Intellectual: Fair and Protected Use Under Copyright Law, Pennsylvania Bar Institute, 2004.

Cyber Plagues: Internet Plagiarism and Copyright Infringement, Pennsylvania Bar Institute, Intellectual Property Newsletter, 2008.

Social Media for Executive Agencies, Pennsylvania Bar Institute, 2009.

Understanding One of the Nation's Most Misunderstood Federal Regulations: Nine Keys to Understanding the Federal-Mandated Disadvantaged Business Enterprise Program, Handbook of Transportation Policy and Administration (Jeremy F. Plant, editor, with Van R. Johnston and Cristina E. Ciocirlan). Taylor & Francis, 2007.

Caveat Web Surfers: The Proliferation of Electronic Browse-Wrap Agreements and Their Impact on Cyberlaw, Pennsylvania Bar Association Intellectual Property Newsletter, Winter 2010.

Copyright Protection and Attorney Work Products: Exploring the Parameters of Legal authorship, Pennsylvania Bar Association Intellectual Property Newsletter, Fall 2010.

Copyright and Metadata Jurisprudence, Pennsylvania Bar Association, Spring 2011.

Making the Case for State Government Intellectual Property Policies, Pennsylvania Bar Association Newsletter, Spring 2012.

Tempering the Tone in Trademark Disputes: Are Friendlier Cease and Desist Letters the New Norm?, Pennsylvania Bar Association Newsletter, Fall 2012.

Special Recognition and Achievements

Recipient, 1999 Star of Excellence Award; 2001 All-Star Team of Excellence Award (Logo Team).

Member, Pennsylvania Bar Association – Government Lawyers Section; Intellectual Property Section.

Member, Emerging Technology Committee, Transportation Research Board.

Chair, Disadvantaged Business Enterprise Committee, Transportation Research Board (2016-2019).

Panel member, Transportation Research Board: Responsible for working with consultant on the development of IP guide for all state departments of transportation

Executive Editor, Intellectual Property Newsletter, Pennsylvania Bar Association: 2009-2016.

Glenn Sullivan

glenn.sullivan@mwbelaw.com
510-541-6840

Experience

Colette Holt & Associates

Director of Technology *December 2014 – Present*

- Responsible for all Colette Holt & Associates (CHA) infrastructure and information technology systems
- Established project management standards and PMO to track project schedules, resources and progress across the entire organization
- Established processes for handling all data collection, storage and retention for work done by CHA
- Established, implemented and trained team on processes for quantitative data collection, response tracking and archival at completion
- Established, implemented and trained team on processes for managing qualitative data collection, including systems for outreach, meeting registration, and meeting audio file management and transcription
- Directed the Qualitative Data Collection for the following projects:
  - Newark Public Schools Disparity Study
  - Regional Transportation Authority Disparity Study
  - City of Kansas City, Missouri Disparity Study
  - KCATA Disadvantaged Business Enterprise Availability Study
  - Jackson County, Missouri Disparity Study
  - Kansas City Public Schools Availability Study
  - Washington State Department of Transportation Disparity Study
  - City of Houston Disparity Study
  - Port of Portland Small Business Program Disparity Study
  - Chicago Transit Authority Disparity Study
  - State of Washington Disparity Study
  - Dallas Fort Worth International Airport Disparity Study
  - Washington State Department of Transportation (WSDOT) in conjunction with FAA Disparity Study for its Disadvantaged Business Enterprise
  - TxDOT Disparity Study
  - City of South Bend Disparity Study
  - Harris County Disparity Study

Cavium, Inc.

Applications Manager/Consultant *January 2010 – September 2018*

- Responsible for all enterprise applications at MontaVista Software, a subsidiary of Cavium Inc., as well as the integration of MontaVista's Salesforce.com Sales and Support system with Cavium Oracle back-office order processing and invoicing systems
- Established processes for handling MontaVista orders with the Cavium back-office to comply with Sarbanes-Oxley Act of 2002, including order management, software license generation and delivery and Professional Services time tracking, reporting and invoicing

- Managed project to define and install a Contract Management solution at MontaVista to allow automatic creation of contracts from the Salesforce application (by sales people) without burdening legal to create the initial drafts, coordinate an e-signature solution
- Managed parallel project to the Contract Management project to establish an electronic signature solution, also integrated directly into Salesforce, for managing signatures and the completion of contracts within Salesforce to automate sales orders and keep all Professional Services engagement on track when contracts are executed

MontaVista Software, LLC

Sr. Business Analyst/Sr. Project Manager *November 2000 – January 2010*

- Successfully migrated in-house Siebel CRM solution to Salesforce.com
- Managed a 1-year long License Management project which incorporated license management technology into the MontaVista Product line; integrating engineering change management to update the software product, working with the Legal team to rewrite standard contracts to use License Management language, and building the license fulfillment systems and integrating them into existing sales, finance, customer support and order fulfillment processes and systems
- Established Project Office for managing requirements definition, solution analysis and selection, and implementation through chairmanship of VP-level Project Office steering committee of cross-functional business groups to ensure adoption and widespread use of processes and application solutions

KMV, LLC

Information Systems Manager *June 1999 – September 2000*

- Planned and implemented the KMV's Client Relationship Management System (CRMS)
- Developed written process definitions for entire company workflow for CRMS project
- Led customization and implementation project coordinating CRMS technical and training resources with third party integration specialists and KMV internal resources
- Responsible for maintaining all information systems within KMV, including the Exchange Server, CRMS Server, SQL back-end servers, web servers, and Knowledge Base
- Managed development, release and production of all technical and marketing documentation
- Developed document control system to ensure proper revision control and release of all documentation
- Coordinated initial launch of KMV's public web site
- Designed and implemented launch of KMV's client support web site
- Developed and implemented full-text searchable Knowledge Base

OPTi Inc.

Technical Writer/Publications Manager *November 1993 – October 1997*

- Managed production and distribution of OPTi's literature, from technical documents to marketing collateral
- Created, implemented, and managed electronic publication system
- Designed and created OPTi's marketing collateral material for the complete product line

Education

B.S. Business Management, University of Phoenix, San Jose, CA, 1997

Ilene Grossman

ilene.grossman@mwbelaw.com
510-290-5699

Experience

Colette Holt & Associates

Chief Operating Officer *July 2014 – Present*

- Coordinate all project requirements and oversee all outside firm resources
- Coordinate internal scheduling and project timelines
- Oversee all interdepartmental communication
- Direct all financial transactions and accounting staff
- Coordinate all Request for Proposals
- Oversee all human resources requirements
- Work with Project Manager and Assistant Project manager and other team members on all aspects of Disparity Studies to include:
  - Coordinating preparation and materials for Study Kick off Meeting
  - Work as liaison with Study Manager
  - Collection of complete contract data from agency to be able to draw sample
  - Work with data team to monitor and facilitate data collection from prime contractors
  - Coordinate building of data base lists for potential invitees for all anecdotal meetings
  - Work with IT department on invitations for anecdotal meetings
  - Work with subcontractors on details of locations for meetings, training of staff for meeting invitation follow up to maximize attendance, meeting protocols
  - Coordinate directory collection for master MWBE directory
- Coordinated operations for the following disparity studies:
  - Newark Public Schools Disparity Study
  - Regional Transportation Authority Availability Study
  - City of Kansas City, Missouri Disparity Study
  - KCATA Disadvantaged Business Enterprise Availability Study
  - Jackson County, Missouri Disparity Study
  - Kansas City Public Schools Availability Study
  - Washington State Department of Transportation Disparity Study
  - City of Houston Disparity Study
  - Metra Limited English Proficiency/Title VI Study
  - Port of Portland Small Business Program Disparity Study
  - Chicago Transit Authority Disparity Study
  - State of Washington Disparity Study
  - Dallas Fort Worth International Airport Disparity Study
  - Washington State Department of Transportation (WSDOT) in conjunction with FAA Disparity Study for its Disadvantaged Business Enterprise
  - TxDOT Disparity Study
  - City of South Bend Disparity Study
  - Harris County Disparity Study

iDefine Fitness

Owner/Principal *January 2006 – July 2014*

- Managed all financial transactions
- Liaison with all corporate clients
- Oversaw all team scheduling and coordination
- Developed and managed all marketing functions
- Coordinated all new business efforts

Cal Neve Asset Management

Business Manager *January 1999 – December 2005*

- Oversaw all corporate financial transactions
- Directed and managed property managers
- Researched and managed all vendor resources

Education

B.S. Family and Community Services, Syracuse University, Syracuse, NY, 1978

Victoria Farrell

victoria.farrelll@mwbelaw.com
408-568-6343

Experience

Colette Holt & Associates

Assistant Project Manager *February 2017 – Present*

- Coordinate with Project Manager on all project requirements
- Supervision of subcontractor activity on project
- Managed Qualitative Data for the following Projects:
  - City of Houston Disparity Study
  - Port of Portland Small Business Program Disparity Study
  - Chicago Transit Authority Disparity Study
  - Dallas Fort Worth International Airport Disparity Study
  - TxDOT Disparity Study
  - Washington State Department of Transportation (WSDOT) in conjunction with FAA Disparity Study for its Disadvantaged Business Enterprise
  - City of South Bend Disparity Study
  - Harris County Disparity Study

Berge & Berge Estate & Trust Planning LLC

Program Manager *December 2015 – January 2017*

- Managed estate planning maintenance program for more than 250 clients
- Worked with attorney to identify weaknesses and adapt plans to meet changed laws and family situations and clearly communicate recommendations to clients
- Identified new business on client and at firm level
- 82% program renewal rate up from 80% a year ago

Berge & Berge Estate & Trust Planning LLC

Estate Planning Associate *February 2014 – December 2015*

- Identified qualified prospects to meet with attorney
- Insured efficient client intake and document preparation to achieve client satisfaction and minimize attorney time

Mushroom Council (agricultural promotion board)

Administrative Support *April 2012 – March 2014*

- Reduced monthly U.S. Customs report preparation time from 9 hours to 1 hour via advanced Excel data manipulation, pivot tables, V-Lookups and macros

Convention Staffing Solutions

Staff Associate *March 2011 – March 2012*

- Performed registration functions and customer service at conferences and trade shows using specialized registration software

Education

M.B.A. Marketing Finance, the George Washington University
School of Business Administration and Government, Washington, DC, 1985
B.A. Sociology, Skidmore College, Saratoga Springs, NY, 1977

Carol Borst

carol.borst@mwbelaw.com
510-599-8537

Experience

Colette Holt & Associates

Data Collection Team Manager *August 2016 – Present*

- Oversees and coordinates all follow up activities to ensure complete contract data files
- Responsible for training and communicating with sub-contractors on contract data follow up activities
- Coordinates progress reports on data follow up status.
- Managed the Qualitative Data Collection for the following projects:
  - Newark Public Schools Disparity Study
  - Regional Transportation Authority Disparity Study
  - City of Kansas City, Missouri Disparity Study
  - KCATA Disadvantaged Business Enterprise Availability Study
  - Jackson County, Missouri Disparity Study
  - Kansas City Public Schools Availability Study
  - Washington State Department of Transportation Disparity Study
  - City of Houston Disparity Study
  - Port of Portland Small Business Program Disparity Study
  - Chicago Transit Authority Disparity Study
  - State of Washington Disparity Study
  - Dallas Fort Worth International Airport Disparity Study
  - Washington State Department of Transportation (WSDOT) in conjunction with FAA Disparity Study for its Disadvantaged Business Enterprise
  - TxDOT Disparity Study
  - City of South Bend Disparity Study
  - Harris County Disparity Study

Reliant Claims Services

Claims Associate *September 2003 – November 2010*

- Reviewed documents relating to loss claims for clients
- Responsible for creating spreadsheets of inventories lost in claims
- Managed site inspections
- Researched current replacement costs and verifications
- Organized client documents of purchases to verify and analyze loss amounts

Law Offices of William Haskell

Firm Administrator *April 1993 – July 2000*

- Recruit, hire, and train legal and office staff
- Responsible for all firm accounting and financial systems
- Managed HR department including employee benefits and performance reviews
- Researched current replacement costs and verifications

Education

Chabot Community College, Hayward, CA, 1975

Megan Schenk

megan.schenk@mwbelaw.com

Experience

Colette Holt & Associates

Senior Data Research Specialist *December 2016 – Present*

- Conducts research to complete data sets for disparity studies
- Maintains confidentiality of business-owner information
- Contacts business owners to obtain contract data
- Collaborates with multiple Colette Holt team members to complete sets of data raining and communicating with sub-contractors on contract data follow up activities

UC Berkeley: I- House Catering and Dining

Catering Associate of International House *December 2017 – December 2018*

- Assisted in set-up of dining tables, buffet, beverage, and dessert tables
- Completed food preparation and assembly
- Served appetizers, dinner, dessert, and beverages
- Cleared plates, cleaned kitchen/preparation area, washed/sterilized dishes
- Represented Cal in a professional manner during events and in interactions with guests

Cal Poly San Luis Obispo: University Housing

Housing Ambassador *March 2014 – December 2017*

- Led housing tours for prospective students and parents (up to groups of 300)
- Represented housing during open house and other Cal Poly events
- Conducted interviews, training, and evaluations of new ambassador team

Cal Poly San Luis Obispo: University Housing

Resident Advisor *September 2014 – June 2016*

- Worked with students living on-campus as a peer advisor and supporter
- Promoted a positive educational, social, academic, and culturally inclusive dorm environment
- Made connections with residents, helped residents build community with one another
- Connected residents to the resources and opportunities of Cal Poly
- Completed on-call duties in the community, responding to emergencies and lockouts
- Completed weekly desk shift at the Estrella or Santa Lucia front desk
- Protected student's privacy rights according to FERPA

Education

BS in Nutrition from California Polytechnic State University San Luis Obispo, 2017

Sebastian Puente

Resume | Public Information & Marketing Corporate Manager

3300 Bee Cave Road, #650-1136 | Austin, TX 78746 | (512) 501-4971 Ext. 701 spuente@cultural-strategies.com

2016/2017/2018 CURRENT OR RECENTLY COMPLETED PROJECTS

- City of Austin/Corridor Mobility Office/Kimley-Horn & Associates - Manchaca Road Corridor Mobility Plan
- City of Austin/Corridor Mobility Office/AECOM - Martin Luther King Jr. Blvd. Corridor Mobility Plan
- City of Austin/Local Mobility Program/Alliance Transportation Group - Latta Drive and Brush Country Road Substandard Street
- City of Austin Transportation Department/Kimley-Horn & Associates – Street Impact Fee Study
- Capital Metro/AECOM – Project Connect
- City of Austin Public Works/CasaBella Architects – ESB Mexican American Cultural Center Master Plan
- City of Austin Public Works/McKinney York Architects - Montopolis Recreation and Community Center Redesign
- CAMPO/City of Georgetown/Nelson Nygaard - Williams Drive Study
- City of Austin Planning and Zoning/Opticos Design - CodeNEXT
- Lone Star Rail District/Burns & McDonnell – Environmental Impact Study/Environmental Justice Plan
- City of Austin Public Works – Safe Walk Safe Bike Campaign / Go Smart Austin.

PROFESSIONAL HISTORY

2009 to Current – President, Cultural Strategies, Inc., Austin, TX
Cultural Strategies is a marketing and communications firm with core competencies in developing marketing, advertising, and public engagement strategies for a Multi-cultural America. The firm provides its clients cultural insights, sound advice, effective marketing concepts, and persuasive communication strategies that enhance their company's impact and profitability through a well structured and deliberate course of action, contributing to the achievement of their economic, cultural, social, and political goals and objectives.

2001 to 2008 - Senior Vice President, Avenida América, Inc. Atlanta, GA/Austin, TX
Avenida América is an integrated communications company that provides culturally sensitive marketing and communications solutions to US based companies - both large and small – who seek to increase their revenues from the rapidly expanding Latino marketplace. It publishes 5 Spanish-language yellow page directories in two states (miAvenida páginas amarilas), maintains the first online national business directory of Spanish-speaking businesses (www.miavenida.com), operates a weekly Spanish-language sports newspaper in Central Texas (Club Deportes) and a daily radio program on ESPN Deportes., www.clubdeportes.com.

1999 to 2001 - VP & Chief Operating Officer, HCN Media, Washington, DC
Operating in over 20 countries, Hispanic Communications Network is the oldest and largest educational Spanish-language radio producer and syndicator in the Western Hemisphere, www.hcnmedia.com.

1997 to 1999 - Chief of Staff, Self Reliance Foundation, Washington, DC
Self Reliance Foundation (SRF) is a 501(c)3 non-profit organization that fulfills its mission to empower minorities by disseminating practical information and facilitating access to community based services. SRF oversees comprehensive educational campaigns using Spanish-language radio, print, and Internet to reach Latinos throughout the U.S. and Latin America, www.selfreliancefoundation.org.

Education

- Certified, Systematic Development of Informed Consent (SDIC), Institute for Participatory Management and Planning
- Moving Image Arts/Radio/Television/Film, College of Santa Fe, Santa Fe, NM
- Santa Fe Community College, Santa Fe, NM
- Austin Community College, Austin, TX

Professional Activities

- 2018 Member National Council – American Israel Public Affairs Committee (AIPAC)
- 2004-2009 Board of Directors Greater Austin Hispanic Chamber of Commerce, South Austin Business Council, Hispanic Real Estate Professionals of Central Texas, San Marcos Hispanic Chamber of Commerce
- Media Panelist at National Latino Children's Institute Conference, San Diego 2000
- Press Conference Participant for AHAA National Voter Registration Campaign. Other participants included Henry Cisneros, President of Univision, MacHenry Tichenor, CEO Hispanic Broadcasting Corporation, and special taped address by Vice President Al Gore 1999
- Department of Labor Guest at White House Reception for Saver's Summit 1998
- Representative for HRN at National Hispanic Leadership Agenda Meetings 1998
- Advisory Board Member Latino Arts Festival, Santa Fe, NM 1998

adisa communications

SHURONDA ROBINSON

OUTREACH AND COMMUNICATIONS
ADISA COMMUNICATIONS

For more than two decades, Shuronda Robinson has led public sector, nonprofit, and private sector communications and outreach campaigns to successful completion. Shuronda is the president and CEO of Adisa Communications, an award-winning public involvement and communications firm based in Austin.

She is a second-generation entrepreneur whose family operates an African American weekly newspaper in Houston. It is there that she gained a passion for communications and the power of the story. Since founding Adisa Communications in 1995, the firm has garnered a reputation for creative professionalism by providing a full spectrum of public involvement and communications services. The name 'Adisa' means 'one who makes himself clear.'

Shuronda has helped Austin ISD, the City of Austin, Capital Metro and private sector construction companies successfully engage with the small, minority and women owned business communities to meet participation goals. A resident of Austin for three decades, she has deep ties to the local business and nonprofit communities, as well as elected officials.

Shuronda has held leadership positions with the Architecture Foundation of Austin, Leadership Austin , the YMCA East Communities Branch board of managers and the KLRU Board of Directors. Her achievements include being a Small Business of the Year by the Greater Austin Black Chamber of Commerce, an Anne McAfee Quartet of Stars honoree, a Rosa Parks Honoree by WTS, a YMCA of Austin Outstanding Volunteer award winner and an Emerging Leader recognition from the Black Austin Democrats. A tireless community volunteer, she co-founded Austin's citywide Martin Luther King Jr. celebration, which has grown to crowds of more than 20,000 annually.

Highlights

- Served as the Communications Outreach Co-Coordinator for Austin ISD's School Bond Program, focused on HUB/Small/Local Business Outreach
- Served as Public Involvement Manager for the General Engineering Consultant/Program Manager for projects totaling $1 billion, wrote policies for DBE participation program
- Specializes in project planning and workflow process development for large teams to ensure that communications strategies are implemented
- Writer and editor of public meeting materials, websites and displays
- Expert facilitator of public meetings and community conversations
- Knowledgeable of minority contracting issues impacting construction, professional services and other industries

Background and Qualifications

- 25 years of public involvement and community outreach expertise in specializing in the public sector
- Knowledgeable of construction and architecture industries since 1997

- Certified Bleiker Informed Consent Builder and trained facilitator of public meetings and hearings

Education

- Managing Difficult Community Conversations: University of Texas Center for Public Policy Dispute Resolution
- Systematic Development of Informed Consent – Bleiker Training, Certificates of Completion, 2005, 2007
- University of Texas, St Edwards University, courses in psychology and communications
- Journalism, Photography, Layout courses

Relevant Project Experience

Austin ISD School Bond Program Communications 1996 – 2000

For a period of four years, Shuronda worked as an integral member of the Program Management team as the co-lead for communications. She wrote the communications plan for the school bond program including public relations, community relations and contractor outreach strategies. She managed the communications staff who implemented the contractor outreach on HUB/Small/Local Contractor Assistance Program (HUB/CAP). Overall, Shuronda planned more than 40 networking sessions, provided public information materials to more than 96 campuses and managed the quarterly newsletter, website and media relations for the District's HUB/CAP program, which helped secure the participation of more than 30 percent of small, minority and local businesses.

Austin Community College (ACC) Eastview Construction Outreach

Shuronda helped secure community support for the construction of a new community college campus and provided community relations during its construction. Shuronda worked the contractor to reach keep the surrounding community informed of the construction progress, negative impacts due to street closures and noise, and also responded to citizen's questions. In addition, Shuronda developed communication tools to notify the local minority contractor community of opportunities to work on the project.

Central Texas Regional Mobility Authority General Engineering Consultant Public Involvement and Community Outreach Manager

As the Public Involvement Manager for the General Engineering Contractor (GEC), Shuronda set up community/public meetings; handled citizens' complaints; planned neighborhood informational meetings and developed written materials including a newsletter, the annual report and website updates for the organization. Over a ten-year period, Shuronda managed the team of developer and communications consultants to deliver a successful public involvement program during design the Manor Expressway and Bergstrom Expressway projects. Shuronda was the communications lead for the design and construction of the 183A project – helping the client open the roadway on time and within budget. For the 183A project Shuronda helped to maintain a project website, facilitated public and neighborhood meetings and led the community outreach program.

About Adisa Communications

1033 La Posada Drive, 220
Austin, Texas 78752
Established: 1995
512.472.6112 o
512.646.1478 f
makingthingsclear.com
No. of Employees: 7
A Texas Corporation

Since 1995, Adisa Communications has offered our clients a wide range of intuitive and creative public involvement, facilitation and graphic design services. Adisa has a strong track record for promoting our clients' programs and ideas to successful completion. Experience the focus that enables Adisa to create strategy-driven, results-oriented programs that capture the interest and respect of clients, customers, partners, and industry influencers alike. Adisa is a certified HUB, M/WBE and DBE firm.

INDUSTRIES

- Government
- Engineering
- Construction
- Transportation
- Environmental
- Healthcare
- Nonprofit
- Urban Planning
- Education

KEY PARTNERS

We support our clients' complex projects and ideas and pair them with the needs of your audience in order to fully communicate. Our key partners include: Engineering Firms, Architects, Urban Planning, Construction companies and entities responsible for implementing public sector programs including municipalities, county government and state agencies.

Key Elements:

- Effective Communicator
- Proven Consensus Builder
- Problem Solver
- Facilitator
- Extensive Community Outreach

Education

St. Edward's University, Candidate, Bachelor of Arts in Communications with a Minor in Hispanic Relations

Graduate, Public Innovators Training, The Harwood Institute

Professional History

Pink Consulting / Enriquez & Associates, Agency Principal, 1997 to Present

Office of Mayor Pro Tem Gus Garcia, Executive Assistant/Senior Aide, 1991 – 1997

Youth Services (Non-profit & governmental agencies) 1973-1991

Professional Affiliations/Boards

Leadership Austin, 1995 Alumni
Leadership Texas, 1997 Alumni

Mexican American Business & Professional Women's Assn. (MABPWA), Presidents Council

Greater Austin Hispanic Chamber of Commerce, Member

Hispanic Advocates & Business Leaders of Austin (HABLA), Member

Capacity Building Member, Girl Scout Council Central Texas

Austin Women's Political Caucus, Past President, Executive Committee Member

GI Forum-Women's Chapter, Board Secretary

Las Comadres Network, Member

National Council of La Raza, (NCLR), Affiliate Member

Experience

Bobbie Garza-Hernandez (formerly *Enriquez*) has been providing communications services on large scale public and private projects since mid 1997. Ms. Garza-Hernandez possesses extensive experience with public participation processes, strategic planning, fundraising and event planning/coordination. A major portion of her service has focused on the development and implementation of large scale targeted community outreach initiatives with emphasis on minority communities. She has developed a highly successful model to maximize minority participation on multi-million dollar construction projects which has resulted in significant increases in minority and women bidders, minority and women contractors bidding as Prime Contractors and an increase in the contracts awarded to minority and women contractors.

A thirty year resident of Austin, Texas, Ms. Garza-Hernandez has twenty plus years experience working with extremely diverse segments of the Austin community, including governmental entities and private sector, community based and neighborhood organizations, with significant levels of public involvement. She capitalizes on over fifteen years experience with City of Austin Departments and systems and over ten years experience in policy making positions. Ms. Garza-Hernandez is a proven Facilitator, Trainer, Consensus Builder and Problem Solver.

Ms. Garza-Hernandez continues her active involvement in community issues, especially those that affect the disenfranchised, through her volunteer work with various groups and service on boards and commissions.

Highlights of Selected Projects

- For the Central Texas Regional Mobility Authority (CTRMA), helped develop and execute the communications plan; developed, implemented and facilitated focus groups, and conducted community outreach efforts for the approval of a $2.2 Billion **Regional Toll Road Plan for CTRMA**.
- Development and implementation of a Public Education Plan for **City of Austin, Transportation Department**, to attain community perspective on an urban rail line.
- For **CTRMA**, Community Outreach Services including identification of key stakeholders in minority communities impacted by new toll roads and maintaining communication (English/Spanish) with existing community partners. Currently working on **Hwy 183S/Bergstrom Expressway Project**.
- Successful implementation of a Community Engagement Plan on **Fire20/20 Project** (Austin Fire Dept.) which included identification of and outreach to a diverse group of stakeholders; organizing and staging of 20 focus groups to attain community perspectives on AFD services, and to gain information on cultural and ethnic protocols.
- Provided Public Involvement services on **Austin Water Utility SER 2282 Project** (wastewater line to serve Mueller Redevelopment) which included identification of stakeholders, community outreach and meeting facilitation, and development of information materials.
- Developed and successfully implemented a model to maximize minority and women contractor participation on highly volatile and politically charged **Austin Convention Center Expansion Project**, **ABIA Hilton and Austin Downtown Hilton Hotel Projects**. This model includes an extensive targeted outreach component, facilitation & mediation services, and event planning. (exceeded M/WBE goal with **44.5%** ABIA Hilton Hotel, **35.4%** Austin Downtown Hilton Hotel and **39.7%** Southwest Key, Inc. Headquarters Building).
- Development and implementation of DBE Program for **Central Texas Regional Mobility Authority (CTRMA).**
- Oversight of HUB Program compliance on **Travis County Correctional Complex Design-Build Project** with FaulknerUSA.
- Community Outreach & Engagement for **Austin ISD Facilities Master Plan, Disparity Study Stakeholder Meetings** and **HUB Program Contractor Outreach**.
- Conducted social survey (CDBG Eligibility) on **Plainview Estates Water Connection Project** (Travis County) with LNV Engineering.

TAB 6 – COMPANY AND PERSONNEL EXPERIENCE

A. Company Information

Colette Holt & Associates ("CHA") is the national leader in conducting availability and disparity studies for cities, counties, and state departments of transportation ("SDOTs") that fully meet all legal, regulatory and research requirements. We have conducted dozens of successful studies; drafted effective Disadvantaged Business Enterprise ("DBE") programs and goal submissions; and always successfully defended our work product. CHA has been in business for 25 years.

As the co-author of the Transportation Research Board's National Model Disparity Study Guidelines[1] for transportation agencies, Ms. Holt and our team are fully conversant with the legal and regulatory standards governing availability and disparity studies; the development of regulatory compliant and legally defensible goals; and best practices to ensure equal opportunities for all firms. Our extensive experience, U.S. Department of Transportation ("USDOT") and court-approved methodology, and litigation expertise and success, make our team the best candidate to provide the City of Austin with the services requested in this Request for Qualifications ("RFQ"). Our deep knowledge of national best practices will ensure the City receives a truly useful report that complies with all USDOT regulations and guidance.

An agency requires a study that provides accurate and highly detailed data to meet strict constitutional scrutiny, the USDOT regulatory requirements and national best practices for M/W/DBE programs; CHA delivers. We are the only firm that combines all of the needed experience and skills for a successful study process; defensible and targeted outcomes; strategies for implementation, including annual and contract goal setting; and defense of our work product. Members of our team have extensive experience working together on availability and disparity studies and developing M/W/DBE programs. Unlike other consultants, CHA hires and retains highly experienced people rather than cobbling together *ad hoc* teams, study-by-study, of inexperienced temporary staff to perform critical study elements.

Ms. Holt has worked extensively in Texas. In fact, the City of Austin was the firm's first client, when she was retained by the City in 1994 to review another consultant's disparity study when concerns were raised about the legal sufficiency of the work product. Since then, she has counseled the City on numerous issues and projects, including drafting ordinances and policies, working on studies to meet legal standards and engaging with the Austin business community. She was recently again retained by the City to review the draft disparity study provided by a previous consultant for legal compliance and study best practices.

1. "*Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*," Transportation Research Board of the National Academy of Sciences, NCHRP Report, Issue No. 644, 2010.

CHA has also been engaged by numerous other Texas agencies to provide legal counsel, program development consulting, and disparity and availability studies. CHA is completing the City of Houston's Disparity Study, the Disparity Study for the Dallas Fort Worth International Airport, and the Texas Department of Transportation, and is currently conducting studies for Harris County, and the cities of Arlington and Fort Worth. CHA conducted the studies for Dallas County, Parkland Health and Hospital Systems and the City of Austin. Ms. Holt further served as Counsel to studies for the City of Austin and Capital Metro. She worked with a team to conduct a DBE program audit for VIA Transit. She is moving her primary residence to San Antonio in the coming weeks and will therefore be even more accessible to the City.

CHA stands out from other consultants in many ways:

- We have conducted, or participated in, over 70 disparity and availability studies that have been brought to successful completion and adoption. We know what it takes to conduct a legally defensible study, to meet USDOT standards, to interface with the community, and to develop achievable recommendations that meet all legal requirements.
- We are the only team that provides the highly detailed availability data necessary to set narrowly tailored annual and contract goals, a requirement of strict constitutional scrutiny under the Croson and Adarand cases and 49 C.F.R. Part 26. Unlike other consultants, we go beyond broad categorizations of, for example, "construction" and dive deeply into the contract records to develop availability at the 6-digit industry code level. Our approach will permit the City of Austin to weight the scopes of individual contracts in order to set reasonable, achievable, and defensible goals. Our detailed methodology vastly reduces both the need for good faith efforts reviews and possible legal challenges, because bidders, subcontractors and agency personnel know that the goals are data driven. Our approach also addresses the recent litigation trend to challenge programs not on the basis of the evidence of discrimination, but on whether the goals and the program's administration of them are defensible.
- We have unparalleled data collection systems to ensure the greatest detail and accuracy of all data. When collecting contract data, rather than assign status based on surveys with low response rates or the first NAICS or other code that appears in a directory, we assign race and gender to each business in the Final Contract Data File based on research into the firm's ownership. We do not assume that the firm's "primary" NAICS code is correct on a specific contract; instead, we assign the code based on research of the actual work performed on the contract, thereby greatly increasing the accuracy of the data to permit a truly narrowly tailored program. We are the only team that is committed to collecting all of the missing subcontractor data necessary to meet any legal challenge. Other consultants too often shrug off this admittedly burdensome task, leaving the agency with thin results and a weak defense.
- Our anecdotal data collection protocols create the widest possible participation by all segments of the contracting community. Rather than using only one method of

outreach, such as scripted telephone interviews, we provide multiple avenues for interested parties to participate and provide feedback. We create every opportunity possible to hear what the community has to say.

- We understand how M/W/DBE programs work. In addition to providing a legal defense and ensuring regulatory compliance, a study should delve deeply into the agency's program implementation. CHA's work for transportation agencies across the country will permit us to provide detailed and targeted recommendations and enhancements to current approaches. Our study will provide a thorough evaluation of the City of Austin's current program and provide recommendations to ensure compliance with Part 26, as well as to reduce barriers and enhance opportunities.
- We are the only team with substantial experience in implementing study results, drafting programs and assisting with community engagement. CHA has worked with dozens of agencies across the country to draft programs and goals, implement race- and gender-conscious remedies and conduct community engagement and outreach initiatives, many on a repeat basis.
- Through our 25 years of practice in this area of law and research, we have a deep understanding of all actors' viewpoints and experiences. From prime contractors and consultants to minority- and women-owned firms to federal regulators, to community stakeholders, we generate support and participation, and manage expectations, by explaining the study standards and process. We understand the concerns of all parties and respect all points of view.
- We are expert communicators and presenters. We have decades of experience in explaining complex quantitative and legal concepts and outcomes. We make our results intelligible to the layperson, while maintaining the rigor and detail necessary to provide expert witness reports and testimony to federal courts. CHA has worked extensively with the USDOT to hone the DBE program and we have unparalleled relationships with, and the highest respect of, the USDOT senior staff.
- We also focus on program compliance and integrity. We are experts on issues related to fraud in M/W/DBE programs. Ms. Holt has been approved by the federal court as the monitor in a DBE fraud case and is serving as a Special Assistant Attorney General for Washington State in its investigation of possible Title VI violations. Ms. Holt has served for 19 years as General Counsel to the American Contract Compliance Association, the national group that provides university-level classes on these issues.

The Firm's disparity study projects have included the following:

- State of Washington Disparity Study; $982,925. CHA was retained by the Washington State Department of Enterprise Services to perform a Disparity Study of its 31 agencies and two universities. The Study analyzed contract data for the years 2012 through 2016. It determined the agencies' utilization of M/WBEs; the availability of M/WBEs in the State's market area; any disparities between its

utilization and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. The State has accepted the Study and is moving forward on its recommendations.

- Port of Portland, OR, Disparity Study; $450,000. CHA was retained by the Port of Portland to perform a Disparity Study in conformance with 49 C.F.R Part 26 and 49 C.F.R. Part 23. The Study analyzed contract data for the years 2012 through 2016. We determined the Port's utilization of M/W/DBEs and ACDBEs; the availability of DBEs and ACDBEs in its market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Port's program; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. We also made recommendations for the DBE, ACDBE and small business development programs. The Study was accepted by the Port and it formed the basis for the agency's submissions to the FAA
- Washington State Department of Transportation Disparity Study; $933,660. CHA conducted a comprehensive Disparity Study for WSDOT of its construction and construction-related services contracts. The Study analyzed contract data for the years 2012 through 2015. The Study separately analyzed contracts funded by the Federal Highway Administration, the Federal Transit Administration, and the State of Washington, including WSDOT's 5 Divisions and 83 local program recipients. The study analyzed four years of data, totaling approximately $3.5 billion in contracts. It determined the Department's utilization of DBEs; the availability of DBEs in WSDOT's market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. WSDOT accepted the Study and it formed the basis for the Department's submissions to FHWA and FTA.
- Dallas Fort Worth International Airport Transportation Disparity Study; $710,000. CHA was retained by the City to perform a study of its locally funded contracts as well as its Federal Aviation Administration contracts and airport concession contracts. We analyzed contract data for federal fiscal years 2012 through 2017. We determined the Airport's utilization of M/WDBEs and ACDBEs; the availability of M/W/DBEs and ACDBEs in its market area; any disparities between its utilization and M/WBE availability for its locally-funded contracts; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Airport's programs; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis for its locally-funded contracts. We also made recommendations for the programs.
- Kansas City Disparity Study Consortium Transportation Disparity Studies; $784,110. CHA was retained by a study consortium consisting of KCMO, the Kansas City Area Transportation Authority, Jackson County, Missouri and the

Kansas City Public Schools. We analyzed purchase order and contract data for calendar years 2008 through 2013. CHA determined each agency's utilization of M/WBEs; the availability of M/W/DBEs in each agency's market area; conducted an economy-wide analysis; reviewed the legal standards; reviewed the agencies' programs; gathered anecdotal evidence; and evaluated their M/WBE programs. We were also made recommendations for their programs. The agencies are implementing the recommendations. Ms. Holt continues to advise the City about implementation of study recommendations

We understand that the study should support the City's Strategic Direction 2023 Strategic Outcome of Economic Opportunity and Affordability. The first step in assuring that the City's M/WBE and DBE programs are aligned with SD23 is to deliver a truly useful report that meets all the legal requirements for contracting equity program; provides accurate and highly detailed data to set defensible and enforceable contract goals; provides recommendations to enhance the success of the City's initiatives; and ensures equal opportunities for all firms.

Our methodology is based on the real economic boundaries in which the Agency purchases, not on municipal jurisdictional lines. Strict constitutional scrutiny requires the City to determine its market area to narrow the inquiry to the scope of its economic interest. We, therefore, look at the empirically based geographic market in which the City procures and awards goods and services contracts, which will reflect the realities of the Austin economy.

The study, along with CHAs vast experience with M/W/DBE programs, will allow actionable recommendations that take into consideration all aspects of the community and best practices for contracting equity programs for municipalities. This includes consideration of both the legal and regulatory implications and the economic resources required for recommended measures.

Quality Assurance/Quality Control

The CHA team adheres to a strict quality assurance and quality control approach. First, we are in regular contact with all team members, often several times per day. Our staff has all worked together on previous projects and are thoroughly familiar with the steps and protocols for a successful study. Unlike other consultants, we do not assemble an internal group on an ad hoc, study-by-study basis. Second, we provide formal monthly progress reports that detail the actions taken and describe any issues or obstacles encountered that month and how they will be addressed. Third, we will be in regular communication with the City's study manager to answer questions and resolve any concerns, on a daily basis if needed.

The CHA team begins each study with a master project plan mapping out all functions of the study. The plan is then broken down by category and assigned to the appropriate team member with specific action items and delivery dates. We work effectively with a project management program that enables adherence to the schedule and allows for team collaboration and discussion through each phase of the project. Team members

are trained on data storage systems to provide accurate and organized data records. All team members have the opportunity to share information and weigh in on any questions.

The firm has been involved in conducting studies for over 25 years. Over time, we have refined our processes in response to both changes in the case law and our actual experience in conducting research. For example, we have developed a method for firms to upload their data that takes advantage of current technologies; we use a detailed data query form at the beginning of the study so that all parties fully understand, in detail, what data will be required for the study; and we simplified the presentation of required study data to make it more accessible to all interested parties. These types of innovations have also allowed us to contain study costs and improve data accuracy over the years.

These process improvements and updated systems provide CHA with the ability to successfully work on multiple studies simultaneously, with the utmost assurance that each study is effectively managed, and all necessary resources are allocated appropriately to produce an outstanding work product.

Litigation Experience

Ms. Holt has served as an expert defense witness for CHA's studies, as well as studies that were conducted by other firms. Cases include:

- *Midwest Fence Co. v. Illinois Tollway*, 840 F.3d 932 (7th Circ. 2016), *cert. denied*, 137 S.Ct. 2292 (2017). Plaintiff challenged the facial constitutionality of the Tollway's DBE program (it receives no federal funds), as well as its application. Ms. Holt had drafted the program some years earlier. The Tollway had procured a disparity study from Mason Tillman Associates Ltd. That was determined by outside trial counsel to be inadequate for litigation defense. The Tollway hired CHA to produce expert reports and provide testimony in its defense. The court accepted Ms. Holt's and Dr. Pitts' expert credentials and reports, and the program was upheld at the district and appellate court level; the Supreme Court denied review. CHA then completed a new study for the Tollway, which now serves as the evidentiary basis for its program.
- *Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007). The court of appeals upheld Illinois DOT's DBE program, based in part on Ms. Holt's expert trial testimony concerning how she drafted the program based upon IDOT's Availability Study and other information to meet the Department's obligations under 49 CFR Part 26.
- *Kevcon, Inc. v. United* States, USCFC No. 09-625CAAA (U.S. Ct. Fed. Claims 2010). Ms. Holt was retained as an expert by the U.S. Department of Justice in connection with the challenge to the Small Business Administration's 8(a) Program for small disadvantaged businesses. Many of her studies were referenced in the expert reports submitted to Congress and to the trial court. After expert witness submissions, the plaintiff voluntarily dismissed its case with prejudice.

- *Kline, Inc. v. Maryland Department of Transportation,* Civil Case No. RDB-08-03197 (D. Mar. 2009). Plaintiff challenged the Maryland Department of Transportation's MBE and DBE programs, based on the 2006 Disparity Study in which Ms. Holt participated. She was retained as an expert by MDOT. After discovery and the submission of expert reports, the case was settled on terms very favorable to MDOT.
- *AAA National Maintenance v. City and County of Denver*, No: 1:09-cv-00007-REB-MEH (D. Col. 2009). Ms. Holt provided an expert report on the operations of the DBE Program at Denver International Airport, including the application of contract goals and substitutions of DBEs. The case was settled on terms favorable to Denver.
- *Suburban Grading & Utilities, Inc. v. Transportation District Commission of Hampton Roads*, Case No. CL08-2640 (Va. Cir. Ct. 2008). Ms. Holt provided expert witness consulting and the trial report for defendant Hampton Roads Transit about the correct application of the regulations and operations of the DBE Program, in a challenge to a decision not to award to plaintiff because of plaintiff's lack of good faith efforts to meet the DBE contract goal. The court found for the defendant, holding that Hampton Roads' DBE program conformed to the regulations and had been administered properly.
- *Sherbrooke Turf v. Minnesota Department of Transportation*, 345 F.3d 964 (8th Cir. 2003), *cert. denied*, 124 S.Ct. 2158 (2004). Plaintiff challenged the facial constitutionality of the USDOT Disadvantaged Business Enterprise program and the Department's implementation of the DBE regulations. The Eighth Circuit upheld Mn/DOT's DBE program based in part upon a 2000 Availability Study to which Ms. Holt served as counsel and DBE program designer.
- *Western States Paving Co., Inc. v. Washington State Department of Transportation*, C00-5204 RB (W.D. Wash. 2003). Ms. Holt was appointed a Special Assistant Attorney General in WSDOT's defense of its DBE program. She provided an expert report, as well as a subsequent report that led to the resumption of race-conscious contracts goals by WSDOT.
- *Builders Association of Greater Chicago v. City of Chicago*, 298 F.Supp.2d 725 (N.D. Ill. 2003). Ms. Holt provided expert witness testimony at trial in defense of Chicago's M/WBE Program. The court held that the program was based upon a compelling constitutional interest. Ms. Holt drafted revised legislation for Chicago's M/WBE program.
- *Utility Contractors Assoc. of North Florida, Inc. v. City of Jacksonville*, 3:02-CV-137-J-32-TEM (M.D. Fla. 2002). Ms. Holt worked with the City's trial counsel in the defense of its M/WBE program. The case was settled on terms favorable to the City.
- *National Black Chamber of Commerce, Inc. v. US West, Inc.*, CV 96-1331 (D. Colo. 2001). Ms. Holt provided an expert report and trial testimony at two trials challenging US West's implementation of its supplier diversity program. In both trials, the court held for her client.

- *Florida State Conference of NAACP Branches, et al. v. Polk County, Florida*, Case No. 98-2322-CIV-T-25a (M.D. Fla. 1999). Ms. Holt provided an expert report to the plaintiff regarding the County's obligation to ensure non-discrimination. The case was settled on terms favorable to her client.

Study Methodology and Implementation

Research Paradigm

CHA proposes to conduct a legally defensible disparity study for the City of Austin of its locally funded and Federal Aviation Administration funded contracts. CHA's court-approved and nationally recognized availability methodology meets both prongs of strict constitutional scrutiny applicable to locally funded contracts: First, we provide the data to examine whether there is a "strong basis in evidence" that barriers on the basis of race and/or gender impede opportunities for M/W/DBEs in the City's market area. Second, if race- and gender-conscious remedies are supportable on locally funded contracts, we will provide recommendations on how to narrowly tailor a program to the compelling interest proof. This approach yields information that accurately and in great detail reflects the City's contracting activities and the firms in its marketplace. Other consultants too often skip the hard work of gathering the prime and subcontracting data necessary to satisfy the *Croson* test, instead making guesses about the availability of firms that are minority- or woman-owned or even dropping available firms because they fail to respond to a survey, or providing vague results such as estimates of "construction" or "services" firms' availability. CHA will do what it takes to get these records, as described below, and ensure that all firms are included in the highly detailed analyses.

Similarly, our approach fully meets the requirements of 49 C.F.R. § 26.45, that requires the City to narrowly tailor its DBE program for FAA assisted contracts. As the co-author of the National Model Disparity Study Guidelines for transportation contracts, Ms. Holt has unrivaled expertise in addressing the statistical and program elements necessary to receive FAA approval and administer a successful program. Our availability results provide the highly detailed data necessary to set weighted DBE goals and address regulatory issues such as overconcentration of DBEs.

CHA's study methodology answers the following critical legal and research questions and provides a framework for the quantitative and qualitative data collection necessary to meet the requirements of strict constitutional scrutiny, as well as best practices for conducting disparity studies.

- What are the legal and regulatory standards governing the City's M/WBE and DBE programs?
- What is the empirically based geographic market in which the City procures and awards goods and services contracts?
- What are the relevant industry classifications from which the City procures goods and services in that market? In what 6-digit North American Industry Classification System ("NAICS") codes do firms operate?

- What has been the City's utilization of minority- and women-owned business enterprises and disadvantaged business enterprises ("M/W/DBEs") as prime vendors and subcontractors compared to white male-owned firms as prime vendors and subcontractors? What has been the racial, ethnic and gender breakdown of that utilization?
- What is the availability of ready, willing and able M/W/DBEs compared to ready, willing and able white male-owned firms throughout the City's wider economy, where affirmative action contracting programs are rarely employed? Are there disparities in earnings between minorities and women compared to similar white males? Are there disparities in the rates at which minorities and women form firms compared to similar white males? Are there disparities in the earnings from firms that are formed by minorities and women compared to similar white males?
- What have been the experiences of M/W/DBEs and non-M/W/DBEs with the City's M/WBE and DBE programs? How are the programs implemented? What race-neutral measures or small business elements have been helpful? What program aspects could be improved?
- Based on the study's results, what measures might the City undertake to ensure the full and fair inclusion of all firms in its contracting opportunities?
- What best practices should the City consider to ensure a level playing field for its contracts? What race- and gender-neutral measures and small business elements are effective and feasible? What should be the formula for setting the annual M/WBE goals on locally funded contracts? What should be the formula for setting the triennial DBE annual goal for FAA projects? What contract goal setting methodology is defensible and results in reasonable and achievable goals? Should the City consider setting race- and gender-conscious M/WBE contract goals for its locally funded contacts?

Our study will address these critical legal and regulatory questions and produce a report that is both legally defensible and administratively useful. The elements of the methodology follow below.

Public Engagement Strategies

Public engagement and outreach are critical to the gathering of contract and qualitative data, as well as to building consensus and providing transparency about the process. CHA will provide multiple avenues for interested parties to participate and provide feedback. CHA will engage the public through numerous channels.

At the beginning of the study process, CHA will develop and maintain a public study website to provide information in an accessible and easy to understand format. This website will be updated throughout the study process to keep the community and all interested parties informed. It will have the City of Austin's logo on the home page, along with one or more photo images provided by the agency. There will be pages explaining the elements of a disparity study; a Frequently

Asked Questions sheet; a biography of CHA and our subconsultants; and information on how the community can participate in the Public Meeting and Stakeholder/Business Owner Small Group Interviews. There will also be a page for any interested party to submit contact information to be informed about and invited to participate in appropriate sessions. A dedicated study email address and telephone number will be listed on the contact page for easy access to the study team members or to provide comments about the program or opportunities in the City's market area.

To ensure that there is as much public participation as possible, CHA will engage Cultural Strategies, Inc, Adisa Communications, and Pink Consulting as our local subconsultants. The firms will perform extensive outreach to invite firms, industry trade groups, community organizations and other interested stakeholders and business owners to participate in the appropriate interview session and represent the study to the community, as well as assist with contract data collection.

Project Kick Off Activities

Upon receiving the notice to proceed, CHA will schedule an introductory telephone meeting with the person or persons at the City who will be responsible for providing the contract data records for the study. CHA will review all data collection aspects of the study and identify requirements from the City. CHA will supply all data request and instruction forms in advance of the telephone conference.

CHA will conduct an in person internal study initiation meeting with the City's study team to facilitate data collection, project planning and scheduling, and address questions or concerns regarding approach or timeline. Prior to the meeting, we will submit the agenda, a presentation on the study elements and methodology, a Frequently Asked Questions sheet, and other relevant materials; and work with the agency to identify key City personnel to include in the meeting. At the meeting, CHA will present the study approach, timeline, and review roles and responsibilities of all parties.

Study Communication

CHA will submit monthly written progress reports that detail the actions and accomplishments of the prior month; upcoming tasks; any problems encountered, and solutions to ensure the project remains on track and on budget. CHA will conduct monthly telephone meetings with the City's study manager to review study progress.

Legal Analysis and Update

Our analysis will provide the legal and regulatory standards that form the governing principles of our methodology and the specific elements of the study,

both to educate the reader about the elements of strict constitutional scrutiny and to provide a framework for a court in litigation. We will inform readers–including a court–of the approach we applied to meet strict scrutiny. We will discuss the case law in the Fifth Circuit Court of Appeals. Ms. Holt has served as an expert in the most important cases in this area of the law and is deeply conversant with the case law and litigation strategies to successfully defend an agency from a program challenge.

Determination of the City's Utilization of M/W/DBEs on Locally and FAA funded Contracts

The study will analyze the City of Austin's utilization of M/W/DBEs on contracts awarded on a competitive basis ($50,000 in value and greater) during the study period Fiscal Years 2013 through 2018 for construction, professional services, general services/non-professional services, and commodity industries. Data and analysis will be separated by funding source.

The first quantitative question addressed by a disparity study is what has been the agency's utilization of available firms, both in the aggregate and disaggregated by geography, industry, race/ethnicity and gender. Strict constitutional scrutiny and the DBE program regulations require the City to determine its market area to narrow the inquiry to the scope of its economic interest. A market area has two dimensions: geography and industry. We will determine the City's geographic and product market area based on its utilization of M/W/DBEs as a percentage of all firms.

To accomplish this, our methodology involves three overall steps. First, we will determine the City's geographic market area based on its utilization of M/W/DBEs as a percentage of all firms. Next, based on the locations of the businesses from which the City purchases goods and services, we will determine its utilization of M/W/DBEs in its industry market. Third, we will develop the availability estimates of M/W/DBEs that are ready, willing and able in the City's geographic and product market area.

CHA will collect prime contract data through the receipt of the City's contract records. We will provide the agency with detailed instructions and a formatted spreadsheet on which to provide the data.

CHA will compile and analyze two Initial Contract Data Files: one for locally funded contracts valued at $50,000 or greater and one for its FAA funded contracts. It is important to separate these analyses so that the City can fulfill its obligations under 49 C.F.R. Part 26 for DBE goal setting, and we can separately analyze the City's locally funded contracts under the *Croson* test. Given the large number of City contracts for the dataset, CHA will develop a statistically valid

sample from the Initial Contract Data Files. In constructing this sample, appropriate contracts will be selected to ensure that the study is legally defensible. The courts have approved the use of accepted sampling techniques for disparity studies.

The following data points will be necessary for initial contract data collection from the City:

Prime Contracts

- Contract number
- Contract industry (construction, professional services, general services/non-professional services, and commodities)
- Original contract award amount
- Contract goal (yes/no)
- Zip code
- Contract title
- Total amount paid to business to date
- Prime contractor name
- Prime contractor address
- Prime contractor phone number
- Prime contractor email
- Contact person at the prime contractor firm
- Description of work performed on the contract
- Contract start date
- Contract end date
- Contract status (open/closed)
- Contractor role (prime or subcontractor)
- Number of subcontractors (if known)
- NAICS code (if known)
- Race (51% ownership) (if known)
- Gender (51
- % ownership) (if known)

Subcontractors/Subconsultants/Suppliers (if available)

- Name of subcontractor/subconsultant/supplier

- Address of the subcontractor
- Contractor role (prime or sub)
- Total amount paid to subcontractor to date (if known)
- Contract number
- Contract title
- Description of work performed on the contract
- The NAICS code (if known
- Race (51% ownership) (if known)

We understand that some of the required information for the study analysis may not have been tracked by the City. Therefore, unlike some other consultants, CHA will collect the remaining necessary data directly from the prime contractors, not guess or use a survey instrument. If missing, CHA will research and assign 6-digit NAICS codes, race/ethnicity and gender to the prime contractor or subcontractor. Direct contact and follow up by the team will continue until all necessary data for at least 80 percent of the contract dollars in the Contract Data Files have been collected. This process will result in the Final Contract Data Files for locally funded contracts $50,000 or greater, and FAA funded contracts.

This approach is critical to a defensible work product. Too often, studies have failed to gather sufficient subcontracting information for analysis, leaving the agency without the level and quality of data needed to establish the need for contract goals. While correct and complete data collection is resource intensive for the consultant, it cannot be skipped. CHA excels at data collection and we will ensure that we collect what is necessary to provide a legally defensible basis for our recommendations.

Based on these records, CHA will determine the utilization of M/W/DBEs as prime contractors and subcontractors as a percentage of overall firms, constrained by the City's geographic and industry markets. This will include all identifiable minority- and women-owned firms, regardless of certification type or status.

CHA will take the following contract data collection steps:

1. Collect prime contract award, and location data for all contracts in the file;
2. Conduct outreach to prime vendors to collect missing data for contracts;
3. Assign missing race and sex values to all firms; and
4. Assign any missing detailed industry codes to each firm.

Beginning with the completed Final Contract Data File for locally funded contracts and for FAA assisted contracts, CHA will take three steps to create each File's constrained product market. The first step is to determine the unconstrained product market, which is the set of NAICS codes determined by contracts typically awarded by the City without regard to the geographic location of the firms awarded the contracts. CHA will determine

the unconstrained product market by examining the Initial Contract Data Files three ways: all contracts (prime contractors and subcontractors); prime contracts only; and subcontracts only. For each approach, we will sort the NAICS codes according to the dollar value of the contracts in each NAICS code (from largest to smallest dollar value). CHA will then analyze the NAICS codes with a dollar value that is at least one percent of the total dollar value of the approach (all contracts, prime contracts and subcontracts). This methodology usually results in the unconstrained product market where the dollar value of contracts is at least 80 percent of each Initial Contract Data File.

The second step is to define the geographic market by funding source for assessing the availability of M/W/DBE prime contractors and subcontractors to participate in City contracts (*i.e.*, the location of the firms that were awarded contracts). To determine the geographic market, CHA will use the accepted 75 percent threshold of the location of the firms that were awarded contracts to define the geographic market, *i.e.*, determine the contiguous political jurisdictions that capture at least 75 percent of the dollars in the unconstrained product market.

The third step is to determine the constrained product market by funding source. CHA will limit the unconstrained product market by the geographic parameters established in step two. When this constraint is imposed on the unconstrained product market, NAICS codes which were part of the unconstrained product market may be dropped. The resulting Contract Data Utilization File consists of all contracts within the City's constrained product market.

We will use the Contract Data Utilization Files to calculate the utilization by funding source of M/W/DBEs in the market areas as a percentage of all firms by detailed industry code. CHA will produce estimates of the City of Austin's M/W/DBE utilization for:

- Detailed race and sex groups (M/W/DBE and non-M/W/DBE) by all industry classifications combined; and
- Detailed race and sex by detailed industry classifications.

One result of the utilization analysis will be the distribution of the City's spending across the NAICS codes in its constrained product markets. These results will be used to form the spending weights for the availability analyses.

Conduct Availability Analyses

Based on the product and geographic utilization data in the Final Contract Data Files, CHA will calculate unweighted and weighted M/W/DBE availability estimates by funding source of ready, willing and able firms in the City's market area. We will generally use the "Custom Census" methodology recommended in the National Model Study Guidelines and repeatedly approved by the courts. As directed by the case law, our methodology includes both certified M/W/DBEs and non-certified firms owned by minorities or women to ensure the broadest possible estimates. The highly detailed availability results can be used as the basis for an annual and a contract goal setting methodology that meets the requirements of strict scrutiny and Part 26, is administratively feasible, and

provides transparency. Too often, other consultants only provide broad industry categories like "construction" or "professional services" that are useless for the narrowly tailored contract goal setting required by the courts. We have successfully worked with dozens of agencies on acceptable and defensible goal setting methodologies.

Our methodology has several additional benefits. As held by the court of appeals in finding the Illinois Department of Transportation's program to be constitutional (Ms. Holt served as an expert in that case), the "remedial nature of [DBE programs] militates in favor of a method of D/M/W/SBE availability calculation that casts a broader net" than merely using bidders lists or other agency or government directories. A broad methodology is also recommended by the USDOT for the federal DBE program, which has been upheld by every court.[2]

Approaches relying solely on vendor or bidder lists may overstate or understate availability as a proportion of the City's actual markets because they reflect only the results of the agency's own activities, not an accurate portrayal of marketplace behavior. Other ways of whittling down availability by using assumptions based on surveys with limited response rates or guesses about firms' capacities or which firms might be able to become M/W/DBE certified easily lead to findings that women and minority businesses no longer face discrimination (*e.g.*, studies for the Oregon and California Departments of Transportation), or are unavailable, even when the firm is actually working on agency contracts (*e.g.*, the 2012 study for the City of Portland, Oregon). These approaches have had extremely negative consequences for minority and women firms. For example, the Washington State Department of Transportation ("WSDOT") procured a study in 2012 that used a methodology much more restrictive than CHA's. This study failed to find sufficient evidence of barriers on the basis of sex in the highway construction industry, so White women were dropped for credit towards meeting DBE contract goals. The predictable result is that women are losing their livelihoods[3]. WSDOT is now seeking to correct this error based on our new study for the agency, but the damage to some firms may be irreparable.

CHA's methodology properly does not introduce capacity-like variables (*e.g.*, age of the firm, revenues, etc.) into the initial availability estimates. As recognized in the National Model Disparity Study Guidelines, this would import the current effects of past discrimination into the model, because if women and minority firms are newer or smaller because of discrimination, then controlling for those variables will mask the phenomenon of discrimination that is being studied. Capacity variables should be examined at the economy-wide level of business formation and earnings, not at the first stage of the analysis, to reduce the downward bias that discrimination imposes on small, disadvantaged, women and minority business availability and the upward bias enjoyed by non-M/WBEs. As repeatedly recognized by the courts, discriminatory barriers depress the formation of

2. *See Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program*, http://osdbu-web.dot.gov/business/dbe/tips.cfm.
3. CHA is currently conducting a study for WSDOT and the Federal Aviation Administration, and many white women-owned firms are reporting that the waiver has resulted in their not receiving work. Some firms are going out of business. Further, WSDOT's data reveal a large drop in their utilization.

firms by minorities and women and inhibit the success of such firms in doing business in both the private and public sectors.[4] Size and experience are not race- and gender-neutral variables: "DBE construction firms are generally smaller and less experienced *because* of discrimination."[5]

Our analysis results in an overall M/W/DBE estimate of the number of ready, willing and able firms that is a narrowly tailored, dollar-weighted average of all the underlying industry availability numbers, with larger weights applied to industries with relatively more spending and lower weights applied to industries with relatively less spending. The availability figure is also subdivided by race, ethnicity, and gender.

There are three components to the process of estimating availability: the compilation of the M/W/DBE Master Directory; the determination of the constrained product market; and the extraction of firms from the Dun & Bradstreet *MarketPlace*/Hoovers database. To perform this analysis, CHA will take the following steps:

1. Acquire all available government M/W/DBE directories and listings from private entities that maintain such listings.
2. Prepare a final list of all of the combined, collected directories that consolidates information across fields, resolves field conflicts, and removes duplicates. CHA will limit the firms to those within the City's constrained product market.
3. Using the relevant geographic and product market definitions identified previously in the City's constrained product market, define a subset of business data to be licensed from Dun & Bradstreet's/Hoover's *MarketPlace* database to create the Master Business List.
4. Merge the Master M/W/DBE Directory with the Master Business List and the list of firms from the Contract Data Utilization File to create a final Merged Business List of firms in the relevant market. CHA will assign any missing industry codes or race/gender status.

The Merged Business List will be the available universe of relevant firms for the study. This process will significantly improve the identification of minority-owned and woman-owned businesses in the business population. CHA will assign race/ethnicity and sex to any firm not already classified.

CHA will produce estimates of women and minority business availability in the City's market disaggregated by funding source for all detailed industry groups combined by detailed race and sex, and detailed race and sex by detailed industry groups. This unweighted availability determination will later be weighted by the share of dollars the City actually spends in each NAICS code, derived from the utilization analysis. These

4. *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2005 U.S. Dist. LEXIS 19868, at *70 (Sept. 8, 2005) (IDOT's custom census approach was supportable because "discrimination in the credit and bonding markets may artificially reduce the number of M/WBEs")
5. *Concrete Works of Colorado, Inc. v. City and County of Denver,* 321 F.3d 950, 983 (10th Cir. 2003), cert. denied, 540 U.S. 1027 (2003) (emphasis in the original) (Ms. Holt served as Counsel to the City's expert witness team in this case.)

resulting weighted availability estimates will be used in the calculation of disparity indices.

Conduct Disparity Tests

CHA will apply accepted statistical tests to measure any disparities between the City's utilization of M/W/DBEs and their availability in the market area for its locally funded contracts. The General Counsel at the USDOT has directed recipients outside the Ninth Circuit Court of Appeals not to conduct disparity testing on their federally assisted contracts, as Congress has already determined that there is discrimination in the market for federal-aid contracts, which is the purpose of disparity testing.[6] Such analysis is necessary, however, to establish a strong basis in evidence for the use of contract goals on locally funded contracts.

Using the M/W/DBE utilization estimates and the M/W/DBE weighted availability estimates, CHA will calculate a disparity index. The disparity index will be formed by dividing M/W/DBE availability into M/W/DBE utilization and multiplying the result by 100. This will produce statistical comparisons of M/W/DBE availability with the utilization of M/W/DBEs on City contracts by race and sex for the study period. We will apply statistical significance tests, to the extent permitted by the sample sizes. These results will shed light on the extent to which identified disparities may be attributable to race and gender.

Review the City of Austin' M/WBE and DBE Programs

We will conduct a thorough review of the City's M/WBE program and its DBE program for FAA assisted contracts. Our evaluation will focus on national best practices, legal standards, issues unique to the Austin community, and compliance with 49 C.F.R. Part 26 and USDOT guidance for the DBE program. This will include review of relevant documents, and interviews with City staff, stakeholders and business owners. We will examine elements such as annual and contract goal setting; outreach activities and community engagement; pre-award activities; experience, financing and bonding requirements; consideration of compliance plans, including determinations of commercially useful function and good faith efforts policies and documentation; contract performance and compliance monitoring, including commercially useful function determinations, prompt payment compliance, substitutions of M/W/DBEs; contract close-out procedures; and data collection and reporting requirements

Ms. Holt was a critical member of the City's legal team in drafting the City's M/WBE program and ensuring legal compliance since 1995. She has guided the City through numerous issues and legislative reviews and revisions and is uniquely qualified to continue to assist the City to ensure that the programs remain defensible and successful.

Economy-Wide Analysis

The courts have held that it is useful to conduct disparity analyses on the wider Austin metropolitan area, where contracting affirmative action is not usually practiced, to shed

6. https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/western-states-paving-company-case-q-and-a.

additional light on the question whether the City needs to employ race- and gender-conscious measures to ensure a level playing field for its contracts and subcontracts, regardless of funding source. This is sometimes called a "private sector" or "passive participation" analysis. It stems from *Croson's* discussion of the possibility that while the agency itself is not engaging in discriminatory conduct or creating disparate impacts, it might be passively participating in a discriminatory marketplace. The courts have recognized that, in addition to examination of the government's own activities through its utilization of M/W/DBEs compared to the availability of such firms in the agency's market, data on obstacles to equal opportunities for women and minority businesses in the wider market are relevant and probative of whether an agency has a compelling interest in remedying discrimination in that market.

The courts have recognized that women and minority businesses face two types of discriminatory barriers: first, to their formation due to private and public sector discrimination, and second, to fair competition due to discrimination. The rates at which women and minorities form businesses and their earnings from such businesses and any disparities with similar white males have been relied upon by numerous courts, as evidence of whether, but for the agency's efforts, it would function as a passive participant in overall market discrimination.

Using this court-approved paradigm, we will examine two large Census Bureau databases that provide information on the rates at which minorities and women form businesses and their earnings from such businesses compared to comparable non-women and minority businesses, to shed light on the effects of capacity variables like age of the firm, size, experience, etc.

First, CHA will examine the most recent Census Bureau's *Survey of Business Owners and Self-Employed Persons* (SBO) formerly known as the *Surveys of Minority- and Women-Owned Business Enterprises*, which collects and disseminates data on the number, sales, employment, and payrolls of businesses owned by women and members of racial and ethnic minority groups. This survey has been conducted every five years since 1972. Although the level of local area detail from this data source is limited, it nevertheless contains substantial amounts of informative data at the state level, and for that reason will be incorporated into the Study. Using this data source, we will examine the sales, the number of all firms, the number of firms with employees, and the payroll and explore the relationship between a particular demographic group's share of sales and payrolls to their share of the number of firms.

Second, after the above baseline data are analyzed, CHA will use data from the Public Used Microdata Sample (PUMS) of the *American Community Survey* ("ACS") to determine if minorities or women form businesses at lower rates than comparable non-minority men, and whether minorities or women who do form businesses earn less from their entrepreneurial activities than comparable non-minority men. The various econometric techniques that will be employed (*e.g.*, ordinary least squares regressions or probit regressions) provide estimates on the relationship between certain variables (*e.g.*, the impact of race on the business earnings of entrepreneurs). Since these results are esti-

mates, it is important to test them to ensure they are statistically significant. The T-test is the standard method to determine the statistical significance of a relationship.

Anecdotal Data Collection

CHA will collect anecdotal or qualitative evidence of possible race/ethnicity or gender-based barriers through a public informational meeting, stakeholder/business owner small group interviews and an electronic survey. These data will examine what, if any, impediments may be adversely affecting the participation of M/W/DBEs and other small firms in City's contracts and associated subcontracts.

CHA will conduct a Public Informational Meeting to introduce the study process to the community and answer questions about the methodology and public involvement, as well as take any testimony on discrimination in the City's market.

We will also conduct in depth stakeholder/business owner small group interviews. Interviews will be divided into M/W/DBEs and non-M/W/DBEs, and further divided by industry (construction, professional services, general services/ non-professional services, and commodities). CHA will explore barriers based on race or gender to the utilization and success of minorities and women on City contracts and private sector projects and the efficacy of race- and gender-neutral measures.

In our experience, this focus group format is superior to interviews of individual business owners. First, it allows for greater participation by providing a broader vehicle for all firms to provide their experiences and feedback. Next, group participants often respond to each other, leading to a deeper conversation and useful brainstorming. It further allows for a much greater breadth and diversity of participation than a handful of individual interviews. For a City of Austin study, we would expect to interview at least 100 participants, and probably many more.

Some consultants outsource this critical study element to a local subconsultant or a generic telephone survey company. Because the interviewers are not subject matter experts, they can only ask simple questions and lack the knowledge to probe further into instances of discrimination, barriers to successful outcomes or public contract issues. They are also highly unlikely to be qualified as testifying experts in federal court, leaving the agency without an expert witness in litigation. CHA takes a different approach. Ms. Holt conducts all the interviews herself, bringing her decades of expertise and interviewing skills to elicit data that are useful and directed towards the legal standards necessary to meet strict constitutional scrutiny.

In conjunction with our local City of Austin certified subconsultants Cultural Strategies, Inc., Adisa Communications, and Pink Consulting, CHA will perform broad outreach by inviting firms, industry groups, community organizations and other interested stakeholders to the public meeting and interview sessions. Our team will successfully conduct outreach through multiple avenues. Our subconsultants will identify opportunities to make short presentations at trade associations, industry groups, and stakeholder group meetings, to educate their members on the disparity study process and how they can partici-

pate. They will capitalize on all media opportunities to publicize information about the disparity study. We will use the study website to provide information about the disparity study, opportunities for participation, and as an avenue for community members and business owners to provide feedback. This will ensure wide community awareness and participation.

CHA will also design and administer an electronic survey of firms on the Master Business List to gain information from contractors, subcontractors, vendors and consultants (by ethnic group and gender) as to the type of work; capacity and utilization on various types of contracts; reasons for levels of utilization; identification of any forms and instances of discrimination (past or present) experienced by survey respondents; the effects and sources of past or present discrimination; and their interest in bidding or submitting proposals on City contracts. We will report the results of the survey and use the findings to inform our review of the current programs and recommendations for enhancements.

CHA will also interview the appropriate City staff with responsibility for making contracting or procurement decisions to obtain their feedback on current efforts, as well as input regarding possible barriers faced by M/W/DEs to obtaining City contracting opportunities.

Develop Narrowly Tailored Remedies and Recommendations
The Report will include recommendations to remedy the effects of any discrimination identified, and to reduce or eliminate any other marketplace barriers that adversely affect the contract participation of small, minority- and women-owned businesses, including the extent to which the effects of discrimination can be addressed through race- and gender-neutral measures. This will include consideration of, and a methodology for, setting annual M/WBE goals for City funded contracts and the triennial DBE goal for FAA assisted contracts; whether the City can continue to set narrowly tailored contract goals for locally funded contracts and if so, a defensible methodology to do so; program administration and monitoring recommendations; supportive services initiatives; data collection and reporting requirements; and other enhancements to the City's current efforts.

Draft Disparity Study Report
Based on the study's findings, CHA will submit a Draft Disparity Study Report for the City's comments. Once the comments are received, CHA will submit a Final Disparity Study Report as two hard copies and one electronic copy, incorporating all feedback from the City.

Presentation of Final Disparity Report
CHA will present the study findings and recommendations as directed by the City and will assist with facilitating dissemination of the Disparity Study results to the City and the public. Presentations will include a PowerPoint deck explaining the study's standards, elements, methodology, findings, and recommendations, and Ms. Holt will be available to answer questions.

Post Study Services

Colette Holt and Dr. Steven Pitts will be available for a period of six years after completion of the disparity study to provide support to the City in the event of a legal challenge to a program based upon the study, and to assist with the programs in any way that will be helpful to the City.

Study Timeline

TASK	M1	M2	M3	M4	M5	M6	M7	M8	M9	M10	M11	M12
Conduct Pre-Initiation Phone Meeting												
Conduct Study Internal Initiation Meeting												
Create and maintain Study Website												
Perform Directory Collection												
Conduct Public Informational Meeting												
Request and receive policy documents from the City												
Receive City Data Files												
Questions to City and final answers from City to clarify data submitted in data files												
Create Sample Contract Data Files												
Collect missing information from prime contractors; prepare Final Contract Data Files												
Perform Utilization Analyses												
Perform Availability Analyses												
Perform Disparity Analysis												
Perform Economy-Wide Analysis												
Review of M/WBE and DBE Programs												
Qualitative Evidence Analysis-conduct Group Stakeholder/ Business Owner Interview Sessions												
Qualitative Evidence Analysis-conduct Business Owner Electronic Survey												
Conduct Staff Interviews												
Perform Legal Review												
Draft Study Report/ Final Report												
Present Final Study Report (TBD as instructed by City of Austin)												

B. Principal Researcher

Colette Holt & Associates

Colette Holt will serve in the role of Principal Researcher/ Project Lead for the disparity study. Ms. Holt will be the principal point of contact and will be responsible for the overall conduct of the study. All team members will report directly to Ms. Holt. Ms. Holt is the nation's foremost attorney and consultant in the specialty of contracting affirmative action issues, including disparity studies and DBE program development and defense. As described in Tab 5, she has served in this role in over 70 disparity and availability studies that have been brought to successful completion.

Ms. Holt's disparity study projects have included the following:

- Colette Holt & Associates, State of Washington; $982,925. CHA was retained by the Washington State Department of Enterprise Services to perform a Disparity Study of its 31 agencies and two universities. The Study analyzed contract data for the years 2012 through 2016. It determined the agencies' utilization of M/WBEs; the availability of M/WBEs in the State's market area; any disparities between its utilization and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. The State has accepted the Study and is moving forward on its recommendations. Ms. Holt was the Study Manager and was responsible for all aspects of the project.
- Colette Holt & Associates; Port of Portland, OR; $450,000. CHA was retained by the Port of Portland to perform a Disparity Study in conformance with 49 C.F.R Part 26 and 49 C.F.R. Part 23. The Study analyzed contract data for the years 2012 through 2016. We determined the Port's utilization of M/W/DBEs and ACDBEs; the availability of DBEs and ACDBEs in its market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Port's program; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. We also made recommendations for the DBE, ACDBE and small business development programs. The Study was accepted by the Port and it formed the basis for the agency's submissions to the FAA. Ms. Holt was the Study Manager and was responsible for all aspects of the project.
- Colette Holt & Associates; Washington State Department of Transportation; $933,660. CHA conducted a comprehensive Disparity Study for WSDOT of its construction and construction-related services contracts. The Study analyzed contract data for the years 2012 through 2015. The Study separately analyzed contracts funded by the Federal Highway Administration, the Federal Transit Administration, and the State of Washington, including WSDOT's 5 Divisions and

83 local program recipients. The study analyzed four years of data, totaling approximately $3.5 billion in contracts. It determined the Department's utilization of DBEs; the availability of DBEs in WSDOT's market area; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. WSDOT accepted the Study and it formed the basis for the Department's submissions to FHWA and FTA. Ms. Holt was the Study Manager and was responsible for all aspects of the project.

- Colette Holt & Associates; Dallas Fort Worth International Airport; $710,000. CHA was retained by the City to perform a study of its locally funded contracts as well as its Federal Aviation Administration contracts and airport concession contracts. We analyzed contract data for federal fiscal years 2012 through 2017. We determined the Airport's utilization of M/WDBEs and ACDBEs; the availability of M/W/DBEs and ACDBEs in its market area; any disparities between its utilization and M/WBE availability for its locally-funded contracts; conducted an economy-wide analysis; reviewed the legal standards; reviewed the Airport's programs; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis for its locally-funded contracts. We also made recommendations for the programs. Ms. Holt was the Study Manager and was responsible for all aspects of the project.
- Colette Holt & Associates; Kansas City Disparity Study Consortium; $784,110. CHA was retained by a study consortium consisting of KCMO, the Kansas City Area Transportation Authority, Jackson County, Missouri and the Kansas City Public Schools. We analyzed purchase order and contract data for calendar years 2008 through 2013. CHA determined each agency's utilization of M/WBEs; the availability of M/W/DBEs in each agency's market area; conducted an economy-wide analysis; reviewed the legal standards; reviewed the agencies' programs; gathered anecdotal evidence; and evaluated their M/WBE programs. We were also made recommendations for their programs. The agencies are implementing the recommendations. Ms. Holt continues to advise the City about implementation of study recommendations. Ms. Holt was the Study Manager and was responsible for all aspects of the project.

Dr. Steven Pitts will be responsible for all sampling and analysis of contract data files and documentation of the analytical findings for the study report. Dr. Steven Pitts is a nationally recognized economist and statistician at the University of California at Berkeley and is one of the nation's foremost African American economists. Dr. Pitts received his B.A. in Economics from Harvard University and his Ph.D. in Economics with an emphasis on Urban Economics from the University of Houston.

Joanne Lubart will perform legal research throughout the study to ensure an up-to-date legal analysis and review of the City's program documents and operations. Ms. Lubart joined CHA after over 30 years of DBE and government contract law practice. She served in the Office of Chief Counsel to the Pennsylvania Department of Transportation,

where she became a national expert on DBE and M/WBE programs and disparity studies.

Glenn Sullivan will oversee all data received from the City and supervise all contract data activities to create the final data files for analysis. Mr. Sullivan, who began consulting with CHA 2014, has over 30 years working in the high-tech industry. Mr. Sullivan is a proven results-oriented business professional with demonstrated abilities in strategic and tactical planning, managing projects, improving efficiency of operations, team building, and detailing project information to determine effective processes for operations.

Ilene Grossman will be the direct day-to-day liaison with the agency and interact on a regular basis with the City's Study Manager. She will be the central coordination point for all CHA team members. She will schedule weekly team meetings, to be conducted by Ms. Holt, to monitor all study elements, schedule, and study progress. Ms. Grossman has extensive experience in project management with government and corporate clients and excels in her ability to oversee the larger structure of a project.

Victoria Farrell will manage and supervise all subcontractor activities and anecdotal data collection activities. Ms. Farrell has vast business and organizational experience and has worked extensively on all aspects of disparity studies with CHA.

Carol Borst will manage all data follow up activities with prime contractors to ensure complete data for the final contract data files. Ms. Borst is an expert in contract data collection and follow up for the CHA team and has successfully completed multiple studies as a member of CHA.

Megan Schenck will perform all data research to complete any missing race, gender, and NAICS code assignments. Ms. Schenk is an expert in data research and an integral part of the CHA's data collection team.

CHA guarantees that the Principal Researcher and all other key staff assigned to the study will remain available for contact, direction, and management by the City during the entirety of the project and throughout the term of the contract for as long as that individual is employed by the Respondent.

Subconsultants

Cultural Strategies, Inc, ("CS") headed by President Sebastian Puente, is a City of Austin certified MBE firm focusing on important civic projects and education campaigns for local institutions or private enterprises. CS will assist with community outreach and anecdotal data collection for the study.

Adisa Communications, founded in 1995 by president and CEO, Shuronda Robinson, is an award-winning, City of Austin certified MWBE public involvement and communications firm. Adisa will assist with community outreach and anecdotal data collection for the study.

Pink Consulting, a City of Austin certified MWBE provides communications services on public and private projects. Headed by Principal Bobbie Garza-Hernandez, the firm focuses on the development and implementation of community outreach initiatives, with emphasis in minority communities. Pink will assist with community outreach and anecdotal data collection.

C. Legal Counsel

Colette Holt will serve as the licensed attorney on this disparity study. She will provide the legal and regulatory standards that form the governing principles of our methodology and the specific elements of the study, both to educate the reader about the elements of strict constitutional scrutiny and to provide a framework for a court in litigation. We will inform readers–including a court–of the approach we applied to meet strict scrutiny. We will also discuss the case law in the Fifth Circuit Court of Appeals. Ms. Holt has served as an expert in the most important cases in this area of the law and is deeply conversant with the case law and litigation strategies to successfully defend an agency from a program challenge. Ms. Holt will also oversee any other legal issues for the study.

Ms. Holt will be assisted by Joanne Lubart, the firm's Associate Counsel, who is also highly experienced in legal issues related to M/W/DBE programs.

D. Staffing/Staff Replacement

The element of a disparity study that has the greatest possibility for delay is contract data collection. This portion of the study is most time intensive because of the follow up and research required to ensure quantitative accuracy. CHA has a pool of highly trained staff members to replace team members, if necessary, or to add additional members to meet the study's due date.

The following staff members have all worked as part of the CHA team on multiple disparity studies in multiple capacities:

- Hannah Borst
- Pam Ervin-Davis
- Sandi Llano
- Joanne Mack
- Julia Sullivan
- Marnie Tyson

E. Litigation Report

Ms. Holt has served as an expert defense witness for CHA's studies, as well as studies that were conducted by other firms. Cases include:

- *Midwest Fence Co. v. Illinois Tollway*, 840 F.3d 932 (7th Circ. 2016), *cert. denied*, 137 S.Ct. 2292 (2017). Plaintiff challenged the facial constitutionality of the Tollway's DBE program (it receives no federal funds), as well as its application. Ms. Holt had drafted the program some years earlier. The Tollway had procured a disparity study from Mason Tillman Associates Ltd. that was determined by outside trial counsel to be inadequate for litigation defense. The Tollway hired CHA to produce expert reports and provide testimony in its defense. The court accepted Ms. Holt's and Dr. Pitts' expert credentials and reports, and the program was upheld at the district and appellate court level; the Supreme Court denied review. CHA then completed a new study for the Tollway, which now serves as the evidentiary basis for its program.
- *Kline, Inc. v. Maryland Department of Transportation*, Civil Case No. RDB-08-03197 (D. Mar. 2009). Plaintiff challenged the Maryland Department of Transportation's MBE and DBE programs, based on the 2006 Disparity Study in which Ms. Holt participated. She was retained as an expert by MDOT. After discovery and the submission of expert reports, the case was settled on terms favorable to MDOT.
- *Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007). The court of appeals upheld Illinois DOT's DBE program, based in part, on Ms. Holt's expert trial testimony concerning how she drafted the program based upon IDOT's Availability Study and other information to meet the Department's obligations under 49 CFR Part 26.
- *AAA National Maintenance v. City and County of Denver*, No: 1:09-cv-00007-REB-MEH (D. Col. 2009). Ms. Holt provided an expert report on the operations of the DBE Program at Denver International Airport, including the application of contract goals and substitutions of DBEs. The case was settled on terms favorable to Denver.
- *Suburban Grading & Utilities, Inc. v. Transportation District Commission of Hampton Roads*, Case No. CL08-2640 (Va. Cir. Ct. 2008). Ms. Holt provided expert witness consulting and the trial report for defendant Hampton Roads Transit about the correct application of the regulations and operations of the DBE Program, in a challenge to a decision not to award to plaintiff because of plaintiff's lack of good faith efforts to meet the DBE contract goal. The court found for the defendant, holding that Hampton Roads' DBE program conformed to the regulations and had been administered properly.
- *Sherbrooke Turf v. Minnesota Department of Transportation*, 345 F.3d 964 (8th Cir. 2003), cert. denied, 124 S.Ct. 2158 (2004). Plaintiff challenged the facial constitutionality of the USDOT Disadvantaged Business Enterprise program and

the Department's implementation of the DBE regulations. The Eighth Circuit upheld Mn/DOT's DBE program based in part upon a 2000 Availability Study to which Ms. Holt served as counsel and DBE program designer.

- *Western States Paving Co., Inc. v. Washington State Department of Transportation*, C00-5204 RB (W.D. Wash. 2003). Ms. Holt was appointed a Special Assistant Attorney General in WSDOT's defense of its DBE program. She provided an expert report, as well as a subsequent report that led to the resumption of race-conscious contracts goals by WSDOT.
- *Builders Association of Greater Chicago v. City of Chicago*, 298 F.Supp.2d 725 (N.D. Ill. 2003). Ms. Holt provided expert witness testimony at trial in defense of Chicago's M/WBE Program. The court held that the program was based upon a compelling constitutional interest. Ms. Holt drafted revised legislation for Chicago's M/WBE program.
- *Utility Contractors Assoc. of North Florida, Inc. v. City of Jacksonville*, 3:02-CV-137-J-32-TEM (M.D. Fla. 2002). Ms. Holt worked with the City's trial counsel in the defense of its M/WBE program. The case was settled on terms favorable to the City.
- *National Black Chamber of Commerce, Inc. v. US West, Inc.*, CV 96-1331 (D. Colo. 2001). Ms. Holt provided an expert report and trial testimony at two trials challenging US West's implementation of its supplier diversity program. In both trials, the court held for her client.
- *Florida State Conference of NAACP Branches, et al. v. Polk County, Florida*, Case No. 98-2322-CIV-T-25a (M.D. Fla. 1999). Ms. Holt provided an expert report to the plaintiff regarding the County's obligation to ensure non-discrimination. The case was settled on terms favorable to her client.

City of Austin Purchasing Office

Certificate of Exemption for Professional Services, Public Health and Safety or Other Exempt Purchase (Competitive)

DATE: Dec. 10, 2019 DEPT: SMBR

TO: Purchasing Officer or Designee FROM:

Edward Campos

PURCHASING POC: PHONE:

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

Refer to Local Government Code 252.022 for a complete list of exemptions:
Link to Local Government Code

The City desires to seek responses from more than one vendor using an alternate procurement method selected by the City and declares this procurement to be exempt from the competitive solicitation procedures in Local Government Code Chapter 252.022.This Certificate of Exemption is hereby executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized and certifies that the following exemption is applicable to this procurement.

Please check the criteria listed below that applies to this request:

- ☐ A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of a municipality.
- ☐ A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
- ☐ A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- ☑ A procurement of personal, professional, or planning services
- ☐ Other exemption from Chapter 252.022: _____

2. Describe this procurement (as applicable):

- What it is for and why it is needed?
- What public health and safety or other exempt attribute listed in Chapter 252.022 does this procurement contain?
- Describe if a specific procurement method is desired to collect vendor responses such as a solicitation directed to a specific group of prequalified vendors or other, evaluation stages throughout the solicitation, etc.

* The questions in the form are designed to justify why this purchase should be exempt from a competitive procurement process. Failure to provide adequate documentation to substantiate the request may lead to the request being rejected.

The Small & Minority Business Resources Department (SMBR) requires a consultant to conduct a disparity study for the MBE/WBE and Procurement Program. The disparity study is required to be conducted based on current case law and meet the legal standards as outlined for these studies. SMBR wishes to select the consultant to conduct the study using a qualifications based selection process using a cross-divisional panel of experts in a variety of disciplines to include procurement, legal and diversity professionals to assure the best firm is selected.

3. Forward the completed and signed Certificate of Exemption to the Purchasing Office along with the following documentation:
   - ☑ Scope of Work
   - ☑ List of tasks, schedule of deliverables or milestones, and other supporting documentation

4. Check the contract type (one-time or multi-term) and fill in the estimated dollar amount and term as applicable:

   ☑ This is a one-time request for a not to exceed amount of $ 1,000,000.00

   ☐ This is a multi-term contract request for _____ (# months for base term) in the amount of $_____ with _____ (# of renewal options) for $_____ each for a total contract amount of $_____.

Recommended Certification	Originator	12/10/19 Date
Approved Certification	Department Director or designee (For Austin Energy, Deputy General Manager or designee)	12/10/19 Date
Purchasing Office Review	Authorized Purchasing Office Staff	Date
Purchasing Office Management Review (If required due to signature authority level)	Purchasing Officer or designee	12/10/2019 Date

For

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2020-576739

Date Filed:
01/13/2020

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Colette Holt & associates
San Antonio, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Austin

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFQS 7600 CTE4001
Disparity Study

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Holt, Colette	San Antonio, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Colette Holt, and my date of birth is [redacted].

My address is 16 Carriage Hills (street), San Antonio (city), TX (state), 78257 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 13 day of January (month), 20 20 (year).

Colette Holt

Signature of authorized agent of contracting business entity
(Declarant)

City of Austin
SMBR
Small & Minority Business Resources
Opening the door to opportunities

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Cyrenthia Ellis/512-974-1709	**PM Name/Phone**	Tamela Saldana
Sponsor/User Dept.	SMBR	**Sponsor Name/Phone**	512-974-7844
Solicitation No	RFQS 7600 CTE4001	**Project Name**	Disparity Study
Contract Amount	$1,000,000.00	**Ad Date (if applicable)**	August 19, 2019

Procurement Type

- ☐ AD – CSP
- ☐ AD – Design Build Op Maint
- ☐ IFB – IDIQ
- ☒ Nonprofessional Services
- ☐ Critical Business Need
- ☐ Sole Source*
- ☐ AD – CM@R
- ☐ AD – JOC
- ☐ PS – Project Specific
- ☐ Commodities/Goods
- ☐ Interlocal Agreement
- ☐ AD – Design Build
- ☐ IFB – Construction
- ☐ PS – Rotation List
- ☐ Cooperative Agreement
- ☐ Ratification

Provide Project Description**

Contractor shall conduct a MBE/WBE/DBE disparity study (Disparity Study) consistent with constitutional mandates, governing law, and MBE/WBE/DBE best practices. Provide a final report s outlining the results of the Disparity Study with Contractor's recommendations consistent with the findings and governing law.

Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.

Previous solicitation was issued, no goals were established, solicitation number - RFQS SMW0051

List the scopes of work (commodity codes) for this project. ***(Attach commodity breakdown by percentage; eCAPRIS printout acceptable)***

91826 Communications: Public Relations Consulting -10%
91879 Minority And Small Business Consulting-90%

Cyrenthia Ellis	8/8/2019
Buyer Confirmation	**Date**

** Sole Source must include Certificate of Exemption*
***Project Description not required for Sole Source*

FOR SMBR USE ONLY

Date Received	8/9/19	**Date Assigned to BDC**	8/9/2019

In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:

☐ Goals	% MBE	% WBE
☐ Subgoals	% African American	% Hispanic
Combined 1.40	% Asian/Native American	% WBE

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Opening the door to opportunities.

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

- ☐ Insufficient availability of M/WBEs
- ☐ Insufficient subcontracting opportunities
- ☐ Sufficient availability of M/WBEs
- ☐ Sole Source
- ☐ No availability of M/WBEs
- ☐ No subcontracting opportunities
- ☒ Sufficient subcontracting opportunities
- ☐ Other

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

There are 56 MBEs and 21 WBE available for 1 or more scopes.

Subcontracting Opportunities Identified

Subcontracting opportunities identified.

Rachelle Delouis	
SMBR Staff	**Signature/ Date**
	8/9/19
SMBR Director or Designee	**Date** 8-9-19
Returned to/ Date:	

Appendix A

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

Section I — Project Identification and Goals

Project Name	2019 Disparity Study
Solicitation Number	RFQS 7600 CTE4001

Project Goals or Subgoals	
Combined MBE/WBE	1.40 %
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

Section II — Bidder Company Information

Company Name	Colette Holt & Associates	
Address	3350 Brunell Drive	
City, State Zip	Oakland, CA 94602	
Phone	773-255-6844	
Fax	855-692-3529	E-Mail colette.holt@mwbelaw.com
Name of Contact Person	Colette Holt	
Is your company registered on Vendor Connection?	Yes ☒ *If yes, provide Vendor Code* COL7050550 No ☐ All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.austintexas.gov/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes ☐ No ☒ *(If yes, please indicate type below)* 1. MBE ☐ WBE ☐ MBE/WBE ☐ Joint Venture ☐ 2. AA ☐ H ☐ A/N ☐ WBE ☐	

City of Austin SMBR Use Only	
I have reviewed this Compliance Plan and found that the Bidder ***HAS*** ☒ ***HAS NOT*** ☐ *complied as per the City Code Chapter 2-9A through GFE.*	
Reviewing Counselor	Date 10/03/19
I have reviewed this Compliance Plan and have found the Bidder ***COMPLIANT*** ☐ ***NON-COMPLIANT*** ☒	
Director /Assistant Director	Date 10/7/19

Section III — MBE/WBE Compliance Plan Summary

Directions:

- For each subcontractor listed in Sections IV, V, VI or VII, fill in all blanks (if applicable).
- For project participation numbers use an EXACT number.
- Goal percentages should be based on the Base Bid amount only. Allowances are not included.
- Alternates are not recorded on this MBE/WBE Compliance Plan.
- If bidder is a certified M/WBE, include participation details in the Bidder box ONLY.
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.

Is the stated project goal of the solicitation met? *(If no, attach documentation of Good Faith Efforts)* Yes ☒ No ☐

PROPOSED PARTICIPATION GOALS Use this section to calculate participation. Include all details including the total dollar amount and percentage for each category where applicable.		
	MBE/WBE Project Goal	Bidder Participation Goal
African American	%	2 %
Hispanic	%	5 %
Asian/Native American	%	%
WBE	%	%
MBE	%	%
MBE/WBE Combined	**1.40 %**	%
Non-Certified		%
Total Subcontractor Percentage Amount		7%
Bidder's Own Participation **(less any subcontracted amount)** Are you counting your own participation toward the goals? **(if yes, indicate below)** NO ☐ AA ☐ HIS ☐ A/NA ☐ WBE ☐ MBE		0 %

For SMBR Use Only:

Verified participation for each category:

African-American _____ % **Hispanic** _____ % **Asian/Native American** _____ % **WBE** _____ %

MBE _____ % **WBE** _____ % **Combined MBE/WBE** 7.00 %

Prime 93.00 % **Non-Certified** _____ %

Section IV — Disclosure of MBE and WBE Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm	Cultural Strategies, Inc	
City of Austin Certification Data	[X] MBE [ ] WBE Gender/ Ethnicity: Hispanic	
Vendor Code	VS0000024713	
Address/ City / State / Zip	1700 S. Lamar Blvd. #338 Austin, Texas 78704	
Contact Person & Phone #	Sebastian Puente 512-501-4971 ext. 701	
Fax & Email Address	512-501-4971, spuente@cultural-strategies.com	
Commodity Codes	91879	
Commodity Codes Descriptions	Minority and Small Business Consulting	
		3%

Name of MBE/WBE Certified Firm	Adisa Public Relations, Inc.	
City of Austin Certification Data	[X] MBE [X] WBE Gender/ Ethnicity: Afican American	
Vendor Code	ADI8313185	
Address/ City / State / Zip	1033 La Posada Drive, 220, Austin, Texas 78752	
Contact Person & Phone #	Shuronda Robinson 512-472-6112	
Fax & Email Address	512-646-1478, srobinson@makingthingsclear.com	
Commodity Codes	91826	
Commodity Codes Descriptions	Communications Public Relations Consulting	2%

Name of MBE/WBE Certified Firm	Bobbie Garza- Hernandez dba Pink Consulting	
City of Austin Certification Data	[X] MBE [X] WBE Gender/ Ethnicity: Hispanic	
Vendor Code	VC0000101188	
Address/ City / State / Zip	122 Riviera, San Marcos, Texas 78666	
Contact Person & Phone #	Bobbie Garza-Hernandez 512-878-2246	
Fax & Email Address	512-878-2244, bobbie@pinkpr.biz	
Commodity Codes	91826	
Commodity Codes Descriptions	Communications and Public Relations Consulting	2%

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	[ ] MBE [ ] WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	

Section V — Disclosure of Non-Certified Subcontractors

(Duplicate as Needed)

Note:
- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? **Yes** ☒ **No** ☐ **If no, state reason(s) below and attach documentation:**

Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
First-Level Subcontractor	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract	
First-Level Subcontractor	
Reason Certified Firm not used	

Appendix A

Section VI — Disclosure of Second-Level Subcontractors

(Duplicate as Needed)

Note:
- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes [X] No [ ]

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII ***must*** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE *Compliance Plan*.** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes ☐	No ☐
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes ☐	No ☐
• Copy of advertisements placed in local publication	Yes ☐	No ☐
• Copy of notices sent to Minority and Women organizations	Yes ☐	No ☐
• Documentation that demonstrates additional GFEs: o Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor o Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services o Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice	Yes ☐	No ☐

Were additional elements of work identified to achieve the goals or subgoals? Yes ☐ No ☐

If yes, please explain: _____

Was SMBR contacted for assistance? Yes ☐ No ☐

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes ☐ No ☐

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 1 **Date of Addendum: 8/16/19**

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

I. Clarifications:

Replace in its entirety **Complete Solicitation Packet all Documents**, with **Complete Solicitation Packet all Documents version 2.0**

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

III. ACKNOWLEDGED BY:

_____	_____	_____
Name	Authorized Signature	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: RFQS 7600 CTE4001 **Addendum No: 2** **Date of Addendum:** **August 30, 2019**

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

I. **Additional Information**:

I.1 Attached is the sign-in sheet from the Pre-Proposal meeting on Thursday, August 29, 2019 at 1:00 PM

I.2 Attached is the SMBR Packet present during Pre-Proposal meeting on Thursday, August 29, 2019 at 1:00 PM

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

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

MBE/WBE PROCUREMENT PROGRAM SOLICITATION OVERVIEW

PROJECT DETAILS

Solicitation Number: RFQS 7600 CTE4001
Project Name: 2019 Disparity Study
Funding Source: City **Estimated Cost:** $ 1,000,000

Project Description: Conduct a Disparity Study for MBE/WBE/DBE, covering the City's purchases during fiscal years 2013 through 2018.

Scopes of Work: See Solicitation Documents

Approved Goal Determination:

Combined MBE/WBE
1.40

PROGRAM REQUIREMENTS

COUNTING PARTICIPATION (2-9C-20)
Listing City certified firms on the Compliance Plan indicates that firms agree to both the price and scope of work. The Compliance Plan shall list all firms (certified and non-certified) that will participate on the contract.

- Only City of Austin certified MBE/WBE firms will be counted toward the goals.
- Certified MBE/WBE firms may count their own participation, less any amount subcontracted.
- A certification code of M/WBE or W/MBE may be counted towards the MBE or WBE goal, but not both.
- A firm with an MBE certification code can be counted towards the MBE goal or towards the appropriate ethnic subgoal. However, WBE certification code can only be counted toward the WBE goal.
- Use only the base bid amount or the proposal amount to calculate your MBE/WBE participation.

Good Faith Efforts (2-9C-21)
When bidder/respondent cannot meet the established goals, the responding firm shall provide documentation of the firm's good faith efforts to meet the goals.

- Notify all certified firms on the availability list not less than 7 business days prior to bid date **using two separate reasonable and verifiable methods**; i.e. fax, e-mail, mail or phone.
- Publish notice in local publication
- Seek service of minority and women organizations
- Select portions of work that will increase MBE/WBE opportunities
- Negotiate with MBE/WBE firms in good faith
- Documented justification for not meeting MBE/WBE goals *(provide GFE documentation with submission)*
- Contact SMBR for assistance

Compliance Plan Submission
Bids or responses will not be accepted for consideration, if the MBE/WBE Compliance Plan is not submitted prior to the deadline specified in the solicitation document.

- Section I Project information *(pre-entered)*
- Section II Firm's identifying information, with signature of firm's authorized representative
- Section III Compliance Plan Summary *(percentages must reflect Sections IV-VI)*
- Section IV Disclosure of all certified firms, enter all requested information
- Section V Disclosure of all non-certified firms, enter all requested information
- Section VI Disclosure of all second-level subconsultants
- Section VII Compliance Plan Check List *(complete if goals are not met)*
- Submission of Letters of Intent or Confirmation Letters

RESOURCES

SMALL & MINORITY BUSINESS RESOURCES DEPARTMENT

SMBR Representative	CERTIFICATION	MAIN OFFICE
Rachelle Delouis	Certification Division	512-974-7600
512-974-1295	512-974-7645	512-974-7601
rachelle.delouis@austintexas.gov	Smbrcertification@austintexas.gov	www.austintexas.gov/smbr

Log on to www.austintexas.gov/SMBR to obtain all resource documents provided at this solicitation meeting

SMBR PLAN ROOM

Visit SMBR's Plan Room for viewing City of Austin project plans and specifications as well as other local, private, and public sector jobs located at SMBR Office located at 4201 Ed Bluestein Blvd., Austin, TX 78721

Call (512) 974-7799 to make an appointment, schedule training or for more information
Log on to http://www.austintexas.gov/department/smbr-plan-room for list of current projects available,
Cost $0. (May be minimal fee for copying and printing plans and specifications sheets)

BONDING

In order to help our vendors overcome the challenges that can be associated with bonding, SMBR has hired a Bonding Financial Consultant to meet one-on-one with business owners to assist with their bonding needs.

Luke Ortega Luper, Bonding Financial Consultant
Phone: (512-974-7733
Email: Luke.Luper@austintexas.gov.
Website address: http://www.austintexas.gov/department/bonding

Keep in mind that SMBR does not issue bonds; however, we do provide our bonding resource program as a free and confidential service to our business owners.

LOCAL MINORITY SERVICE ORGANIZATIONS

Name	Contact Name	Phone	Email
Asian Contractor Association	Aletta Banks	512-926-5400	asiancontractor@gmail.com
Austin Area Black Contractors Association	Carol Hadnot/Reginald Worlds	512-467-6895	brc-pro@swbell.net
Business Investment Growth (BIG Austin)	Stacy Dukes-Rhone	512-928-8010	info@bigaustin.org
Business Resource Consultants (BRC)/(Bid Briefs)	Carol S. Hadnot	512-467-6894	brc-pro@swbell.net
Greater Austin Black Chamber of Commerce	Tam Hawkins	512-459-1181	admin@austinbcc.org
Greater Austin Asian Chamber of Commerce	Marina Ong Bhargava	512-407-8240	exec.admin@austinasianchamber.org
Greater Austin Hispanic Chamber of Commerce	Selina Aguirre	512-476-7502	saguirre@gahcc.org
U.S. Hispanic Contractors Association de Austin (USHCA)	Juan Oyervides	512-922-0507	info@ushca-austin.com

Additional contact information can be provided upon request.

AUSTIN MINORITY NEWSPAPERS

Name	Contact Name	Phone	Email
Capital City Argus News	Charles M. Miles	512-926-0348	CMilesArgus@yahoo.com
El Mundo Newspaper		512-476-8636	info@elmundonewspaper.com
La Prensa	Catherine Vasquez-Revilla	512-478-3090	laprensa@aol.com
Nokoa The Observer	Akwasi Evans	512-499-8713	akwasievans2013@gmail.com
The Villager	Tommy L. Wyatt	512-476-0082	vil3202@aol.com
World Journal Inc. of Texas	Sherry Wang		sherrywang1020@yahoo.com
/World Journal Chinese Daily News			

Additional contact information can be provided upon request.

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 3 **Date of Addendum: 9/23/2019**

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

I. Clarifications:

1. Delete in its entirety **Section 0500 Scope of Work** replace with **Section 0500 Scope of Work Version 1.1 Revised 092319**

2. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319**

3. Delete in its entirety **CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREEMNT PROGRAM PACKAGE** replace with **Revised CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREEMNT PROGRAM PACKAGE**

II. Questions:

Q1) Has the City identified outside legal counsel for the Disparity study?

A1) The City has not identified Outside Council. The City's Law Department will determine if, and when, outside counsel is needed for the Disparity Study.

Q2) Will airport concessions be included in the scope of the study?

A2) Airport Concession has been removed from this scope of work.

Q3) Where in the proposal should the detailed description of methodology go?

A3) Updates to information regarding the detailed description methodology has been included in this addendum and referenced in **Section 0500 Scope of Work Version 1.1 Revised 092319** and **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319.**

Q4) Was this project previously presented as a suggested sole source project?

A4) Prior Disparity Studies for the City were not completed as a Sole Source

Q5) Does the City intend to issue another revised RFQ to address issues related to Airport Concessions DBE, size of contract, etc.

A5) The City will not issue a separate RFQS for an Airport Concessions DBE.

Q6) Page 3 of the RFQS states, "The City's data includes…total amounts paid to MBE/WBEs and DBEs…" Please clarify, does the City maintain electronic data on payments to non-MWDBE subcontractors?

A6) The City maintains electronic data on all payments to Primes and all subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q7) For the prime contract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Unique contract number.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Contract title.***
- ***Contract description.***
- ***Industry category description.***
- ***Industry category code, such as NAICS or NIGP.***
- ***Whether there was a MWBE or DBE goal.***
- ***Funding.***

A7) For all contract data, the City maintains the information outlined for both the Prime and the subcontractor. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q8) "For the subcontract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts. Please indicate whether the data are available electronically or only in hard copy. Please answer separately for MWDBE subs and non-MWDBE subs.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Prime contract number.***
- ***Prime contract title.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Type of work performed.***
- ***Industry category code, such as NAICS or NIGP."***

A8) For all contract data, the City maintains the information outlined above for both the Prime and the subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q9) If the required participation goal is met, is good faith effort (GFE) documentation required?

A9) If the solicitation goal is met using certified COA M/WBEs then GFE is not required.

Q10) What date is the MBE/WBE Compliance Plan due?

A10) The M/WBE Compliance Plan is due on the same date and time as the solicitation due date provided on the coversheet for the solicitation.

Q11) What was the budget for the previous Disparity Study?

A11) The budget was also estimated at under $1 million.

Q12) The compliance plan requires the prime firm to subconsultant 1.4 % of their efforts for the project. How can this be applied if the estimated contract amount is not known?

A12) The combined MBE/WBE Goal of 1.4% will be applied to the negotiated contract value.

Q13) Will a performance bond be required for this project?

A13) A performance bond is not required.

Q14) Since this is not an IFB, is the proposed bid dollar section within the compliance plan applicable?

A14) The bid dollar section is not applicable for this type of procurement method. A revised compliance plan has been included in this addendum.

Q15) Why were projects less than $50,000.00 not included?

A15) Projects below the $50,0000.00 threshold are not reviewed by SMBR for application of the MBE/WBE Program.

Q16) Is a schedule to complete the Disparity Study, required at the time the responses are due?

A16) A schedule is not required at the time the response due. The schedule will be determined after the contractor is selected.

Q17) How do you access the form 0810?

A17) Form 810 should be accessed via the link included in the solicitation: Activate the page and select Procurement >Solicitations>Standard Bid Documents, you are then able to scroll down to the selected form

Q18) How many firms will be short-listed?

A18) The number of firms shortlisted will depend on the number of responses and the overall scores allocated to each response?

Q19) Will the legal Council the City has identified for this Disparity Study be able to respond to this solicitation?

A19) On the issue of providing legal services, those services will be handled by the City's Law Department. If outside counsel is needed, the Law Department will follow the proper procedure to obtain those. Issues of conflict of interest will be handled at that time, if needed.

Q20) What forms of contact are applicable for Good Faith Efforts?

A20) Please see the instructions for Good Faith Efforts contained within the MBE/WBE Procurement Program packet contained in the solicitation.

Q21) When is the compliance plan due and how should it be submitted?

A21) The Compliance plan is due at the same time responses are due. The compliance plan should be submitted in a separate, signed envelope entitled Compliance Plan and containing the project name.

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

IV. ACKNOWLEDGED BY:

_____	_____	_____
Name	Authorized Signature	Date

<u>RETURN ONE COPY OF THIS ADDENDUM</u> 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.

CITY OF AUSTIN
PURCHASING OFFICE
REQUEST FOR QUALIFICATION STATEMENTS (RFQS)
SOLICITATION NUMBER: RFQS 7600 CTE4001
SCOPE OF WORK
Version 1.1 Revised 092319
DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

1. OBJECTIVE OF THE PROJECT:

The City of Austin (City) seeks responses to this Request for Qualifications Statements (RFQS) from contractors experienced in conducting Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE)) disparity studies. The selected contractor (Contractor) shall conduct a MBE/WBE/DBE disparity study (Disparity Study) consistent with constitutional mandates, governing law, and MBE/WBE/DBE best practices. The Contractor's final report shall outline the results of the Disparity Study and clearly and concisely offer the Contractor's recommendations consistent with the findings and governing law.

2. DEFINITIONS:

For purposes of this RFQS, the following terms have the meanings set out below:

a) **MBE:** refers to Minority-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §§2-9(A-C)-4(31) and §2-9D-4(32).
b) **WBE:** refers to Women-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §2-9A-4(47) and §§2-9(B-D)-4(48).
c) **MBE/WBE Ordinance:** refers to Chapter 2-9(A-D) of the City's Ordinance, found at https://library.municode.com/tx/austin/codes/code_of_ordinances.
d) **City's MBE/WBE Program:** refers to the City of Austin's Minority and Women Business Enterprise Procurement Program, as incorporated in the MBE/WBE Ordinance and the City's Program Rules, found at https://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/Rules/Rule_Adoption_SMBR_March_4_2019.pdf.
e) **DBE:** refers to Disadvantaged Business Enterprise, as the term is defined by the federal regulations at 49 CFR §26.5.
f) **City's DBE Plan:** refers to the program the City has established in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City's DBE Plan can be found at http://www.austintexas.gov/department/disadvantaged-business-enterprise-dbe-program

3. BACKGROUND:

The City's MBE/WBE Program is based on a series of disparity studies that were conducted in response to the 1989 U. S. Supreme Court decision, *City of Richmond v. J.A. Croson Co*, 488 U.S. 469 (1989). The *Croson* decision held that a local government may redress race discrimination in its contracting activities, if it can demonstrate through relevant evidence a compelling governmental interest sought to be

remedied, and that the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

Even prior to *Croson*, in anticipation of the adoption of the City's first MBE/WBE Ordinance, the City Council determined the need for an affirmative action program based on evidence collected in 1987 showing disparities in MBE/WBEs performing work for the City as prime contractors and subcontractors.

In 1992, the City responded to *Croson* by engaging a Contractor to conduct a disparity study to measure the availability of MBE/WBEs in the City's marketplace and any disparities in the City's utilization of these businesses. Evidence continued to demonstrate that MBE/WBEs were being underutilized in contracting opportunities on City contracts as a result of private sector discrimination. The City Council adopted a revised MBE/WBE Ordinance to reflect these conclusions.

In 2003, the City engaged a contractor to conduct an updated disparity study of the availability and utilization of MBE/WBE firms. The 2003 study indicated that there continued to be an underutilization of MBE/WBEs available to perform the work on City contracts. These efforts resulted in a revised MBE/WBE Ordinance, based upon the new evidence and recent court rulings.

The City retained a contractor in 2005 to conduct an updated disparity study. Again, significant barriers to full and fair participation on City contracts remained. In response, the City amended the MBE/WBE Ordinance in 2006.

The City retained a contractor in 2008. The current MBE/WBE Ordinance reflects the findings of this study, which identified disparities between the number of available MBE/WBES and the number actually utilized on City contracts.

The last disparity study was completed in 2015 and found discrimination continued in the City's marketplace.

The current MBE/WBE Ordinance sunsets on March 30, 2020. However, the City will extend this sunset date to allow enough time to complete and implement recommendations from this study, as appropriate.

As the owner and operator of Austin-Bergstrom International Airport (ABIA), the City has also established a program for DBEs (DBE Plan). The City's DBE Plan was designed to provide small businesses owned and controlled by socially and economically disadvantaged individuals an equal opportunity to participate in the City's airport concession DBEs, pursuant to 49 CFR Part 23, and in City contracts utilizing DOT federal contract dollars, pursuant to 49 CFR Part 26.

The City's Small and Minority Business Resources (SMBR) Department is responsible for managing, implementing, and operating the City's MBE/WBE Program and DBE Plan. SMBR performs an array of services including contractor certification, contract compliance (pre-award and post-award), community outreach, and coordination of City resource services (plan room and bonding assistance). It serves as an enforcement arm to ensure compliance with the MBE/WBE Ordinance by all City departments. The link for the City's governmental structure organization chart can be found at https://www.austintexas.gov/sites/default/files/files/City_Manager/COAOrgChart02_04_2019.pdf.

SMBR will be the pivotal department for the selected Contractor.

4. REQUIRED SERVICES:

The Contractor will perform a comprehensive Disparity Study to determine the availability of and opportunities for MBEs, WBEs, DBEs to participate in the City's contracting and procurement. The Disparity Study shall be based on historical data from Fiscal Year 2013-through Fiscal Year2018, collected by the City. The City's data includes total contract amounts and total amounts paid to MBE/WBEs and DBEs, recorded by industry, race/ethnicity, and gender. The City has collected this data on prime contractors and subcontractors. The City's data has been catalogued using Advantage Financial and eCapris (in-house) software and is available in electronic format. The City's data for the 2008-2013 disparity study contained 475 contracts categorized as "construction", 1,539 contracts categorized as "commodity", 479 contracts categorized as "professional services", and 1,439 contracts categorized as "general services/non-professional services". In all, a total of 3,932 contracts/purchase orders were contained in the data sets.

The Disparity Study shall analyze whether a disparity exists between the number of available MBE/WBE/DBE -owned businesses' in the City's geographic and product markets and the number being utilized on City contracts. The Disparity Study will analyze MBE/WBE/DBE -owned businesses' availability and participation both as prime contractors and subcontractors in specific industries (identified by commodity codes) within the broader categories of construction, professional services, non-professional services, and commodities. The Contractor shall not be expected to analyze the data associated with contracts with a value of less than $50,000. More specifically, the selected Contractor must perform the following elements of work (collectively referred to as the Project):

a. Provide detailed and up-to-date overview of current constitutional standards and case law on race-conscious government efforts in public contracting;
b. Provide an outline and discuss in detail the legal requirements for both race- and gender-conscious programs operated by local governments, as set forth in *Croson*, and *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995) (*Adarand*) and any other decisions that bear on the abilities, legal rights and obligations of state and local governments to implement race- and gender-conscious preference programs in the context of the study and analysis described in the Study goal. The Study shall include an explanation of the methods and practices to be employed by the City to comply with such legal requirements and shall also specifically address:
    - The application of the strict scrutiny standard of review for race-conscious remedies and the intermediate scrutiny standard of review for gender-conscious remedies;
    - The method(s) by which identifiable discrimination against MBEs or WBEs directly related to public entities' contracts can be determined; and
    - Analysis of any available judicial or administrative public hearing transcripts, summaries, or findings as to allegations of commercial discrimination made against contractors, subcontractors, vendors, contractors and Texas political subdivisions.
c. Determine the City's appropriate geographic market area.
d. Determine the City's product markets, or those industries within the major procurement categories (construction, professional services, non-professional services, and commodities) that are most indicative of work performed on City contracts.
e. Determine if there are disparities in the City's contracting and procurement;

f. Determine the availability of MBE/WBE/DBE-owned businesses' (classified by industry, race/ethnicity, and gender) in the City's geographic and product markets that are ready, willing, and able, with the capacity to do business with the City. The Contractor's methodology for determining availability shall rely on more than just census data to ensure most firms are captured and that ownership is verified. When determining DBE availability, the Contractor shall analyze whether an adjustment to the availability figures is warranted to account for any effects discrimination may have had on the availability of such firms, as is required under 49 CFR §26.45(d) of the DBE federal regulations (referred to as the "Step 2 adjustment") and 49 CFR §23.51(d);
g. Determine the City's utilization of available MBE/WBE/DBEs, classified by industry, race/ethnicity and gender in the City's geographic and product markets; Examine, document and detail if there is statistical evidence of disparities in the contracting and subcontracting activities within the City. If disparities as described above do exist, determine whether the effects of any past discrimination against MBE/WBE/DBEs in the City's procurement of goods and services and professional services as well as in construction contracts and concession contracts exists or continues to exist within the geographical market, as a result of direct action by the City, or as a result of the City's role as a passive participant in discriminatory behavior practiced by entities that do business with the City.
h. If disparity as described above does exist between the utilization of MBE/WBE/DBEs, that results from any cause or causes described in the second issue, whether the use of only race- or gender-neutral and/or economically-based measures would be effective to remedy such discrimination.
i. Determination of a basis by which the City will originate goals that apply to the participation of MBE/WBE/DBEs.
j. If race- or gender-neutral and/or economically-based measures alone would not be effective to remedy such discrimination, the Contractor will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its MBE/WBE Program. The resultant formula should effectively offset past and present discrimination against MBE/WBE/DBEs while remaining sufficiently narrowly tailored to refrain from needlessly violating the rights of non-MBE/WBE/DBEs or their owners.
k. Collect and analyze anecdotal evidence on the experience of businesses in the City's markets, including business–owners and community stakeholder's input, which may include interviews, surveys and other methods approved by SMBR, to buttress identified statistical disparities.
l. To the extent necessary and possible, collect data regarding other public entities' utilization of MBE/WBE/DBEs with similar geographic and product markets. Document and explain the significance of these findings, including if the City is underutilizing MBEs, WBEs, DBEs.
m. Determine whether and to what extent artificial barriers and/or discrimination exist in the private sector. This determination will require an analysis of MBE/WBE/DBE's and private sector success relative to non-MBE/WBE/DBE's private sector success.
n. Identify potential additional industries (not reflected in City's current data or the City's MBE/WBE Program) by commodity code with MBE/WBE availability
o. Based on analysis and review of the City's MBE/WBE Program (the MBE/WBE Ordinance and accompanying rules) and the City's DBE Plan and applicable governing law, provide recommendations, including race- and gender-neutral means, for addressing any identified disparities. These recommendations should address annual ethnic-specific goals (and provide guidance on determining project-specific goals), the certification process, and any other related compliance issues.

This Scope of Services does not include legal services, nor does it include a legal component other than what is specifically provided above. The City may separately retain legal counsel to provide legal advice to the City, if needed.

5. Deliverables:

The contractor shall specifically deliver the following:

a. Monthly progress reports, including, when appropriate, progress of deliverables, summaries of meetings, analyses and assessments in progress or completed, and upcoming items.
b. A draft of the Contractor's final report for review and comment by the City, and a final version of all relevant reports, including, but not necessarily limited to, an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program.
c. A final report revised based on feedback by the City on the draft report, on the Disparity Study, including an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program. The final report shall be written in clear and concise language using consistent terms; easy to understand; organized in a logical manner; fully illustrated with relevant examples; and consistent with widely accepted methodology. Unless otherwise permitted by the City, the final report and all data and records developed in conjunction with the final report and Disparity Study shall be submitted to the City as two hard copies and one electronic copy (in Microsoft Office 2007 or later) to permit future use by the City of Austin.
d. Present Disparity Study findings to relevant City Departments, relevant Boards and Commissions, and the City Council, and otherwise cooperate with the City in facilitating dissemination of the Disparity Study results to the City and the public.
e. In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan.

6. <u>QUALIFICATIONS</u>:

a. The experience, knowledge, and capabilities of the Contractor's personnel and sub-contractors (the Project Team) will be thoroughly evaluated to determine the Contractor's ability to timely deliver a legally defensible Disparity Study developed consistent with best practices and meeting the legal requirements established by the Courts. It is the Contractor's responsibility to secure all services necessary to meet the requirements of this solicitation.

b. Staff Replacement

Proposed replacement staff throughout the life of the contract shall meet minimum qualifications and have experience comparable to the person(s) being replaced. Resume(s) and references may be requested for the proposed replacements. Substitution of professional personnel after the award may be a basis for termination of the Study contract unless agreed to by the City. The City retains the right to object to any subtraction, addition or substitution of

proposer staff assigned to the Study made 10 days after the City's approval of the project award. If the City objects to any subtraction, addition or substitution of proposer's staff, proposer shall refrain from making any such change to the composition of its staff assigned to the Study.

7. SCHEDULE:

The MBE/WBE/DBE Disparity Study shall be completed by the Contractor within 12 months after issuance of notice to proceed from the City. The completed study shall be submitted to the City's Contract Manager.

8. ANTICIPATED BUDGET:

The City's estimated Fiscal year 2020 budget is $1,000,000, to be spent on the Contractor's contract, and any other associated costs. By submitting a response to this RFQS, the Contractor acknowledges this overall budget and represents that the Contractor believes its anticipated costs shall not cause the City to exceed the overall budget.

CITY OF AUSTIN
PURCHASING OFFICE
RESPONSE PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQS 7600 CTE4001
Version 1.1 Revised 092319

1. SUBMITTAL FORMAT:

Submit one original paper copy and an electronic copy of the original response in PDF version on a flash drive. The original response shall contain ink signatures and shall be typed on standard 8 ½" X 11" paper, double-sided, and have consecutively numbered pages.

The response itself shall be organized in the following format and informational sequence. Use tabs to divide each part of the response and include a Table of Contents:

Section I

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

A. Signed Offer Sheet
B. Section 0630 Exceptions, completed
C. Section 0800 Non-Discrimination and Non-Retaliation Certification Completed and signed
D. Section 0805 Non-suspension or Debarment Certification
E. Section 0810 V2 Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit
F. Section 0835 Non-Resident Bidder Provisions
E CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – Appendix A MBE/WBE COMPLIANCE PLAN
G. All signed Addendums (all pages)

Tab 2 – Authorized Negotiator: Provide name, mailing address, email address, and telephone number of the officer or other representative in your organization authorized to negotiate and execute binding contract terms.

Tab 3 – Executive Summary: In no more than three pages, provide an Executive Summary in brief, concise terms of your qualifications related to this RFQS. Include the number of years your organization has been in business, a summary of your organization's history and experience, and how your organization is the most qualified to carry out the Scope of Work (reference Section 0500).

Tab 4 – References: Provide a minimum of five references for organizations that have received comparable and satisfactory disparity, availability or utilization analysis services from the proposer within the past 10 years. Proposer shall include the following for each:

- Organization
- Organization contract manager name and title, phone number, and email address
- Detail of the work completed for the organization
- Year contract was awarded and length of contract
- Initial budget of project/contract
- Final invoiced amount of project/contract

Tab 5 – Personnel & Company Qualifications: Provide a general explanation and organizational chart for your company which specifies the structure and reporting responsibilities of personnel. If the use of subcontractors is proposed, identify their placement in the structure and provide a description for each subcontractor's responsibilities.

For Personnel listed above, please provide:

- Resumes and/or professional experience including Curriculum Vitas (CVs) if applicable and education for executive leadership listed on the organizational chart, including any professional trainings, degrees and/or certifications held.

Tab 6 – Company and Personnel Experience

A. **Company Information**: Respondents must include a profile of the Offeror's experience developing and conducting disparity, availability and utilization studies of M/WBE, SBE, DBE and ACDBE Programs. Respondents should demonstrate their ability to meet the constitutional requirements promulgated in Croson and subsequent cases. Profiles shall include, but not be limited to, any experience of Respondent's personnel serving as designated testimonial or consulting expert witnesses under the Federal Rules of Civil Procedure or comparable state rules, in Croson litigation or other lawsuits challenging race- or gender-conscious contracting programs.

B. **Principal Researcher**: Respondent's must identify a researcher who will be the principal point of contact and will exercise responsibility for the overall conduct, day-to-day activities and timeliness of the Study ("Principal Researcher"). The Principal Researcher should have served in this capacity on a similar disparity or availability study. Other professional team members must also be identified by name, title, qualifications and duties to be performed in producing the study. Respondent agrees that the Principal Researcher and other key staff assigned to the Study shall remain available for contact, direction, and management by the City during the entirety of the project throughout the term of the contract as long as that individual is employed by the Respondent. At least one member of Respondent's personnel assigned to the study must have a doctorate degree in economics or statistics from an accredited university and be able to apply statistical measurements in conformity with scientifically valid and accepted methods specific to disparity studies.

C. **Legal Counsel** – Respondent must identify a licensed attorney or law firm that is experienced in disparity studies and compliance monitoring and who will provide services to the Respondent for this Study, on the legality of policies, development of the legal framework, analysis of disparity study assignments and consult on other legal issues for this Study.

D. **Staffing/Staff Replacement** – Respondent shall provide a list of additional staff which may be assigned to the study and must demonstrate its ability, if necessary, to provide qualified additional and/or replacement staff to meet the Study's due date(s).

E. **Litigation Report** – Respondent shall provide a listing and disposition of all state and federal court cases, including its Principal Researcher, participated and which involved their research or consultation in disparity studies and availability and utilization studies.

Section II

Acceptance Period: All responses are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFQS closing date unless a longer acceptance period is offered in the response.

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

the Texas Attorney General. Failure to identify proprietary or confidential information will result in all unmarked sections being deemed non-proprietary or non-confidential and available upon public request.

Preparation Costs: All costs directly or indirectly related to preparation of a response to the RFQS or any oral presentation required to supplement and/or clarify an offer which may be required by the City shall be the sole responsibility of the Offeror.

Compliance: The Offeror agrees to compliance with terms of this RFQS and with all applicable rules and regulations of Federal, State, and Local governing entities.

Section III

EVALUATION FACTORS AND AWARD:

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

B. Evaluation Factors: All responses will be evaluated based on the following criteria and rankings. **Maximum 100 points.**

1. **References –** reference Section I, tab 4 **(20 points)**
2. **Qualifications: Personnel and Company–** reference Section I, Tab 5 and 6 **(80 points)**

2.1. **Experience of Project Lead (30 points)**

Provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, designing, and leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the study was conducted; name of the entity which requested the study; price of the study; study description/scope; project lead duties and responsibilities for each project/study

2.2. **Experience of Disparity Study Firm (20 points):**

Provide at least three (3) and no more than five (5) projects leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the entity which requested the study; final price of the study; study description; and your role in the study.

Identify any projects that were intended to lead to a disparity study for a municipality, state or other jurisdiction over the past 10 years that did NOT lead to the intended disparity study. If you can, identify the entity requesting the work, your role in the work, and the reason(s) it did result in a finished disparity study.

2.3. **Proposed Methodology (15 points):**

The City is interested in the proposed methodology to be used to conduct this study. Proposers should provide a detailed discussion of your firm's approach, key considerations to the analysis (qualitative and quantitative) and the approach to identify and correct errors in quantitative data.

2.4. **Experience with Municipal Entities (15 points**):

The Austin City Council adopted a strategic direction on March 8, 2018, guiding the City of Austin for the next three to five years. *Austin Strategic Direction 2023* outlines a shared vision and six priority Strategic Outcomes: *Together we strive to create a complete community where every Austinite has choices at every stage of life that allow us to experience and contribute to all of the following outcomes:*

- **Economic Opportunity and Affordability:** Having economic opportunities and resources that enable us to thrive in our community.
- **Mobility:** Getting us where we want to go, when we want to get there, safely and cost-effectively.
- **Safety:** Being safe in our home, at work, and in our community.
- **Health and Environment:** Enjoying a sustainable environment and a healthy life, physically and mentally.
- **Culture and Lifelong Learning:** Being enriched by Austin's unique civic, cultural, ethnic, and learning opportunities.
- **Government That Works for All:** Believing that city government works effectively and collaboratively for all of us - that it is equitable, ethical and innovative

SMBR and its MBE/WBE/DBE Programs are aligned with the Economic Opportunity and Affordability outcome. Please describe your experience in working with municipalities for disparity studies. Describe your experience with handling a disparity study analysis in conjunction with the unique challenges of municipal boundaries, authority, and regulatory environment and how the SMBR, the disparity study and ultimately its MBE/WBE program can best achieve the outcome of Economic Opportunity and Affordability as outlined in Strategic Direction 2023 (SD23). The link to SD23 is:
https://www.austintexas.gov/financeonline/afo_content.cfm?s=73&p=160

C. Reservations:

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

2. The City reserves the right to require short listed vendors selected for demonstrations or presentations to provide a minimum of two (2) most recent years of audited annual reports that evidence the financial health of the organization. In the event that audited financial statements cannot be provided, the Vendor must provide financial information that will enable the City to accurately assess financial stability and viability. Vendors unwilling to provide this information or whose financial information is deemed as not demonstrating financial stability will not be considered for award.

CITY OF AUSTIN

CITY CODE CHAPTER 2-9C
NON-PROFESSIONAL
MBE/WBE PROCUREMENT PROGRAM

Solicitation Name: 2019 Disparity Study

Solicitation Number: RFQS 7600 CTE4001

Issue Date: 08/19/2019

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MBE/WBE COMPLIANCE PLAN **12**

LETTER TO POTENTIAL SUBCONTRACTORS ..... ERROR! BOOKMARK NOT DEFINED.

CONFIRMATION LETTER **18**

MBE/WBE GOALS

Annual/Project Participation Goals				Annual/Project Participation Subgoals		
MBE		%	OR	African American		%
WBE		%		Hispanic		%
Combined MBE/WBE	1.40	%		Asian/Native American		%
				WBE		%

OVERVIEW

This document should be read in conjunction with the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance for Commodities (Chapter 2-9C of the Austin City Code) and the Small and Minority Business Resources Department (SMBR) Rules. The definitions contained in Chapter 2-9C apply to this document. The City Code and Rules are amended from time to time and the Bidder is responsible for ensuring they have the most up to date version. The City Code and Rules are incorporated into this document by reference. Copies of Chapter 2-9C and SMBR Rules may be obtained online at http://www.austintexas.gov/smbrdocuments or from SMBR, 4201 Ed Bluestein, Austin, Texas 78721 (512) 974-7600.

Firms or individuals submitting responses to this Invitation for Bid agree to abide by the City's Minority-owned and Women-owned Business Enterprise (MBE/WBE) Procurement Program and Rules. The City's MBE/WBE Program is intended (1) to promote and encourage MBEs and WBEs to participate in business opportunities with the City of Austin; (2) to afford MBEs and WBEs an equal opportunity to compete for work on City contracts; and (3) to encourage contractors to provide subcontracting opportunities to certified MBEs and WBEs by soliciting such Firm for subcontracting opportunities. The City of Austin and its contractors shall not discriminate on the basis of race, color, national origin, disability, or gender in the award and performance of contracts.

The City encourages Bidders to achieve the MBE/WBE participation goals and subgoals for this contract. However, Bidders may comply with the City Code and Rules without achieving the participation goals so long as they make and document Good Faith Efforts that would allow MBE and WBE participation per Section 2-9C-21 of the City Code and Section 9.1 of the Rules. Bidders that do not meet the project's goals and subgoals are subject to Good Faith Efforts review.

Prior to the due date and time specified in the City's solicitation documents, all Bidders (including those Firms certified as MBE/WBEs) shall submit: (1) an *MBE/WBE Compliance Plan* (Appendix A) and (2) if it is anticipated the project goals will not be met, all appropriate documentation to demonstrate Good Faith Efforts to meet the project goals. Any questions regarding preparation of the *MBE/WBE Compliance Plan* should be directed to SMBR at SMBRComplianceDocuments@austintexas.gov. Such contact is not a violation of the Anti-Lobbying Ordinance.

The City has implemented Anti-Lobbying Ordinance (Chapter 2-7 of the Austin City Code). Under Chapter 2-7, there is a "no-contact" period from the date the City issues a solicitation until the contract is executed. During the "no-contact" period, a person responding to a City solicitation can speak only to the contract's authorized contact person regarding their solicitation response. Chapter 2-7 allows certain exceptions; for instance, a person responding to a City solicitation may speak to SMBR regarding this *MBE/WBE Compliance Plan*. See the full language of the City Code or solicitation documents for further details.

MBE/WBE COMPLIANCE PLAN INSTRUCTIONS
(See Appendix A)

If the *MBE/WBE Compliance Plan* and Good Faith Efforts documentation are not submitted prior to the due date specified in the solicitation documents, the bid will be deemed non-responsive and not be accepted for consideration.

SMBR may request written clarification of items listed on the *MBE/WBE Compliance Plan*. However, there will be no further opportunity for the Bidder to augment the MBE/WBE participation originally listed in the *MBE/WBE Compliance Plan* or to demonstrate Good Faith Efforts that were not made prior to the submission of the *MBE/WBE Compliance Plan*. Changes to the *MBE/WBE Compliance Plan* are permitted only after contract execution and only with prior written approval of SMBR.

Please type or clearly print all information, use "none" or "N/A" where appropriate. ***MBE/WBE Compliance Plans* not complying with the *MBE/WBE Compliance Plan* Instructions shall be rejected as non-responsive. Submissions not utilizing the forms provided with the solicitation may render the submission nonresponsive or noncompliant.**

Section I Project Identification and Goals

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Bidder does not need to fill in any information under Section I.

Section II Bidder Information

The Bidder should complete this section with its information and sign in the space provided. The portion of Section II marked as "Reserved for City of Austin SMBR Only" should be left blank.

Section III MBE/WBE Compliance Plan Summary

This section is a summary of subcontractor participation for this Bid. Bidder should complete Sections IV-VII, described below, before attempting to complete Section III. After completing Sections IV-VII, calculate the percentage of MBE/WBE participation for each goal and enter the information in the blanks provided. Because Section III is a summary, if there are any inconsistencies between Sections IV-VII and Section III, the calculations contained in Sections IV-VII will prevail. If the Bidder indicates that they do not anticipate meeting the goals with certified MBE/WBE firms, then the Bidder shall submit documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals. The MBE/WBE Compliance Plan will be reviewed and approved by the Small and Minority Business Resources Department.

Section IV Disclosure of MBE and WBE Subcontractors

Please list all certified MBE/WBEs subcontractors using the legal name under which they are registered to do business with the City of Austin and the value of the work they will be performing themselves except for subcontractor(s) that will be performing the trucking or hauling scope of work (see Section VII below). Do not include the value of work that the MBE/WBE's subcontractors will be subcontracting to second-level subcontractors. By listing certified MBE and WBE Firms on the MBE/WBE Compliance Plan, the Bidder indicates that both parties acknowledge the price and scope of work and that they are prepared to contract for that price and scope if the City awards the project to the Bidder. Unit price subcontracts are acceptable if appropriate to the type of work being performed. A Letter of Intent (LOI) does not replace a binding contract between a prime contractor and a subcontractor.

Before completing Section IV of the *MBE/WBE Compliance Plan*, please read the following instructions regarding how to count MBE/WBE participation:

(A) Only the value of the work actually performed by the MBE/WBE shall be counted toward the goals. This includes:

(1) work performed by the MBE/WBE's own forces;

(2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the MBE/WBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the goal); and

(3) fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

(B) When a Bidder purchases supplies, materials, or equipment from an MBE/WBE, the cost of those supplies, materials, or equipment shall be counted toward the goals as follows:

(1) If the supplies, materials, or equipment are obtained from an MBE/WBE that is a Manufacturer or Regular Dealer, 100 percent of the payment for the supplies, materials, or equipment shall be counted toward the goals.

(2) If the supplies, materials, or equipment are obtained from an MBE/WBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the goals. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the goals if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

(C) When an MBE/WBE subcontractor listed on the MBE/WBE Compliance Plan subcontracts part of the work of its contract to another Firm, the value of that second-level subcontracted work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. Please see Section VI for an explanation of how to count the value of second-level subcontractors' work.

(D) A Firm owned by a minority woman may be certified as both an MBE and a WBE (dual certified). On a single contract, the value of the work performed by a dual certified subcontractor may not be counted toward both the MBE and the WBE goals. The Bidder must decide whether to designate the dual certified subcontractor as an MBE or a WBE in the MBE/WBE Compliance Plan for the purpose of meeting the goals set for that contract. That designation may not be changed for the duration of the contract.

(E) When an MBE/WBE performs as a participant in a certified Joint Venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the MBE/WBE performs with its own forces and for which it is at risk shall be counted towards the project goals. For more specific information regarding requirements and evaluations of certified MBE/WBE Joint Ventures, please see the City's MBE/WBE Procurement Program Rules or contact SMBR's Certification Division.

(F) Only expenditures to an MBE/WBE contractor that is performing a Commercially Useful Function shall be counted toward the project goals. If SMBR makes an initial determination that an MBE/WBE is not

performing a Commercially Useful Function given the type of work involved and normal industry practices, the MBE/WBE may present evidence to rebut this presumption.

(G) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date to submit the MBE/WBE Compliance Plan as specified in the City's solicitation documents. A Firm that is certified as an MBE/WBE at the time that the MBE/WBE Compliance Plan is filed may cease to be a certified Firm before the contract is completed. Only the value of the work performed by such a Firm while it is certified may be counted toward the project goals.

Section V Disclosure of Non-Certified Subcontractors

Please list all known non-certified subcontractors, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Bidder will not use any non-certified Firms, please write "N/A" in the first box on this page.

The scopes of work indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If Bidder did not meet the project goals, Bidder must explain in the space provided why MBEs/WBEs were not used as subcontractors and ***submit documentation for the stated reason if applicable.*** If Bidder did meet the project goals, please indicate "Goals Met" in the space provided.

Section VI Disclosure of Second-Level Subcontractors

Please complete this section if Bidders knows that one or more of Bidder's subcontractors will subcontract part of the work of their contracts to second-level subcontractors. In the last line of each entry box, please write the name of the first-level subcontractor that will be subcontracting work to the second-level subcontractor. Identify second-level subcontractors by the legal name under which they will be registered to do business with the City. The first-level subcontractor should be listed in Section IV or Section V. If Bidder is not aware of any second-level subcontractors, please write "N/A" in the first box on this page.

As discussed in Section IV above, when an MBE/WBE subcontractor subcontracts part of the work of its contract to another Firm, the value of that second-level subcontractor work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. The value of the second-level subcontractor work may be counted toward the project goals only based on the second-level subcontractor's own MBE/WBE certification, if any. Work that an MBE/WBE subcontracts to a non-certified firm does not count toward the goals. Work that an MBE/WBE subcontractor contracts to another certified firm shall not be counted twice towards the goal.

Section VII MBE/WBE Compliance Plan Checklist

Please complete the *MBE/WBE Compliance Plan Checklist* with the information requested if the stated project goal(s) are not met.

GOOD FAITH EFFORTS INSTRUCTIONS
(See *Appendices B and D)*

The Bidder has a responsibility to make a portion of the work available to MBE/WBE subcontractors so as to facilitate meeting the goals or subgoals. If the Bidder cannot achieve the goals or subgoals, documentation of the Bidder's Good Faith Efforts to achieve the goals or subgoals must be submitted at the same time as the MBE/WBE Compliance Plan. The SMBR Director will review the documentation provided and determine if the Bidder made sufficient Good Faith Efforts. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Bidder's failure to meet the goals and subgoals, as long as such costs are reasonable. However, a Bidder is not required to accept a higher quote from a subcontractor in order to meet a goal or subgoal.

Contacting Potential MBE/WBE Subcontractors

The City has determined the scopes of work for this project and provided an Availability List of all the MBE and WBE firms certified to perform those scopes. The *Availability List* (Appendix D) is included with the solicitation documents and has two sections: *Vendors Within the Significant Local Business Presence (SLBP) Area* and *Vendors Outside the Significant Local Business Presence (SLBP) Area*. As part of Good Faith Efforts, Bidders ***must*** contact ***all*** firms listed in the *Vendors Within the SLBP Area* section. Please note that every firm on the Availability List – outside the SLBP – is City-certified as an MBE or WBE for purposes of meeting the project goals, and Bidders are encouraged to contact all the firms. If a Bidder identifies an additional scope of work for this project not identified in the solicitation, the Bidder must request from SMBR an Availability List for that scope of work and contact all firms, if any, on such list. The SMBR Director determines whether the Bidder has made sufficient Good Faith Efforts if goals or subgoals are not met.

The City neither warrants the capacity or availability of any Firm, nor does the City guarantee the performance of any Firm indicated on the availability list.

The availability list is sorted in numerical sequence by National Institute of Governmental Purchasing (NIGP) Commodity Code. It includes all certified MBE/WBE vendors for the scopes of work identified by the City as being potentially applicable to this project. However, the availability list is not a comprehensive identification of all areas of potential subcontracting opportunities. If a Bidder identifies one or more work areas that are appropriate subcontracting opportunities that not included on the availability list, the Bidder shall contact SMBR to request the availability list for MBE and WBE Firms in those areas. Requests for supplemental availability lists will be evaluated as a part of the Bidder's Good Faith Efforts to meet the goals.

If the Bidder believes any of the work areas on the availability list are not applicable to the project's scope of work or if the Bidder believes that the lists are inaccurate, the Bidder shall notify the authorized contact person of the concern immediately and prior to submission of the response to the solicitation. All Bidders will be notified in writing of any inaccuracy by addendum to the solicitation. Concerns about a particular MBEs/WBE's certification status may be addressed to SMBR at SMBRComplianceDocuments@austintexas.gov. If the Bidder wants to use a certified subcontractor that does not appear on this list, Bidder may request from SMBR or visit https://www.ci.austin.tx.us/financeonline/vendor_connection/search/vendors/certvendor.cfm for proof of certification and the specific work areas for which the subcontractor has been certified.

Appendix B provides a format for collecting required information from the subcontractors on the *Availability List*. The information must be obtained at least seven (7) business days prior to the submission of the *MBE/WBE Compliance Plan*; alternate formats may be acceptable as long as they gather the same required information. Included with the solicitation documents is an alphabetized list containing the names and addresses of the MBE/WBE Firms listed on the Appendix D. This list is in label format and is designed to facilitate the printing of mailing labels.

The following codes are used on the availability lists:

F	Female	M	Male
AA/B	African American	H	Hispanic
A/NA	Asian/Native American	W/C	Caucasian
LOC	A firm's two-digit location code (e.g., SL or TX)	AU	Austin
SL	Significant Local Business Presence (SLBP)	TX	Outside SLBP
MBE	A firm certified as a Minority-owned Business Enterprise	WBE	A firm certified as a Woman-owned Business Enterprise
MWB	A firm certified as both a Minority-owned & Woman-owned Business Enterprise	WMB	A firm certified as both a Woman-owned & Minority-owned Business Enterprise
MWDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise	WMDB	A firm certified as a Woman-owned, Minority-owned, and Disadvantaged Business Enterprise

Good Faith Efforts Review

If goals are not met, SMBR will examine the *MBE/WBE Compliance Plan* and the Good Faith Efforts documentation submitted with the *MBE/WBE Compliance Plan* to ensure that the Bidder made Good Faith Efforts to meet the project goals or subgoals. In determining whether the Bidder has made Good Faith Efforts, SMBR will consider, at a minimum, the Bidder's efforts to do the following:

(A) Solicit certified MBE/WBE subcontractors with a Significant Local Business Presence (SLBP) and request a response from those interested subcontractors who believe they have the capability to perform the work of the contract through at least two reasonable, available, and verifiable means. The Bidder must solicit this interest more than seven (7) business days prior to submission of the *MBE/WBE Compliance Plan* to allow sufficient time for the MBEs or WBEs to respond. (The date bids/proposals are due to the City should not be included in the seven day solicitation criteria). The Bidder must state a specific and verifiable reason for not contacting each certified Firm with a significant local business presence.

(B) Provide interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a proposal.

(C) Negotiate in good faith with interested MBEs/WBEs that have submitted bids/proposals to the Bidder. An MBE/WBE that has submitted a bid to a Bidder but has not been contacted within five (5) business days of submission of the bid may contact SMBR to request a meeting with the Bidder. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work. Bid shopping is prohibited.

(D) Select portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE/WBE goals or subgoals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces.

(E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media).

(F) Use the services of available community organizations; minority persons/women consultants' or groups in the applicable field for the type of work described in this solicitation; local, state, and federal minority persons/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs.

(G) Seek guidance from SMBR on any questions regarding compliance with this section.

The following factors may also be considered by SMBR in determining compliance through good faith efforts; however, they are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive:

(A) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or consultant.

(B) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

In assessing minimum good faith efforts, SMBR may consider whether the Bidder sought assistance from SMBR on any questions related to compliance with this section. In addition, SMBR may also consider the performance of other Bidders successfully meeting the goals.

The ability or desire of a Bidder to perform the work of a contract with its own organization does not relieve the Bidder of the responsibility to make Good Faith Efforts.

Bidders may reject MBE/WBEs as unqualified only following thorough investigation of their capabilities. The MBE/WBE's membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Bidder's efforts to meet the project goals or subgoals.

At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):

- Fax logs, emails, and/or copies of documents sent to firms within the SLBP area
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media
- Other communications regarding contacts with trade associations and Chambers of Commerce

The following additional Good Faith Efforts factors may also be considered:

- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance (as required by City or Consultant)
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials, or services
- Copies of all proposals received in response to Bidder contacting other Firms

POST-AWARD INSTRUCTIONS
(See Appendix C)

Confirmation Letters

All Bidders are required to include copies of the confirmation letters received from subcontractors, confirming the Subcontractors' willingness to provide services should the contract be awarded.

Changes to the *MBE/WBE Compliance Plan* including additions, deletions, contract changes, or substitutions of subcontractors are permitted only after contract execution and only with prior written approval of SMBR. Request for changes to the *MBE/WBE Compliance Plan* must be submitted on the Request for Change of *MBE/WBE Compliance Plan* Form for all levels of subcontracting and must be approved by the SMBR Director prior to adding, deleting, changing or substituting any subcontractor.

Post-Award Monitoring

The City will monitor post-award compliance information regarding the use of certified MBE/WBE Firm(s) listed on the *MBE/WBE Compliance Plan*. The Bidder will be required to submit post award reports detailing the utilization of all subcontractors. The reports and other information regarding post-award compliance will be discussed with the successful Bidder. The following information on Payment Verification, Change Order/Contract Amendments, and Progressive Sanctions provides an overview of some of the post-award monitoring process.

- **Payment Verification**

Bidders are advised that the contract resulting from this solicitation includes a subcontractor payments clause. This clause requires all subcontractors to be paid within ten (10) calendar days from the date that the Bidder has been paid by the City for invoices submitted by subcontractors.

The Bidder shall submit a *Subcontractor/Supplier Awards and Expenditures Report* to the project manager and/or contract administrator at the time specified by the managing department. The report shall be in the format required by the City and shall include all awards and payments to subcontractors for goods and services provided under the contract during the previous month. This report may be used by the City to verify utilization of and payment to MBEs and WBEs.

The Bidder and/or any subcontractor whose subcontracts are being counted toward the MBE/WBE requirements shall allow the City access to records relating to the contract, including but not limited to, subcontracts, payroll records, tax information, and accounting records, for the purpose of determining whether the MBEs/WBEs are performing the scheduled subcontract work.

In determining achievement of MBE/WBE goals, the participation of an MBE/WBE subcontractor shall not be counted until the amount being counted toward the goal has been paid.

- **Change Order/Contract Amendments**

The goals on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project. The Bidder is required to make Good Faith Efforts to obtain MBE/WBE participation for additional scopes of work.

Change orders that do not alter the type of trades originally required to accomplish the project may be undertaken using the subcontractors already under contract to the Bidder. Project managers will have automatic SMBR approval

to authorize any change order that **increases** the contract amount for an **existing** certified subcontractor and is **within** the existing scope being performed by that subcontractor.

- **Progressive Sanctions**

The successful Bidder's MBE/WBE Compliance Plan will be incorporated into the resulting contract with the City and shall be considered part of the consultant's performance requirements. Progressive sanctions may be imposed for failure to comply with Chapter 2-9C of the City Code, including:

- Providing false or misleading information in Good Faith Efforts documentation, post award compliance, or other Program operations;
- Substituting Subcontractors without first receiving approval for such substitutions, which may include the addition of an unapproved Subcontractor and failure to use a Subcontractor listed in the approved MBE/WBE Compliance Plan ; and
- Failure to comply with the approved MBE/WBE Compliance Plan without an approved Request for Change, an approved Change Order, or other approved change to the Contract.

Please refer to Section 2-9C-25 of the City Code and SMBR Rule 11.5 for additional information.

Appendix A

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

Section I — Project Identification and Goals

Project Name	2019 Disparity Study
Solicitation Number	RFQS 7600 CTE4001

Project Goals or Subgoals	
Combined MBE/WBE	1.40 %
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

Section II — Bidder Company Information

Company Name		
Address		
City, State Zip		
Phone		
Fax		E-Mail
Name of Contact Person		
Is your company registered on Vendor Connection?	Yes ☐ *If yes, provide Vendor Code* _____ No ☐ All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.austintexas.gov/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes ☐ No ☐ *(If yes, please indicate type below)* 1. MBE ☐ WBE ☐ MBE/WBE ☐ Joint Venture ☐ 2. AA ☐ H ☐ A/N ☐ WBE ☐	

City of Austin SMBR Use Only

I have reviewed this Compliance Plan and found that the Bidder ***HAS*** ☐ ***HAS NOT*** ☐ *complied as per the City Code Chapter 2-9A through GFE.*

Reviewing Counselor _____ Date _____

I have reviewed this Compliance Plan and have found the Bidder ***COMPLIANT*** ☐ ***NON-COMPLIANT*** ☐

Director /Assistant Director _____	Date _____

Section III — MBE/WBE Compliance Plan Summary

Directions:

- For each subcontractor listed in Sections IV, V, VI or VII, fill in all blanks (if applicable).
- For project participation numbers use an EXACT number.
- Goal percentages should be based on the Base Bid amount only. Allowances are not included.
- Alternates are not recorded on this MBE/WBE Compliance Plan.
- If bidder is a certified M/WBE, include participation details in the Bidder box ONLY.
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.

Is the stated project goal of the solicitation met? *(If no, attach documentation of Good Faith Efforts)* Yes ☐ No ☐

PROPOSED PARTICIPATION GOALS **Use this section to calculate participation.** **Include all details including the total dollar amount and percentage for each category where applicable.**		
	MBE/WBE Project Goal	**Bidder Participation Goal**
African American	%	%
Hispanic	%	%
Asian/Native American	%	%
WBE	%	%
MBE	%	%
MBE/WBE Combined	**1.40 %**	%
Non-Certified		%
Total Subcontractor Percentage Amount		%
Bidder's Own Participation **(less any subcontracted amount)** Are you counting your own participation toward the goals? **(if yes, indicate below)** ☐ AA ☐ HIS ☐ A/NA ☐ WBE ☐ MBE		%

For SMBR Use Only:

Verified participation for each category:

African-American _____ % **Hispanic** _____ % **Asian/Native American** _____ % **WBE** _____ %

MBE _____ % **WBE** _____ % **Combined MBE/WBE** _____ %

Prime _____ % **Non-Certified** _____ %

Section IV — Disclosure of MBE and WBE Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Section V — Disclosure of Non-Certified Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? **Yes** ☐ **No** ☐ **If no, state reason(s) below and attach documentation:**

Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		

Section VI — Disclosure of Second-Level Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes ☐ No ☐

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII ***must*** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE *Compliance Plan.*** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes ☐	No ☐
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes ☐	No ☐
• Copy of advertisements placed in local publication	Yes ☐	No ☐
• Copy of notices sent to Minority and Women organizations	Yes ☐	No ☐
• Documentation that demonstrates additional GFEs: o Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor o Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services o Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice	Yes ☐	No ☐

Were additional elements of work identified to achieve the goals or subgoals? Yes ☐ No ☐

If yes, please explain: _____

Was SMBR contacted for assistance? Yes ☐ No ☐

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes ☐ No ☐

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

Appendix C

CONFIRMATION LETTER

Name of Prime Contractor: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Contract Amount:

Project/Solicitation Number: ___ _____

Project Name: _____

Type of Agreement *(check one)*: ☐ Lump Sum ☐ Unit Price ☐ Commodity

Period of Performance: _____ Level of Subcontracting (*check one):* ☐ 1st ☐ 2nd ☐ 3rd

Legal Name of Subcontractor*: _____

Subcontractor* Vendor Code: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Subcontract Amount: _____

Commodity Code and description of work to be performed by Subcontractor Firm:

_____

_____

The Prime Contractor and the Subcontractor listed above agree that the Prime Contractor has provided the Subcontractor with a copy of the City's prevailing wage requirements

Prime Contractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

Subcontractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

***Including Suppliers, Manufacturers, Alternates**

SAMPLE

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 4 **Date of Addendum: 9/24/2019**

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

I. Clarifications:

1. Delete in its entirety **Addendum 3** replace with **Addendum 4**

2. Delete in its entirety **Section 0500 Scope of Work** replace with **Section 0500 Scope of Work Version 1.1 Revised 092319**

3. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319**

4. Delete in its entirety **CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE** replace with **Revised CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE**

II. Questions:

Q1) Has the City identified outside legal counsel for the Disparity study?

A1) The City has not identified Outside counsel. The City's Law Department will determine if, and when, outside counsel is needed for the Disparity Study.

Q2) Will airport concessions be included in the scope of the study?

A2) Airport Concession has been removed from this scope of work.

Q3) Where in the proposal should the detailed description of methodology go?

A3) Updates to information regarding the detailed description methodology has been included in this addendum and referenced in Section **0500 Scope of Work Version 1.1 Revised 092319** and **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 Revised 092319.**

Q4) Was this project previously presented as a suggested sole source project?

A4) This project was never suggested as a sole source project. The City requested a Professional Services exemption and identified a firm for City Council consideration.

Q5) Does the City intend to issue another revised RFQ to address issues related to Airport Concessions DBE, size of contract, etc.

A5) The City will not issue a separate RFQS for an Airport Concessions DBE.

Q6) Page 3 of the RFQS states, "The City's data includes…total amounts paid to MBE/WBEs and DBEs…" Please clarify, does the City maintain electronic data on payments to non-MWDBE subcontractors?

A6) The City maintains electronic data on all payments to Primes and all subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q7) For the prime contract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Unique contract number.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Contract title.***
- ***Contract description.***
- ***Industry category description.***
- ***Industry category code, such as NAICS or NIGP.***
- ***Whether there was a MWBE or DBE goal.***
- ***Funding.***

A7) For all contract data, the City maintains the information outlined for both the Prime and the subcontractor. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q8) "For the subcontract data the City maintains, please note whether the data maintained includes the following information for all, some, or none of the contracts. Please indicate whether the data are available electronically or only in hard copy. Please answer separately for MWDBE subs and non-MWDBE subs.

- ***Firm name.***
- ***Firm address, city, state, zip code.***
- ***Firm phone number.***
- ***Firm email address.***
- ***Firm contact person.***
- ***Firm owner race and gender.***
- ***Prime contract number.***
- ***Prime contract title.***
- ***Start date of contract.***
- ***End date of contract.***
- ***Award amount.***
- ***Amount paid (total or to date).***
- ***Type of work performed.***
- ***Industry category code, such as NAICS or NIGP."***

A8) For all contract data, the City maintains the information outlined above for both the Prime and the subcontractors. The data included is for both M/WBEs/DBEs and non-M/WBEs/DBEs

Q9) If the required participation goal is met, is good faith effort (GFE) documentation required?

A9) If the solicitation goal is met using certified COA M/WBEs then GFE is not required.

Q10) What date is the MBE/WBE Compliance Plan due?

A10) The M/WBE Compliance Plan is due on the same date and time as the solicitation due date provided on the coversheet for the solicitation.

Q11) What was the budget for the previous Disparity Study?

A11) The budget was also estimated at under $1 million.

Q12) The compliance plan requires the prime firm to subconsultant 1.4 % of their efforts for the project. How can this be applied if the estimated contract amount is not known?

A12) The combined MBE/WBE Goal of 1.4% will be applied to the negotiated contract value.

Q13) Will a performance bond be required for this project?

A13) A performance bond is not required.

Q14) Since this is not an IFB, is the proposed bid dollar section within the compliance plan applicable?

A14) The bid dollar section is not applicable for this type of procurement method. A revised compliance plan has been included in this addendum.

Q15) Why were projects less than $50,000.00 not included?

A15) Projects below the $50,0000.00 threshold are not reviewed by SMBR for application of the MBE/WBE Program.

Q16) Is a schedule to complete the Disparity Study, required at the time the responses are due?

A16) A schedule is not required at the time the response due. The schedule will be determined after the contractor is selected. Please reference the scope, it states the City anticipates that the study will be completed by the contractor within 12 months after a Notice To Proceed has been issued.

Q17) How do you access the form 0810?

A17) Form 810 should be accessed via the link included in the solicitation: Activate the page and select Procurement >Solicitations>Standard Bid Documents, you are then able to scroll down to the selected form

Q18) How many firms will be short-listed?

A18) The number of firms shortlisted will depend on the number of responses and the overall scores allocated to each response.

Q19) Will the legal Council the City has identified for this Disparity Study be able to respond to this solicitation?

A19) On the issue of providing legal services, those services will be handled by the City's Law Department. If outside counsel is needed, the Law Department will follow the proper procedure to obtain those. Issues of conflict of interest will be handled at that time, if needed.

Q20) What forms of contact are applicable for Good Faith Efforts?

A20) Please see the instructions for Good Faith Efforts contained within the MBE/WBE Procurement Program packet contained in the solicitation.

Q21) When is the compliance plan due and how should it be submitted?

A21) The Compliance plan is due at the same time responses are due. The compliance plan should be submitted in a separate, signed envelope entitled Compliance Plan and containing the project name.

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

IV. ACKNOWLEDGED BY:

_____	_____	_____
Name	Authorized Signature	Date

<u>RETURN ONE COPY OF THIS ADDENDUM</u> 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.

CITY OF AUSTIN
PURCHASING OFFICE
REQUEST FOR QUALIFICATION STATEMENTS (RFQS)
SOLICITATION NUMBER: RFQS 7600 CTE4001
SCOPE OF WORK
Version 1.1 Revised 092319
DISPARITY STUDY - MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

1. OBJECTIVE OF THE PROJECT:

The City of Austin (City) seeks responses to this Request for Qualifications Statements (RFQS) from contractors experienced in conducting Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE)) disparity studies. The selected contractor (Contractor) shall conduct a MBE/WBE/DBE disparity study (Disparity Study) consistent with constitutional mandates, governing law, and MBE/WBE/DBE best practices. The Contractor's final report shall outline the results of the Disparity Study and clearly and concisely offer the Contractor's recommendations consistent with the findings and governing law.

2. DEFINITIONS:

For purposes of this RFQS, the following terms have the meanings set out below:

a) **MBE:** refers to Minority-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §§2-9(A-C)-4(31) and §2-9D-4(32).
b) **WBE:** refers to Women-owned Business Enterprise as the term is defined in the MBE/WBE Ordinance at §2-9A-4(47) and §§2-9(B-D)-4(48).
c) **MBE/WBE Ordinance:** refers to Chapter 2-9(A-D) of the City's Ordinance, found at https://library.municode.com/tx/austin/codes/code_of_ordinances.
d) **City's MBE/WBE Program:** refers to the City of Austin's Minority and Women Business Enterprise Procurement Program, as incorporated in the MBE/WBE Ordinance and the City's Program Rules, found at https://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/Rules/Rule_Adoption_SMBR_March_4_2019.pdf.
e) **DBE:** refers to Disadvantaged Business Enterprise, as the term is defined by the federal regulations at 49 CFR §26.5.
f) **City's DBE Plan:** refers to the program the City has established in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City's DBE Plan can be found at http://www.austintexas.gov/department/disadvantaged-business-enterprise-dbe-program

3. BACKGROUND:

The City's MBE/WBE Program is based on a series of disparity studies that were conducted in response to the 1989 U. S. Supreme Court decision, *City of Richmond v. J.A. Croson Co*, 488 U.S. 469 (1989). The *Croson* decision held that a local government may redress race discrimination in its contracting activities, if it can demonstrate through relevant evidence a compelling governmental interest sought to be

remedied, and that the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

Even prior to *Croson*, in anticipation of the adoption of the City's first MBE/WBE Ordinance, the City Council determined the need for an affirmative action program based on evidence collected in 1987 showing disparities in MBE/WBEs performing work for the City as prime contractors and subcontractors.

In 1992, the City responded to *Croson* by engaging a Contractor to conduct a disparity study to measure the availability of MBE/WBEs in the City's marketplace and any disparities in the City's utilization of these businesses. Evidence continued to demonstrate that MBE/WBEs were being underutilized in contracting opportunities on City contracts as a result of private sector discrimination. The City Council adopted a revised MBE/WBE Ordinance to reflect these conclusions.

In 2003, the City engaged a contractor to conduct an updated disparity study of the availability and utilization of MBE/WBE firms. The 2003 study indicated that there continued to be an underutilization of MBE/WBEs available to perform the work on City contracts. These efforts resulted in a revised MBE/WBE Ordinance, based upon the new evidence and recent court rulings.

The City retained a contractor in 2005 to conduct an updated disparity study. Again, significant barriers to full and fair participation on City contracts remained. In response, the City amended the MBE/WBE Ordinance in 2006.

The City retained a contractor in 2008. The current MBE/WBE Ordinance reflects the findings of this study, which identified disparities between the number of available MBE/WBES and the number actually utilized on City contracts.

The last disparity study was completed in 2015 and found discrimination continued in the City's marketplace.

The current MBE/WBE Ordinance sunsets on March 30, 2020. However, the City will extend this sunset date to allow enough time to complete and implement recommendations from this study, as appropriate.

As the owner and operator of Austin-Bergstrom International Airport (ABIA), the City has also established a program for DBEs (DBE Plan). The City's DBE Plan was designed to provide small businesses owned and controlled by socially and economically disadvantaged individuals an equal opportunity to participate in the City's airport concession DBEs, pursuant to 49 CFR Part 23, and in City contracts utilizing DOT federal contract dollars, pursuant to 49 CFR Part 26.

The City's Small and Minority Business Resources (SMBR) Department is responsible for managing, implementing, and operating the City's MBE/WBE Program and DBE Plan. SMBR performs an array of services including contractor certification, contract compliance (pre-award and post-award), community outreach, and coordination of City resource services (plan room and bonding assistance). It serves as an enforcement arm to ensure compliance with the MBE/WBE Ordinance by all City departments. The link for the City's governmental structure organization chart can be found at https://www.austintexas.gov/sites/default/files/files/City_Manager/COAOrgChart02_04_2019.pdf.

SMBR will be the pivotal department for the selected Contractor.

4. REQUIRED SERVICES:

The Contractor will perform a comprehensive Disparity Study to determine the availability of and opportunities for MBEs, WBEs, DBEs to participate in the City's contracting and procurement. The Disparity Study shall be based on historical data from Fiscal Year 2013-through Fiscal Year2018, collected by the City. The City's data includes total contract amounts and total amounts paid to MBE/WBEs and DBEs, recorded by industry, race/ethnicity, and gender. The City has collected this data on prime contractors and subcontractors. The City's data has been catalogued using Advantage Financial and eCapris (in-house) software and is available in electronic format. The City's data for the 2008-2013 disparity study contained 475 contracts categorized as "construction", 1,539 contracts categorized as "commodity", 479 contracts categorized as "professional services", and 1,439 contracts categorized as "general services/non-professional services". In all, a total of 3,932 contracts/purchase orders were contained in the data sets.

The Disparity Study shall analyze whether a disparity exists between the number of available MBE/WBE/DBE -owned businesses' in the City's geographic and product markets and the number being utilized on City contracts. The Disparity Study will analyze MBE/WBE/DBE -owned businesses' availability and participation both as prime contractors and subcontractors in specific industries (identified by commodity codes) within the broader categories of construction, professional services, non-professional services, and commodities. The Contractor shall not be expected to analyze the data associated with contracts with a value of less than $50,000. More specifically, the selected Contractor must perform the following elements of work (collectively referred to as the Project):

a. Provide detailed and up-to-date overview of current constitutional standards and case law on race-conscious government efforts in public contracting;
b. Provide an outline and discuss in detail the legal requirements for both race- and gender-conscious programs operated by local governments, as set forth in *Croson*, and *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995) (*Adarand*) and any other decisions that bear on the abilities, legal rights and obligations of state and local governments to implement race- and gender-conscious preference programs in the context of the study and analysis described in the Study goal. The Study shall include an explanation of the methods and practices to be employed by the City to comply with such legal requirements and shall also specifically address:
    - The application of the strict scrutiny standard of review for race-conscious remedies and the intermediate scrutiny standard of review for gender-conscious remedies;
    - The method(s) by which identifiable discrimination against MBEs or WBEs directly related to public entities' contracts can be determined; and
    - Analysis of any available judicial or administrative public hearing transcripts, summaries, or findings as to allegations of commercial discrimination made against contractors, subcontractors, vendors, contractors and Texas political subdivisions.
c. Determine the City's appropriate geographic market area.
d. Determine the City's product markets, or those industries within the major procurement categories (construction, professional services, non-professional services, and commodities) that are most indicative of work performed on City contracts.
e. Determine if there are disparities in the City's contracting and procurement;

f. Determine the availability of MBE/WBE/DBE-owned businesses' (classified by industry, race/ethnicity, and gender) in the City's geographic and product markets that are ready, willing, and able, with the capacity to do business with the City. The Contractor's methodology for determining availability shall rely on more than just census data to ensure most firms are captured and that ownership is verified. When determining DBE availability, the Contractor shall analyze whether an adjustment to the availability figures is warranted to account for any effects discrimination may have had on the availability of such firms, as is required under 49 CFR §26.45(d) of the DBE federal regulations (referred to as the "Step 2 adjustment") and 49 CFR §23.51(d);
g. Determine the City's utilization of available MBE/WBE/DBEs, classified by industry, race/ethnicity and gender in the City's geographic and product markets; Examine, document and detail if there is statistical evidence of disparities in the contracting and subcontracting activities within the City. If disparities as described above do exist, determine whether the effects of any past discrimination against MBE/WBE/DBEs in the City's procurement of goods and services and professional services as well as in construction contracts and concession contracts exists or continues to exist within the geographical market, as a result of direct action by the City, or as a result of the City's role as a passive participant in discriminatory behavior practiced by entities that do business with the City.
h. If disparity as described above does exist between the utilization of MBE/WBE/DBEs, that results from any cause or causes described in the second issue, whether the use of only race- or gender-neutral and/or economically-based measures would be effective to remedy such discrimination.
i. Determination of a basis by which the City will originate goals that apply to the participation of MBE/WBE/DBEs.
j. If race- or gender-neutral and/or economically-based measures alone would not be effective to remedy such discrimination, the Contractor will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its MBE/WBE Program. The resultant formula should effectively offset past and present discrimination against MBE/WBE/DBEs while remaining sufficiently narrowly tailored to refrain from needlessly violating the rights of non-MBE/WBE/DBEs or their owners.
k. Collect and analyze anecdotal evidence on the experience of businesses in the City's markets, including business–owners and community stakeholder's input, which may include interviews, surveys and other methods approved by SMBR, to buttress identified statistical disparities.
l. To the extent necessary and possible, collect data regarding other public entities' utilization of MBE/WBE/DBEs with similar geographic and product markets. Document and explain the significance of these findings, including if the City is underutilizing MBEs, WBEs, DBEs.
m. Determine whether and to what extent artificial barriers and/or discrimination exist in the private sector. This determination will require an analysis of MBE/WBE/DBE's and private sector success relative to non-MBE/WBE/DBE's private sector success.
n. Identify potential additional industries (not reflected in City's current data or the City's MBE/WBE Program) by commodity code with MBE/WBE availability
o. Based on analysis and review of the City's MBE/WBE Program (the MBE/WBE Ordinance and accompanying rules) and the City's DBE Plan and applicable governing law, provide recommendations, including race- and gender-neutral means, for addressing any identified disparities. These recommendations should address annual ethnic-specific goals (and provide guidance on determining project-specific goals), the certification process, and any other related compliance issues.

This Scope of Services does not include legal services, nor does it include a legal component other than what is specifically provided above. The City may separately retain legal counsel to provide legal advice to the City, if needed.

5. Deliverables:

The contractor shall specifically deliver the following:

a. Monthly progress reports, including, when appropriate, progress of deliverables, summaries of meetings, analyses and assessments in progress or completed, and upcoming items.
b. A draft of the Contractor's final report for review and comment by the City, and a final version of all relevant reports, including, but not necessarily limited to, an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program.
c. A final report revised based on feedback by the City on the draft report, on the Disparity Study, including an executive summary, an overview of relevant case law, the Disparity Study with detailed discussion of the of the Contractor's methodology and analysis, and recommendations based on Contractor's findings and review of the City's MBE/WBE Program. The final report shall be written in clear and concise language using consistent terms; easy to understand; organized in a logical manner; fully illustrated with relevant examples; and consistent with widely accepted methodology. Unless otherwise permitted by the City, the final report and all data and records developed in conjunction with the final report and Disparity Study shall be submitted to the City as two hard copies and one electronic copy (in Microsoft Office 2007 or later) to permit future use by the City of Austin.
d. Present Disparity Study findings to relevant City Departments, relevant Boards and Commissions, and the City Council, and otherwise cooperate with the City in facilitating dissemination of the Disparity Study results to the City and the public.
e. In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan.

6. <u>QUALIFICATIONS</u>:

a. The experience, knowledge, and capabilities of the Contractor's personnel and sub-contractors (the Project Team) will be thoroughly evaluated to determine the Contractor's ability to timely deliver a legally defensible Disparity Study developed consistent with best practices and meeting the legal requirements established by the Courts. It is the Contractor's responsibility to secure all services necessary to meet the requirements of this solicitation.

b. Staff Replacement

Proposed replacement staff throughout the life of the contract shall meet minimum qualifications and have experience comparable to the person(s) being replaced. Resume(s) and references may be requested for the proposed replacements. Substitution of professional personnel after the award may be a basis for termination of the Study contract unless agreed to by the City. The City retains the right to object to any subtraction, addition or substitution of

proposer staff assigned to the Study made 10 days after the City's approval of the project award. If the City objects to any subtraction, addition or substitution of proposer's staff, proposer shall refrain from making any such change to the composition of its staff assigned to the Study.

7. SCHEDULE:

The MBE/WBE/DBE Disparity Study shall be completed by the Contractor within 12 months after issuance of notice to proceed from the City. The completed study shall be submitted to the City's Contract Manager.

8. ANTICIPATED BUDGET:

The City's estimated Fiscal year 2020 budget is $1,000,000, to be spent on the Contractor's contract, and any other associated costs. By submitting a response to this RFQS, the Contractor acknowledges this overall budget and represents that the Contractor believes its anticipated costs shall not cause the City to exceed the overall budget.

CITY OF AUSTIN
PURCHASING OFFICE
RESPONSE PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQS 7600 CTE4001
Version 1.1 Revised 092319

1. SUBMITTAL FORMAT:

Submit one original paper copy and an electronic copy of the original response in PDF version on a flash drive. The original response shall contain ink signatures and shall be typed on standard 8 ½" X 11" paper, double-sided, and have consecutively numbered pages.

The response itself shall be organized in the following format and informational sequence. Use tabs to divide each part of the response and include a Table of Contents:

Section I

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

A. Signed Offer Sheet
B. Section 0630 Exceptions, completed
C. Section 0800 Non-Discrimination and Non-Retaliation Certification Completed and signed
D. Section 0805 Non-suspension or Debarment Certification
E. Section 0810 V2 Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit
F. Section 0835 Non-Resident Bidder Provisions
E CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – Appendix A MBE/WBE COMPLIANCE PLAN
G. All signed Addendums (all pages)

Tab 2 – Authorized Negotiator: Provide name, mailing address, email address, and telephone number of the officer or other representative in your organization authorized to negotiate and execute binding contract terms.

Tab 3 – Executive Summary: In no more than three pages, provide an Executive Summary in brief, concise terms of your qualifications related to this RFQS. Include the number of years your organization has been in business, a summary of your organization's history and experience, and how your organization is the most qualified to carry out the Scope of Work (reference Section 0500).

Tab 4 – References: Provide a minimum of five references for organizations that have received comparable and satisfactory disparity, availability or utilization analysis services from the proposer within the past 10 years. Proposer shall include the following for each:

- Organization
- Organization contract manager name and title, phone number, and email address
- Detail of the work completed for the organization
- Year contract was awarded and length of contract
- Initial budget of project/contract
- Final invoiced amount of project/contract

Tab 5 – Personnel & Company Qualifications: Provide a general explanation and organizational chart for your company which specifies the structure and reporting responsibilities of personnel. If the use of subcontractors is proposed, identify their placement in the structure and provide a description for each subcontractor's responsibilities.

For Personnel listed above, please provide:

- Resumes and/or professional experience including Curriculum Vitas (CVs) if applicable and education for executive leadership listed on the organizational chart, including any professional trainings, degrees and/or certifications held.

Tab 6 – Company and Personnel Experience

A. **Company Information**: Respondents must include a profile of the Offeror's experience developing and conducting disparity, availability and utilization studies of M/WBE, SBE, DBE and ACDBE Programs. Respondents should demonstrate their ability to meet the constitutional requirements promulgated in Croson and subsequent cases. Profiles shall include, but not be limited to, any experience of Respondent's personnel serving as designated testimonial or consulting expert witnesses under the Federal Rules of Civil Procedure or comparable state rules, in Croson litigation or other lawsuits challenging race- or gender-conscious contracting programs.

B. **Principal Researcher**: Respondent's must identify a researcher who will be the principal point of contact and will exercise responsibility for the overall conduct, day-to-day activities and timeliness of the Study ("Principal Researcher"). The Principal Researcher should have served in this capacity on a similar disparity or availability study. Other professional team members must also be identified by name, title, qualifications and duties to be performed in producing the study. Respondent agrees that the Principal Researcher and other key staff assigned to the Study shall remain available for contact, direction, and management by the City during the entirety of the project throughout the term of the contract as long as that individual is employed by the Respondent. At least one member of Respondent's personnel assigned to the study must have a doctorate degree in economics or statistics from an accredited university and be able to apply statistical measurements in conformity with scientifically valid and accepted methods specific to disparity studies.

C. **Legal Counsel** – Respondent must identify a licensed attorney or law firm that is experienced in disparity studies and compliance monitoring and who will provide services to the Respondent for this Study, on the legality of policies, development of the legal framework, analysis of disparity study assignments and consult on other legal issues for this Study.

D. **Staffing/Staff Replacement** – Respondent shall provide a list of additional staff which may be assigned to the study and must demonstrate its ability, if necessary, to provide qualified additional and/or replacement staff to meet the Study's due date(s).

E. **Litigation Report** – Respondent shall provide a listing and disposition of all state and federal court cases, including its Principal Researcher, participated and which involved their research or consultation in disparity studies and availability and utilization studies.

Section II

Acceptance Period: All responses are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFQS closing date unless a longer acceptance period is offered in the response.

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

the Texas Attorney General. Failure to identify proprietary or confidential information will result in all unmarked sections being deemed non-proprietary or non-confidential and available upon public request.

Preparation Costs: All costs directly or indirectly related to preparation of a response to the RFQS or any oral presentation required to supplement and/or clarify an offer which may be required by the City shall be the sole responsibility of the Offeror.

Compliance: The Offeror agrees to compliance with terms of this RFQS and with all applicable rules and regulations of Federal, State, and Local governing entities.

Section III

EVALUATION FACTORS AND AWARD:

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

B. Evaluation Factors: All responses will be evaluated based on the following criteria and rankings. **Maximum 100 points.**

1. **References –** reference Section I, tab 4 **(20 points)**
2. **Qualifications: Personnel and Company–** reference Section I, Tab 5 and 6 **(80 points)**

2.1. **Experience of Project Lead (30 points)**

Provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, designing, and leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the study was conducted; name of the entity which requested the study; price of the study; study description/scope; project lead duties and responsibilities for each project/study

2.2. **Experience of Disparity Study Firm (20 points):**

Provide at least three (3) and no more than five (5) projects leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the entity which requested the study; final price of the study; study description; and your role in the study.

Identify any projects that were intended to lead to a disparity study for a municipality, state or other jurisdiction over the past 10 years that did NOT lead to the intended disparity study. If you can, identify the entity requesting the work, your role in the work, and the reason(s) it did result in a finished disparity study.

2.3. **Proposed Methodology (15 points):**

The City is interested in the proposed methodology to be used to conduct this study. Proposers should provide a detailed discussion of your firm's approach, key considerations to the analysis (qualitative and quantitative) and the approach to identify and correct errors in quantitative data.

2.4. **Experience with Municipal Entities (15 points**):

The Austin City Council adopted a strategic direction on March 8, 2018, guiding the City of Austin for the next three to five years. *Austin Strategic Direction 2023* outlines a shared vision and six priority Strategic Outcomes: *Together we strive to create a complete community where every Austinite has choices at every stage of life that allow us to experience and contribute to all of the following outcomes:*

- **Economic Opportunity and Affordability:** Having economic opportunities and resources that enable us to thrive in our community.
- **Mobility:** Getting us where we want to go, when we want to get there, safely and cost-effectively.
- **Safety:** Being safe in our home, at work, and in our community.
- **Health and Environment:** Enjoying a sustainable environment and a healthy life, physically and mentally.
- **Culture and Lifelong Learning:** Being enriched by Austin's unique civic, cultural, ethnic, and learning opportunities.
- **Government That Works for All:** Believing that city government works effectively and collaboratively for all of us - that it is equitable, ethical and innovative

SMBR and its MBE/WBE/DBE Programs are aligned with the Economic Opportunity and Affordability outcome. Please describe your experience in working with municipalities for disparity studies. Describe your experience with handling a disparity study analysis in conjunction with the unique challenges of municipal boundaries, authority, and regulatory environment and how the SMBR, the disparity study and ultimately its MBE/WBE program can best achieve the outcome of Economic Opportunity and Affordability as outlined in Strategic Direction 2023 (SD23). The link to SD23 is:
https://www.austintexas.gov/financeonline/afo_content.cfm?s=73&p=160

C. Reservations:

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

2. The City reserves the right to require short listed vendors selected for demonstrations or presentations to provide a minimum of two (2) most recent years of audited annual reports that evidence the financial health of the organization. In the event that audited financial statements cannot be provided, the Vendor must provide financial information that will enable the City to accurately assess financial stability and viability. Vendors unwilling to provide this information or whose financial information is deemed as not demonstrating financial stability will not be considered for award.

CITY OF AUSTIN

CITY CODE CHAPTER 2-9C
NON-PROFESSIONAL
MBE/WBE PROCUREMENT PROGRAM

Solicitation Name: 2019 Disparity Study

Solicitation Number: RFQS 7600 CTE4001

Issue Date: 08/19/2019

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CONFIRMATION LETTER **18**

MBE/WBE GOALS

Annual/Project Participation Goals				Annual/Project Participation Subgoals		
MBE		%	OR	African American		%
WBE		%		Hispanic		%
Combined MBE/WBE	1.40	%		Asian/Native American		%
				WBE		%

OVERVIEW

This document should be read in conjunction with the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance for Commodities (Chapter 2-9C of the Austin City Code) and the Small and Minority Business Resources Department (SMBR) Rules. The definitions contained in Chapter 2-9C apply to this document. The City Code and Rules are amended from time to time and the Bidder is responsible for ensuring they have the most up to date version. The City Code and Rules are incorporated into this document by reference. Copies of Chapter 2-9C and SMBR Rules may be obtained online at http://www.austintexas.gov/smbrdocuments or from SMBR, 4201 Ed Bluestein, Austin, Texas 78721 (512) 974-7600.

Firms or individuals submitting responses to this Invitation for Bid agree to abide by the City's Minority-owned and Women-owned Business Enterprise (MBE/WBE) Procurement Program and Rules. The City's MBE/WBE Program is intended (1) to promote and encourage MBEs and WBEs to participate in business opportunities with the City of Austin; (2) to afford MBEs and WBEs an equal opportunity to compete for work on City contracts; and (3) to encourage contractors to provide subcontracting opportunities to certified MBEs and WBEs by soliciting such Firm for subcontracting opportunities. The City of Austin and its contractors shall not discriminate on the basis of race, color, national origin, disability, or gender in the award and performance of contracts.

The City encourages Bidders to achieve the MBE/WBE participation goals and subgoals for this contract. However, Bidders may comply with the City Code and Rules without achieving the participation goals so long as they make and document Good Faith Efforts that would allow MBE and WBE participation per Section 2-9C-21 of the City Code and Section 9.1 of the Rules. Bidders that do not meet the project's goals and subgoals are subject to Good Faith Efforts review.

Prior to the due date and time specified in the City's solicitation documents, all Bidders (including those Firms certified as MBE/WBEs) shall submit: (1) an *MBE/WBE Compliance Plan* (Appendix A) and (2) if it is anticipated the project goals will not be met, all appropriate documentation to demonstrate Good Faith Efforts to meet the project goals. Any questions regarding preparation of the *MBE/WBE Compliance Plan* should be directed to SMBR at SMBRComplianceDocuments@austintexas.gov. Such contact is not a violation of the Anti-Lobbying Ordinance.

The City has implemented Anti-Lobbying Ordinance (Chapter 2-7 of the Austin City Code). Under Chapter 2-7, there is a "no-contact" period from the date the City issues a solicitation until the contract is executed. During the "no-contact" period, a person responding to a City solicitation can speak only to the contract's authorized contact person regarding their solicitation response. Chapter 2-7 allows certain exceptions; for instance, a person responding to a City solicitation may speak to SMBR regarding this *MBE/WBE Compliance Plan*. See the full language of the City Code or solicitation documents for further details.

MBE/WBE COMPLIANCE PLAN INSTRUCTIONS
(See Appendix A)

If the *MBE/WBE Compliance Plan* and Good Faith Efforts documentation are not submitted prior to the due date specified in the solicitation documents, the bid will be deemed non-responsive and not be accepted for consideration.

SMBR may request written clarification of items listed on the *MBE/WBE Compliance Plan*. However, there will be no further opportunity for the Bidder to augment the MBE/WBE participation originally listed in the *MBE/WBE Compliance Plan* or to demonstrate Good Faith Efforts that were not made prior to the submission of the *MBE/WBE Compliance Plan*. Changes to the *MBE/WBE Compliance Plan* are permitted only after contract execution and only with prior written approval of SMBR.

Please type or clearly print all information, use "none" or "N/A" where appropriate. ***MBE/WBE Compliance Plans* not complying with the *MBE/WBE Compliance Plan* Instructions shall be rejected as non-responsive. Submissions not utilizing the forms provided with the solicitation may render the submission nonresponsive or noncompliant.**

Section I Project Identification and Goals

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Bidder does not need to fill in any information under Section I.

Section II Bidder Information

The Bidder should complete this section with its information and sign in the space provided. The portion of Section II marked as "Reserved for City of Austin SMBR Only" should be left blank.

Section III MBE/WBE Compliance Plan Summary

This section is a summary of subcontractor participation for this Bid. Bidder should complete Sections IV-VII, described below, before attempting to complete Section III. After completing Sections IV-VII, calculate the percentage of MBE/WBE participation for each goal and enter the information in the blanks provided. Because Section III is a summary, if there are any inconsistencies between Sections IV-VII and Section III, the calculations contained in Sections IV-VII will prevail. If the Bidder indicates that they do not anticipate meeting the goals with certified MBE/WBE firms, then the Bidder shall submit documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals. The MBE/WBE Compliance Plan will be reviewed and approved by the Small and Minority Business Resources Department.

Section IV Disclosure of MBE and WBE Subcontractors

Please list all certified MBE/WBEs subcontractors using the legal name under which they are registered to do business with the City of Austin and the value of the work they will be performing themselves except for subcontractor(s) that will be performing the trucking or hauling scope of work (see Section VII below). Do not include the value of work that the MBE/WBE's subcontractors will be subcontracting to second-level subcontractors. By listing certified MBE and WBE Firms on the MBE/WBE Compliance Plan, the Bidder indicates that both parties acknowledge the price and scope of work and that they are prepared to contract for that price and scope if the City awards the project to the Bidder. Unit price subcontracts are acceptable if appropriate to the type of work being performed. A Letter of Intent (LOI) does not replace a binding contract between a prime contractor and a subcontractor.

Before completing Section IV of the *MBE/WBE Compliance Plan*, please read the following instructions regarding how to count MBE/WBE participation:

(A) Only the value of the work actually performed by the MBE/WBE shall be counted toward the goals. This includes:

(1) work performed by the MBE/WBE's own forces;

(2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the MBE/WBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the goal); and

(3) fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

(B) When a Bidder purchases supplies, materials, or equipment from an MBE/WBE, the cost of those supplies, materials, or equipment shall be counted toward the goals as follows:

(1) If the supplies, materials, or equipment are obtained from an MBE/WBE that is a Manufacturer or Regular Dealer, 100 percent of the payment for the supplies, materials, or equipment shall be counted toward the goals.

(2) If the supplies, materials, or equipment are obtained from an MBE/WBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the goals. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the goals if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

(C) When an MBE/WBE subcontractor listed on the MBE/WBE Compliance Plan subcontracts part of the work of its contract to another Firm, the value of that second-level subcontracted work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. Please see Section VI for an explanation of how to count the value of second-level subcontractors' work.

(D) A Firm owned by a minority woman may be certified as both an MBE and a WBE (dual certified). On a single contract, the value of the work performed by a dual certified subcontractor may not be counted toward both the MBE and the WBE goals. The Bidder must decide whether to designate the dual certified subcontractor as an MBE or a WBE in the MBE/WBE Compliance Plan for the purpose of meeting the goals set for that contract. That designation may not be changed for the duration of the contract.

(E) When an MBE/WBE performs as a participant in a certified Joint Venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the MBE/WBE performs with its own forces and for which it is at risk shall be counted towards the project goals. For more specific information regarding requirements and evaluations of certified MBE/WBE Joint Ventures, please see the City's MBE/WBE Procurement Program Rules or contact SMBR's Certification Division.

(F) Only expenditures to an MBE/WBE contractor that is performing a Commercially Useful Function shall be counted toward the project goals. If SMBR makes an initial determination that an MBE/WBE is not

performing a Commercially Useful Function given the type of work involved and normal industry practices, the MBE/WBE may present evidence to rebut this presumption.

(G) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date to submit the MBE/WBE Compliance Plan as specified in the City's solicitation documents. A Firm that is certified as an MBE/WBE at the time that the MBE/WBE Compliance Plan is filed may cease to be a certified Firm before the contract is completed. Only the value of the work performed by such a Firm while it is certified may be counted toward the project goals.

Section V Disclosure of Non-Certified Subcontractors

Please list all known non-certified subcontractors, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Bidder will not use any non-certified Firms, please write "N/A" in the first box on this page.

The scopes of work indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If Bidder did not meet the project goals, Bidder must explain in the space provided why MBEs/WBEs were not used as subcontractors and ***submit documentation for the stated reason if applicable.*** If Bidder did meet the project goals, please indicate "Goals Met" in the space provided.

Section VI Disclosure of Second-Level Subcontractors

Please complete this section if Bidders knows that one or more of Bidder's subcontractors will subcontract part of the work of their contracts to second-level subcontractors. In the last line of each entry box, please write the name of the first-level subcontractor that will be subcontracting work to the second-level subcontractor. Identify second-level subcontractors by the legal name under which they will be registered to do business with the City. The first-level subcontractor should be listed in Section IV or Section V. If Bidder is not aware of any second-level subcontractors, please write "N/A" in the first box on this page.

As discussed in Section IV above, when an MBE/WBE subcontractor subcontracts part of the work of its contract to another Firm, the value of that second-level subcontractor work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. The value of the second-level subcontractor work may be counted toward the project goals only based on the second-level subcontractor's own MBE/WBE certification, if any. Work that an MBE/WBE subcontracts to a non-certified firm does not count toward the goals. Work that an MBE/WBE subcontractor contracts to another certified firm shall not be counted twice towards the goal.

Section VII MBE/WBE Compliance Plan Checklist

Please complete the *MBE/WBE Compliance Plan Checklist* with the information requested if the stated project goal(s) are not met.

GOOD FAITH EFFORTS INSTRUCTIONS
(See *Appendices B and D)*

The Bidder has a responsibility to make a portion of the work available to MBE/WBE subcontractors so as to facilitate meeting the goals or subgoals. If the Bidder cannot achieve the goals or subgoals, documentation of the Bidder's Good Faith Efforts to achieve the goals or subgoals must be submitted at the same time as the MBE/WBE Compliance Plan. The SMBR Director will review the documentation provided and determine if the Bidder made sufficient Good Faith Efforts. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Bidder's failure to meet the goals and subgoals, as long as such costs are reasonable. However, a Bidder is not required to accept a higher quote from a subcontractor in order to meet a goal or subgoal.

Contacting Potential MBE/WBE Subcontractors

The City has determined the scopes of work for this project and provided an Availability List of all the MBE and WBE firms certified to perform those scopes. The *Availability List* (Appendix D) is included with the solicitation documents and has two sections: *Vendors Within the Significant Local Business Presence (SLBP) Area* and *Vendors Outside the Significant Local Business Presence (SLBP) Area*. As part of Good Faith Efforts, Bidders ***must*** contact ***all*** firms listed in the *Vendors Within the SLBP Area* section. Please note that every firm on the Availability List – outside the SLBP – is City-certified as an MBE or WBE for purposes of meeting the project goals, and Bidders are encouraged to contact all the firms. If a Bidder identifies an additional scope of work for this project not identified in the solicitation, the Bidder must request from SMBR an Availability List for that scope of work and contact all firms, if any, on such list. The SMBR Director determines whether the Bidder has made sufficient Good Faith Efforts if goals or subgoals are not met.

The City neither warrants the capacity or availability of any Firm, nor does the City guarantee the performance of any Firm indicated on the availability list.

The availability list is sorted in numerical sequence by National Institute of Governmental Purchasing (NIGP) Commodity Code. It includes all certified MBE/WBE vendors for the scopes of work identified by the City as being potentially applicable to this project. However, the availability list is not a comprehensive identification of all areas of potential subcontracting opportunities. If a Bidder identifies one or more work areas that are appropriate subcontracting opportunities that not included on the availability list, the Bidder shall contact SMBR to request the availability list for MBE and WBE Firms in those areas. Requests for supplemental availability lists will be evaluated as a part of the Bidder's Good Faith Efforts to meet the goals.

If the Bidder believes any of the work areas on the availability list are not applicable to the project's scope of work or if the Bidder believes that the lists are inaccurate, the Bidder shall notify the authorized contact person of the concern immediately and prior to submission of the response to the solicitation. All Bidders will be notified in writing of any inaccuracy by addendum to the solicitation. Concerns about a particular MBEs/WBE's certification status may be addressed to SMBR at SMBRComplianceDocuments@austintexas.gov. If the Bidder wants to use a certified subcontractor that does not appear on this list, Bidder may request from SMBR or visit https://www.ci.austin.tx.us/financeonline/vendor_connection/search/vendors/certvendor.cfm for proof of certification and the specific work areas for which the subcontractor has been certified.

Appendix B provides a format for collecting required information from the subcontractors on the *Availability List*. The information must be obtained at least seven (7) business days prior to the submission of the *MBE/WBE Compliance Plan*; alternate formats may be acceptable as long as they gather the same required information. Included with the solicitation documents is an alphabetized list containing the names and addresses of the MBE/WBE Firms listed on the Appendix D. This list is in label format and is designed to facilitate the printing of mailing labels.

The following codes are used on the availability lists:

F	Female	M	Male
AA/B	African American	H	Hispanic
A/NA	Asian/Native American	W/C	Caucasian
LOC	A firm's two-digit location code (e.g., SL or TX)	AU	Austin
SL	Significant Local Business Presence (SLBP)	TX	Outside SLBP
MBE	A firm certified as a Minority-owned Business Enterprise	WBE	A firm certified as a Woman-owned Business Enterprise
MWB	A firm certified as both a Minority-owned & Woman-owned Business Enterprise	WMB	A firm certified as both a Woman-owned & Minority-owned Business Enterprise
MWDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise	WMDB	A firm certified as a Woman-owned, Minority-owned, and Disadvantaged Business Enterprise

Good Faith Efforts Review

If goals are not met, SMBR will examine the *MBE/WBE Compliance Plan* and the Good Faith Efforts documentation submitted with the *MBE/WBE Compliance Plan* to ensure that the Bidder made Good Faith Efforts to meet the project goals or subgoals. In determining whether the Bidder has made Good Faith Efforts, SMBR will consider, at a minimum, the Bidder's efforts to do the following:

(A) Solicit certified MBE/WBE subcontractors with a Significant Local Business Presence (SLBP) and request a response from those interested subcontractors who believe they have the capability to perform the work of the contract through at least two reasonable, available, and verifiable means. The Bidder must solicit this interest more than seven (7) business days prior to submission of the *MBE/WBE Compliance Plan* to allow sufficient time for the MBEs or WBEs to respond. (The date bids/proposals are due to the City should not be included in the seven day solicitation criteria). The Bidder must state a specific and verifiable reason for not contacting each certified Firm with a significant local business presence.

(B) Provide interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a proposal.

(C) Negotiate in good faith with interested MBEs/WBEs that have submitted bids/proposals to the Bidder. An MBE/WBE that has submitted a bid to a Bidder but has not been contacted within five (5) business days of submission of the bid may contact SMBR to request a meeting with the Bidder. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work. Bid shopping is prohibited.

(D) Select portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE/WBE goals or subgoals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces.

(E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media).

(F) Use the services of available community organizations; minority persons/women consultants' or groups in the applicable field for the type of work described in this solicitation; local, state, and federal minority persons/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs.

(G) Seek guidance from SMBR on any questions regarding compliance with this section.

The following factors may also be considered by SMBR in determining compliance through good faith efforts; however, they are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive:

(A) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or consultant.

(B) Whether the Bidder made efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

In assessing minimum good faith efforts, SMBR may consider whether the Bidder sought assistance from SMBR on any questions related to compliance with this section. In addition, SMBR may also consider the performance of other Bidders successfully meeting the goals.

The ability or desire of a Bidder to perform the work of a contract with its own organization does not relieve the Bidder of the responsibility to make Good Faith Efforts.

Bidders may reject MBE/WBEs as unqualified only following thorough investigation of their capabilities. The MBE/WBE's membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Bidder's efforts to meet the project goals or subgoals.

At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):

- Fax logs, emails, and/or copies of documents sent to firms within the SLBP area
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media
- Other communications regarding contacts with trade associations and Chambers of Commerce

The following additional Good Faith Efforts factors may also be considered:

- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance (as required by City or Consultant)
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials, or services
- Copies of all proposals received in response to Bidder contacting other Firms

POST-AWARD INSTRUCTIONS
(See Appendix C)

Confirmation Letters

All Bidders are required to include copies of the confirmation letters received from subcontractors, confirming the Subcontractors' willingness to provide services should the contract be awarded.

Changes to the *MBE/WBE Compliance Plan* including additions, deletions, contract changes, or substitutions of subcontractors are permitted only after contract execution and only with prior written approval of SMBR. Request for changes to the *MBE/WBE Compliance Plan* must be submitted on the Request for Change of *MBE/WBE Compliance Plan* Form for all levels of subcontracting and must be approved by the SMBR Director prior to adding, deleting, changing or substituting any subcontractor.

Post-Award Monitoring

The City will monitor post-award compliance information regarding the use of certified MBE/WBE Firm(s) listed on the *MBE/WBE Compliance Plan*. The Bidder will be required to submit post award reports detailing the utilization of all subcontractors. The reports and other information regarding post-award compliance will be discussed with the successful Bidder. The following information on Payment Verification, Change Order/Contract Amendments, and Progressive Sanctions provides an overview of some of the post-award monitoring process.

- **Payment Verification**

Bidders are advised that the contract resulting from this solicitation includes a subcontractor payments clause. This clause requires all subcontractors to be paid within ten (10) calendar days from the date that the Bidder has been paid by the City for invoices submitted by subcontractors.

The Bidder shall submit a *Subcontractor/Supplier Awards and Expenditures Report* to the project manager and/or contract administrator at the time specified by the managing department. The report shall be in the format required by the City and shall include all awards and payments to subcontractors for goods and services provided under the contract during the previous month. This report may be used by the City to verify utilization of and payment to MBEs and WBEs.

The Bidder and/or any subcontractor whose subcontracts are being counted toward the MBE/WBE requirements shall allow the City access to records relating to the contract, including but not limited to, subcontracts, payroll records, tax information, and accounting records, for the purpose of determining whether the MBEs/WBEs are performing the scheduled subcontract work.

In determining achievement of MBE/WBE goals, the participation of an MBE/WBE subcontractor shall not be counted until the amount being counted toward the goal has been paid.

- **Change Order/Contract Amendments**

The goals on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project. The Bidder is required to make Good Faith Efforts to obtain MBE/WBE participation for additional scopes of work.

Change orders that do not alter the type of trades originally required to accomplish the project may be undertaken using the subcontractors already under contract to the Bidder. Project managers will have automatic SMBR approval

to authorize any change order that **increases** the contract amount for an **existing** certified subcontractor and is **within** the existing scope being performed by that subcontractor.

- **Progressive Sanctions**

The successful Bidder's MBE/WBE Compliance Plan will be incorporated into the resulting contract with the City and shall be considered part of the consultant's performance requirements. Progressive sanctions may be imposed for failure to comply with Chapter 2-9C of the City Code, including:

- Providing false or misleading information in Good Faith Efforts documentation, post award compliance, or other Program operations;
- Substituting Subcontractors without first receiving approval for such substitutions, which may include the addition of an unapproved Subcontractor and failure to use a Subcontractor listed in the approved MBE/WBE Compliance Plan ; and
- Failure to comply with the approved MBE/WBE Compliance Plan without an approved Request for Change, an approved Change Order, or other approved change to the Contract.

Please refer to Section 2-9C-25 of the City Code and SMBR Rule 11.5 for additional information.

Appendix A

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

Section I — Project Identification and Goals

Project Name	2019 Disparity Study
Solicitation Number	RFQS 7600 CTE4001

Project Goals or Subgoals	
Combined MBE/WBE	1.40 %
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

Section II — Bidder Company Information

Company Name		
Address		
City, State Zip		
Phone		
Fax		E-Mail
Name of Contact Person		
Is your company registered on Vendor Connection?	Yes ☐ *If yes, provide Vendor Code* _____ No ☐ All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.austintexas.gov/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes ☐ No ☐ *(If yes, please indicate type below)* 1. MBE ☐ WBE ☐ MBE/WBE ☐ Joint Venture ☐ 2. AA ☐ H ☐ A/N ☐ WBE ☐	

City of Austin SMBR Use Only

I have reviewed this Compliance Plan and found that the Bidder ***HAS*** ☐ ***HAS NOT*** ☐ *complied as per the City Code Chapter 2-9A through GFE.*

Reviewing Counselor _____ Date _____

I have reviewed this Compliance Plan and have found the Bidder ***COMPLIANT*** ☐ ***NON-COMPLIANT*** ☐

Director /Assistant Director _____	Date _____

Section III — MBE/WBE Compliance Plan Summary

Directions:

- For each subcontractor listed in Sections IV, V, VI or VII, fill in all blanks (if applicable).
- For project participation numbers use an EXACT number.
- Goal percentages should be based on the Base Bid amount only. Allowances are not included.
- Alternates are not recorded on this MBE/WBE Compliance Plan.
- If bidder is a certified M/WBE, include participation details in the Bidder box ONLY.
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.

Is the stated project goal of the solicitation met? *(If no, attach documentation of Good Faith Efforts)* Yes ☐ No ☐

PROPOSED PARTICIPATION GOALS **Use this section to calculate participation.** **Include all details including the total dollar amount and percentage for each category where applicable.**		
	MBE/WBE Project Goal	**Bidder Participation Goal**
African American	%	%
Hispanic	%	%
Asian/Native American	%	%
WBE	%	%
MBE	%	%
MBE/WBE Combined	**1.40 %**	%
Non-Certified		%
Total Subcontractor Percentage Amount		%
Bidder's Own Participation **(less any subcontracted amount)** Are you counting your own participation toward the goals? **(if yes, indicate below)** ☐ AA ☐ HIS ☐ A/NA ☐ WBE ☐ MBE		%

For SMBR Use Only:

Verified participation for each category:

African-American _____ % **Hispanic** _____ % **Asian/Native American** _____ % **WBE** _____ %

MBE _____ % **WBE** _____ % **Combined MBE/WBE** _____ %

Prime _____ % **Non-Certified** _____ %

Section IV — Disclosure of MBE and WBE Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Name of MBE/WBE Certified Firm		
City of Austin Certification Data	☐ MBE ☐ WBE Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		

Section V — Disclosure of Non-Certified Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? **Yes** ☐ **No** ☐ **If no, state reason(s) below and attach documentation:**

Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		
Name of Non-Certified Subcontractor		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract		
First-Level Subcontractor		
Reason Certified Firm not used		

Section VI — Disclosure of Second-Level Subcontractors

(Duplicate as Needed)

Note:

- Fill in all the blanks (use "none" or "N/A" where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Name of Second-Level Subcontractor	
City of Austin Certified? (choose one)	☐ No ☐ MBE ☐ WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes ☐ No ☐

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII ***must*** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE *Compliance Plan.*** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes ☐	No ☐
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes ☐	No ☐
• Copy of advertisements placed in local publication	Yes ☐	No ☐
• Copy of notices sent to Minority and Women organizations	Yes ☐	No ☐
• Documentation that demonstrates additional GFEs: o Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor o Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services o Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice	Yes ☐	No ☐

Were additional elements of work identified to achieve the goals or subgoals? Yes ☐ No ☐

If yes, please explain: _____

Was SMBR contacted for assistance? Yes ☐ No ☐

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes ☐ No ☐

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

Appendix C

CONFIRMATION LETTER

Name of Prime Contractor: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Contract Amount:

Project/Solicitation Number: ___ _____

Project Name: _____

Type of Agreement *(check one)*: ☐ Lump Sum ☐ Unit Price ☐ Commodity

Period of Performance: _____ Level of Subcontracting (*check one):* ☐ 1st ☐ 2nd ☐ 3rd

Legal Name of Subcontractor*: _____

Subcontractor* Vendor Code: _____

Address: _____
Street City State Zip Code

Telephone: (____)_____ Fax: (____)_____ Proposed Subcontract Amount: _____

Commodity Code and description of work to be performed by Subcontractor Firm:

_____

_____

The Prime Contractor and the Subcontractor listed above agree that the Prime Contractor has provided the Subcontractor with a copy of the City's prevailing wage requirements

Prime Contractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

Subcontractor:

_____
Legal Name of Firm, as registered with the City

_____
Signature

_____
Print Name

_____
Title

_____
Date

STATE OF _____
COUNTY OF _____
SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____.

_____
Notary Public

***Including Suppliers, Manufacturers, Alternates**

SAMPLE

ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN, TEXAS

Solicitation: RFQS 7600 CTE4001 – 2019 Disparity Study MBE/WBE/DBE
Addendum No: 5 **Date of Addendum: 9/27/2019**

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

I. Extension: The proposal due dates are hereby extended,
- **a. RESPONSES DUE PRIOR TO: 2:00 PM, Central Time, Thursday, October 3, 2019.**
- **b. COMPLIANCE PLAN DUE PRIOR TO: 2:00 PM, Central Time, Thursday, October 3, 2019.**

II. <u>Clarifications:</u>

1. Delete in its entirety **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.1 revised 092317** replace with **Section 0600 Response Preparation Instructions & Evaluation Factors Version 1.2 Revised 092719**
2. **Reference Section 0500 Scope of Work Section 4(j), first sentence,**
   Remove: "and/or economically based".
   Replace with: If race- or gender-neutral measures alone would not be effective to remedy such discrimination, the Contractor will, by rigorous and applicable statistical methods, determine the bases, and the mathematical or statistical formula(s), to be applied in formulating the City's diversity goals for its MBE/WBE Program.

III. <u>Questions (Q) and Answers (A):</u>

1. ***(Q) This scope of work was originally proposed as a sole source or professional exemption. Is it now truly a competitive bidding situation or do you already know who you want to conduct the study?***
   (A) This procurement is a competitive process and all responses will be evaluated in accordance with the criteria in the RFQS. If the City were going to exercise the professional services exemption, it would not issue this RFQS

2. ***(Q) What commodity code is used by the City of Austin? (NAICS, NIGP, etc)***
   (A) The commodity code for this solicitation may be found on the Request for Qualifications (RFQS) Offer Sheet. The Commodity codes listed are 91826 and 91879.

3. ***(Q) Why are contracts under $50,000 being excluded? Can the bidder propose to include all contracts under $50,000, but perhaps above a small amount like $1000?***

(A) The M/WBE Program does not apply to procurements under $50,000 and therefore are excluded from this study and will not be considered.

4. ***(Q) Is the airport, including the airport's Triennial goal-setting and ACDBE analysis, included in the Scope of Work?***
   (A) No, the airport's Triennial goal setting and ACDBE analysis is not included in the scope.

5. ***(Q) What City departments and agencies are included in the Study?***
   (A) All City of Austin departments are applicable to this study.

6. ***(Q) Page 5, section 4(n). Please clarify why other industries, other than those utilized by the City are being included in the study?***
   (A) The study will review private industry practices which may contain industries outside of the city's procurement catalog.

7. ***(Q) Who is the legal counsel hired by the City? Is that person or firm permitted to bid on this scope of work?***
   (A) No outside counsel has been retained at this time. Reference Addendum 4.

8. ***(Q) Please clarify that bidder is not submitting a methodology, timeline, or proposed fee?***
   (A) The City is requesting a section on the proposed methodology to be used by the proposer. The city is also requesting a proposed schedule meeting the timeline as presented in the scope of work.

9. ***(Q) Section I Tab 6A . Is SBE or ACDBE analysis included in this study?***
   (A) No SBE or ACDBE analysis is included in this study.

10. ***(Q) Section I Tab 6B. Is it permitted that the bidder has a Principal Researcher who is the subject matter expert and PhD in Economics and a separate Project Manager who manages the day-to-day operation of the project (including schedule, budget, deliverables, etc.)?***
    (A) Yes, that is permitted.

11. ***(Q) Section I Tab 6 C o. Is this still required since Page 6, last paragraph of section 4, states that the scope of services does not include legal services or a legal analysis?***
    (A) Tab 6 C in the Section 0600, Response Preparation Instructions… is no longer required and should be deleted.

12. ***(Q) Section II Tab 6 A.-- Is the Project Lead and the Principal Researcher the same person?***
    (A) Yes, the Project Lead and Principal Researcher can be the same person. The City has revised its evaluation criteria to include both the Project Lead and Principal Researcher roles.

13. ***(Q) Does the City of Austin track all subcontractor data for MWBEs, DBEs and non-WBE/DBEs? If not, is that information reasonably accessible from PDFs or on hard copy forms.***
    (A) The City maintains this information electronically. See Addendum 4.

14. ***(Q) Does the City of Austin maintain award, bidder, payment, and vendor data that is in electronic spreadsheets (e.g. Excel)? If not what format are they in?***
    (A) Yes, the City has an electronic system to maintain the award, bidder, payment…information. see Addendum 4.

15. ***(Q) Do vendors have a consistent vendor ID number in all of the data files?***
    (A) Yes, vendors do have a consistent vendor ID number on all of the data files.

16. ***(Q) Does the City of Austin have a centralized procurement data system where all data is captured? If not, please explain what data departments and agencies maintain?***

Yes, the City has a centralized data system to capture data.

17. (Q) Does the City of Austin have a centralized procurement process or are City departments responsible for conducting their own procurement?
(A) The City of Austin has a centralized procurement process for procurements relating to this Study.

18. (Q) Does the City of Austin procure for the Austin-Bergstrom Airport?
(A) Yes, however not all ABIA procurements are a part of the DBE Program.

19. (Q) In addition to total contracts and payments to MWBE and DBE firms, does the City maintain Non-MWBE/Non-DBE subcontractor spending?
Yes, the City maintains Non-MWBE/Non-DBE subcontractor spending.

20. (Q) Does the City DBE spending also include ACDBE spending?
(A) No, the City's DBE spending does not include ACDBE spending.

21. (Q) Does the City track MWBE/DBE spending in the Advantage Financial and eCapris systems or does the City utilize any other compliance software for tracking of electronic MWBE/DBE spending?
(A) The City uses its Advantage Financial system to capture expenditures for City contracts. There is no other software. The awarded proposer will be provided with an electronic file of data.

22. (Q) Sections 4(f) and 4(g) (pages 4 and 5) reference MBE/WBE/and DBE analysis in availability and utilization, independently, but do not specifically reference ACDBEs despite being included in the analysis on page 3. Is it to be presumed in every area of the RFQ where MBE/WBE/DBE is referenced is also inclusive of ACDBE firms?
(A) ACDBEs are excluded from this study. See addendum 4.

23. (Q) Similarly, In Section 4(g) and 4(h) ACDBE firms are listed to determine the effects of past discrimination and the disparity analysis, but they are not listed under section 4(f) or 4(g) with reference to availability and utilization. Can you confirm that ACDBE should be included in the measure of availability and utilization?
(A) ACDBE firms are included as a part of the general market study of available firms, however procurement data for the ACDBE program will not be a part of this study.

24. (Q) Section 4(j) makes reference to "economically-based measures" in addition to race and gender neutral measures used to help remedy discrimination. Can you clarify what components of the City's current program that would fit under this classification for consideration?
(A) This is not applicable to this study and has been deleted.

25. (Q) On page, 6 it is referenced that the scope of services "does not include legal services, nor does it include a legal component other than what is specifically provided above. The City has separately retained legal counsel to provide legal advice to the City throughout this process." Can you clarify whether "legal component" is also synonymous for "Legal Analysis" or an analysis of relevant local case law?
(A) Legal Analysis means work and analysis that requires a current law license to provide as advice.

26. (Q) Who is the outside legal counsel working with the City?
(A) See addendum 4. No outside counsel has been retained.

27. (Q) Is this legal counsel expected to provide oversight to the consultant and project manager or solely serve as legal guidance to the City?

(A) The City does not anticipate the legal counsel to provide oversight to the consultant. Outside counsel would provide advice to the City directly, while the City will still directly interact with the consultant.

28. (Q) To what extent is the selected consultant expected to work alongside outside legal counsel?

(A) To the extent necessary to address questions related to the final study and to provide recommendations to the City on if and how it should revise its Minority-Owned and Women-Owned Business Enterprise Procurement Program to resolve identified disparities.

29. (Q) Is it expected that this legal counsel will have ultimate approval over work process, methodology and work product?

(A) No

30. (Q) With a legal analysis typically serving as a critical component guiding methodology and approach, is the City averse to the selected consultant providing its own legal analysis as consistent with the traditional components of a Croson analysis?

(A) No, the City is not averse to this approach, however the City is not requesting legal counsel as part of this study. The consultant is not being selected to be an outside counsel to the City. The selected consultant should ensure that its advice does not assume an attorney-client relationship with the City.

31. (Q) Section 5 (e) of the RFQ (page 6) references that "In the event the City's MBE/WBE Program or DBE Plan is challenged any time from six years of completion of the Disparity Study, the Contractor may be required to testify on the constitutionality of either the City's MBE/WBE Program or DBE Plan." Tab 6(a) of the Response Preparation Factors and Instructions references the need for the consultant to provide profile on "Respondent's personnel serving as designated testimonial or consulting expert witnesses".

With the City obtaining outside legal counsel for the study, is it the City's expectation that, in the event of a challenge, their outside legal counsel will serve as the primary expert witness defending the study, MBE/WBE program, or the DBE Plan, or the study consultant?

(A) The City's outside counsel will lead any effort to defend the study. This depends on the nature of the challenge. If the challenge is about how the consultant conducted the study, the consultant will have to be a primary expert.

IV. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

V. ACKNOWLEDGED BY:

_____	_____	_____
Name	Authorized Signature	Date

<u>RETURN ONE COPY OF THIS ADDENDUM</u> 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.

CITY OF AUSTIN
PURCHASING OFFICE
RESPONSE PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: RFQS 7600 CTE4001 - Version 1.2 Revised 09272019

1. SUBMITTAL FORMAT:

Submit one original paper copy and an electronic copy of the original response in PDF version on a flash drive. The original response shall contain ink signatures and shall be typed on standard 8 ½" X 11" paper, double-sided, and have consecutively numbered pages.

The response itself shall be organized in the following format and informational sequence. Use tabs to divide each part of the response and include a Table of Contents:

Section I

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

A. Signed Offer Sheet
B. Section 0630 Exceptions, completed
C. Section 0800 Non-Discrimination and Non-Retaliation Certification Completed and signed
D. Section 0805 Non-suspension or Debarment Certification
E. Section 0810 V2 Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit
F. Section 0835 Non-Resident Bidder Provisions
E CITY CODE CHAPTER 2-9C NON-PROFESSIONAL MBE/WBE PROCUREMENT PROGRAM PACKAGE – Appendix A MBE/WBE COMPLIANCE PLAN
G. All signed Addendums (all pages)

Tab 2 – Authorized Negotiator: Provide name, mailing address, email address, and telephone number of the officer or other representative in your organization authorized to negotiate and execute binding contract terms.

Tab 3 – Executive Summary: In no more than three pages, provide an Executive Summary in brief, concise terms of your qualifications related to this RFQS. Include the number of years your organization has been in business, a summary of your organization's history and experience, and how your organization is the most qualified to carry out the Scope of Work (reference Section 0500).

Tab 4 – References: Provide a minimum of five references for organizations that have received comparable and satisfactory disparity, availability or utilization analysis services from the proposer within the past 10 years. Proposer shall include the following for each:

- Organization
- Organization contract manager name and title, phone number, and email address
- Detail of the work completed for the organization
- Year contract was awarded and length of contract
- Initial budget of project/contract
- Final invoiced amount of project/contract

Tab 5 – Personnel & Company Qualifications: Provide a general explanation and organizational chart for your company which specifies the structure and reporting responsibilities of personnel. If the use of subcontractors is proposed, identify their placement in the structure and provide a description for each subcontractor's responsibilities.

For Personnel listed above, please provide:

- Resumes and/or professional experience including Curriculum Vitas (CVs) if applicable and education for executive leadership listed on the organizational chart, including any professional trainings, degrees and/or certifications held.

Tab 6 – Company and Personnel Experience

A. **Company Information**: Respondents must include a profile of the Offeror's experience developing and conducting disparity, availability and utilization studies of M/WBE, SBE, DBE and ACDBE Programs. Respondents should demonstrate their ability to meet the constitutional requirements promulgated in Croson and subsequent cases. Profiles shall include, but not be limited to, any experience of Respondent's personnel serving as designated testimonial or consulting expert witnesses under the Federal Rules of Civil Procedure or comparable state rules, in Croson litigation or other lawsuits challenging race- or gender-conscious contracting programs.

B. **Principal Researcher**: Respondent's must identify a researcher who will be the principal point of contact and will exercise responsibility for the overall conduct, day-to-day activities and timeliness of the Study ("Principal Researcher"). The Principal Researcher should have served in this capacity on a similar disparity or availability study. Other professional team members must also be identified by name, title, qualifications and duties to be performed in producing the study. Respondent agrees that the Principal Researcher and other key staff assigned to the Study shall remain available for contact, direction, and management by the City during the entirety of the project throughout the term of the contract as long as that individual is employed by the Respondent. At least one member of Respondent's personnel assigned to the study must have a doctorate degree in economics or statistics from an accredited university and be able to apply statistical measurements in conformity with scientifically valid and accepted methods specific to disparity studies.

C. **Staffing/Staff Replacement** – Respondent shall provide a list of additional staff which may be assigned to the study and must demonstrate its ability, if necessary, to provide qualified additional and/or replacement staff to meet the Study's due date(s).

D. **Litigation Report** – Respondent shall provide a listing and disposition of all state and federal court cases, including its Principal Researcher, participated and which involved their research or consultation in disparity studies and availability and utilization studies.

Section II

Acceptance Period: All responses are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFQS closing date unless a longer acceptance period is offered in the response.

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

Preparation Costs: All costs directly or indirectly related to preparation of a response to the RFQS or any oral presentation required to supplement and/or clarify an offer which may be required by the City shall be the sole responsibility of the Offeror.

Compliance: The Offeror agrees to compliance with terms of this RFQS and with all applicable rules and regulations of Federal, State, and Local governing entities.

Section III

EVALUATION FACTORS AND AWARD:

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

B. Evaluation Factors: All responses will be evaluated based on the following criteria and rankings. **Maximum 100 points.**

1. **References** – reference Section I, tab 4 **(20 points)**
2. **Personnel & Company Qualifications** – reference Section I, Tab 5 and 6 **(80 points)**

A) **Experience of Project Lead** (15 points) - Please provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, designing, and leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the study was conducted; name of the entity which requested the study; price of the study; study description/scope; project lead duties and responsibilities for each project/study.

B) **Experience of Principal Researcher** (15 points) - Please provide at least three (3) and no more than five (5) projects which demonstrate your experience researching, analyzing data, devising methodologies for data sets, and the magnitude of the data sets analyzed on disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the firm under which the research was conducted; name of the entity which requested the research; study description/scope.

C) **Experience of Disparity Study Firm** (20 points) - Please provide no more than three (3) and no more than five (5) projects leading disparity studies for various municipal, state or other jurisdictional organizations over the past 10 years. Project information should include name of the entity which requested the study; final price of the study; study description; and your role in the study. Also, identify any projects that were intended to lead to a disparity study for a municipality, state or other jurisdiction over the past 10 years that did NOT lead to the intended disparity study. If you can, identify the entity requesting the work, your role in the work, and the reason(s) it did result in a finished disparity study.

D) **Proposed Methodology** (15 points) – the City is interested in the proposed methodology to be used to conduct this study. Proposers should provide a detailed discussion of your firm's approach, key considerations to the analysis (qualitative and quantitative) and the approach to identify and correct errors in quantitative data.

E) **Experience with Municipal Entities** (15 points) -. The Austin City Council adopted a strategic direction on March 8, 2018, guiding the City of Austin for the next three to five years. *Austin Strategic Direction 2023* outlines a shared vision and six priority Strategic Outcomes: *Together we strive to create a complete community where every Austinite has choices at every stage of life that allow us to experience and contribute to all of the following outcomes:*

- **Economic Opportunity and Affordability:** Having economic opportunities and resources that enable us to thrive in our community.
- **Mobility:** Getting us where we want to go, when we want to get there, safely and cost-effectively.
- **Safety:** Being safe in our home, at work, and in our community.
- **Health and Environment:** Enjoying a sustainable environment and a healthy life, physically and mentally.
- **Culture and Lifelong Learning:** Being enriched by Austin's unique civic, cultural, ethnic, and learning opportunities.
- **Government That Works for All:** Believing that city government works effectively and collaboratively for all of us - that it is equitable, ethical and innovative

SMBR and its MBE/WBE/DBE Programs are aligned with the Economic Opportunity and Affordability outcome. Please describe your experience in working with municipalities for disparity studies. Describe your experience with handling a disparity study analysis in conjunction with the unique challenges of municipal boundaries, authority, and regulatory environment and how the SMBR, the disparity study and ultimately its MBE/WBE program can best achieve the outcome of Economic Opportunity and Affordability as outlined in Strategic Direction 2023 (SD23). The link to SD23 is:
https://www.austintexas.gov/financeonline/afo_content.cfm?s=73&p=160

C. Reservations:

1. Presentations, Demonstrations Optional. The City will score submissions on the basis of the criteria listed above. The City reserves the right to select a “short list” of Offerors based on those scores. “Short-listed” Offerors may be invited for presentations or demonstrations with the City. The City reserves the right to re-score “short-listed” submissions as a result, and to make award recommendations on that basis.

2. The City reserves the right to require short listed vendors selected for demonstrations or presentations to provide a minimum of two (2) most recent years of audited annual reports that evidence the financial health of the organization. In the event that audited financial statements cannot be provided, the Vendor must provide financial information that will enable the City to accurately assess financial stability and viability. Vendors unwilling to provide this information or whose financial information is deemed as not demonstrating financial stability will not be considered for award.