



**CONTRACT BETWEEN THE CITY OF AUSTIN (“City” or “Buyer”)
and
Summus Industries, Inc. (“Contractor” or “Diversity Supplier”)
through
Staples Contract & Commercial, Inc. (“Staples” or “Supplier”)
for
Office Supplies**

Contract Number: 5000 GC200000004

The City accepts the Contractor’s Offer for the above requirement and enters into the following Contract. This Contract is between Summus Industries having offices at 77 Sugar Creek Center Blvd, Ste#420, Sugar Land, Texas 77478 and the City, a home-rule municipality incorporated by the State of Texas, through Staples Contract & Commercial, Inc, and becomes effective on August 1, 2020 (“Effective Date”). Solicitation requirements are met by using Staples’ Sourcewell Contract No. 012320-SCC.

1.1 This Contract is composed of the following documents in order of precedence:

- 1.1.1 This Document
- 1.1.2 Supplemental Terms incorporated herein and attached as Exhibit A hereto.
- 1.1.3 Sourcewell Cooperative Contract #012320-SCC incorporated herein by reference.
- 1.1.4 Contractor’s Sourcewell Program Agreement attached as Exhibit C hereto.
- 1.1.5 Local Core Price List and attached as Exhibit C hereto

1.2 Compensation.

The Contractor shall be paid a total Not-to-Exceed amount of \$10,746,000 for the initial Contract term and \$2,686,500 for the extension option.

Unless otherwise specified, prices on the Local Core Price List (as listed in Exhibit C) are firm and fixed for the first twelve (12) months. Thereafter, pricing is subject to the negotiated rates and pricing established in Sourcewell Contract #012320-SCC. The City reserves the right to add additional products to the Local Core Price List each 6 months of the contract year.

1.3 Rebate.

Staples shall pay the City a volume rebate equal to 4% of “Net Sales” (as defined in Program Agreement, Section 6) based on annual sales (August 1 through July 31), to be paid forty-five (45) calendar days after each annual period ending July 31.

1.4 Term of Contract.

This Contract shall become effective on August 1, 2020 and shall remain in effect for a term of 44 months or the City terminates the Contract.

This Contract may be extended beyond the initial term for up to one additional 12-month period at the City's sole option. If the City exercises any extension option, all terms, conditions, and provisions of this Contract shall remain in effect for that extension period.

- 1.5 **Delivery.** Delivery is to be made within the specified calendar days provided after the order is placed by the City (either verbally, in writing or electronically). Delivery shall be made to the address indicated in each order.
- 1.6 **Designation of Key Personnel.** The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor shall promptly notify the City and obtain approval for the replacement. Such approval shall not be unreasonably withheld. The Contractor's and City's key personnel are identified as follows:

	<u>Name</u>	<u>Phone Number</u>	<u>Email Address</u>
Contractor Contract Manager (Summus)	<u>Fabiola Tillman</u>	<u>281-640-1765</u> <u>x102</u>	<u>Fabiola.Tillman@summusindustries.com</u>
Contractor Contract Manager (Staples)	<u>Kim Howard</u>	<u>832-692-1692</u>	<u>Kim.Howard@staples.com</u>
City Contract Administrator, Procurement Specialist	<u>Claudia Rodriquez</u>	<u>512-974-2959</u>	<u>ClaudiaR.Rodriquez@austintexas.gov</u>

- 1.7 **Invoices.** The City's preference is to have invoices emailed to the specific department placing the order. This information will be provided in electronic format (online portal) or when establishing new customer (City) accounts. For questions regarding your invoice/payment please contact the ordering department.

This Contract (including any Exhibits and referenced Documents) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior 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 City has caused a duly authorized representative to execute this Contract on the date set forth below.

SUMMUS INDUSTRIES, INC.

Rodney Craig

Printed Name of Authorized Person



Signature

Chief Executive Officer

Title:

July 21, 2020

Date:

CITY OF AUSTIN

Claudia Rodriquez

Printed Name of Authorized Person



Digitally signed by Claudia Rodriquez
Date: 2020.07.24 09:14:42 -05'00'

Signature

Procurement Specialist IV

Title:

July 24, 2020

Date:

{ CONTINUED ON THE NEXT PAGE }

STAPLES CONTRACT & COMMERCIAL, INC.

Joseph Gorman

Printed Name of Authorized Person

Joseph F Gorman

Signature

Vice President of Commercial Sales

Title:

Jul 22, 2020

Date:

List of Exhibits:

Exhibit A- City's Supplemental Terms

Exhibit B-Sourcewell Program Agreement

Exhibit C-Local Core Price List

CITY OF AUSTIN

Linell Goodin-Brown

Printed Name of Authorized Person

Linell Goodin-Brown

Digitally signed by Linell Goodin-Brown
Date: 2020.07.24 11:48:14 -05'00'

Signature

Procurement Supervisor

Title:

July 24, 2020

Date:

EXHIBIT A
SUPPLEMENTAL TERMS - COOPERATIVE

The Contractor agrees that the Contract shall be governed by the following terms and conditions.

1. GENERAL

1.1 INDEFINITE QUANTITY:

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

1.2 INVOICES:

- A. The Contractor shall submit separate Invoices for each Order after each delivery or on the schedule provided in the Contract. If partial shipments or deliveries are authorized by the City, a separate Invoice must be sent for each shipment or delivery made.
- B. Invoices shall be sent to the address on the Purchase Order or Delivery Order in the section entitled, "BILL TO". Proper Invoices must include a unique Invoice number, the purchase Order or delivery Order number, 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 according to pricing structure in the Contract. 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. Invoices received without all required information cannot be processed and will be returned to the vendor.
- C. Invoices for labor shall 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.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontracting 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.

1.3 PAYMENT:

- A. All proper Invoices received by the City will be paid within 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 §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 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 under the terms of this Contract, are filed or there is 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 demonstrates 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, §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. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer 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.
- 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 inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City. 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 notice of non-appropriation.

1.4 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, at the City's expense. The Contractor agrees to refund to the City any overpayments disclosed by any such audit. The City agrees to protect from disclosure Contractor's confidential and proprietary information disclosed during an audit to the same extent it protects its own confidential and proprietary information, subject to the requirements of the Texas Public Information Act, Chapter 2251, Texas Government Code.
- B. Records Retention:
- i. Contractor is subject to City Code Chapter 2-11 (Records Management), and as it may subsequently be amended.

- ii. The Contractor shall retain all records for a period of three 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.

1.5 TEXAS PUBLIC INFORMATION ACT:

- A. All material submitted by the Contractor to the City related to the Contract 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.
- B. In accordance with Texas Government Code §552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:
 - i. Preserve all Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract;
 - ii. Promptly provide to the City any Contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and
 - iii. On completion of the Contract, either:
 - (1) Provide at no cost to the City all Contracting information related to the Contract that is in the custody or possession of Contractor; or
 - (2) Preserve the Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract.
- C. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

1.6 ADVERTISING:

The Contractor shall not advertise or publish, without the City's prior written consent, the fact that the City has entered into the Contract, except to the extent required by law.

1.7 ASSIGNMENT DELEGATION:

The Contract shall be binding upon and ensure 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.

1.8 NON-DEBARMENT CERTIFICATION:

When using Federal funds, the City of Austin does not Contract with or make prime or sub-awards to parties that are debarred or whose principals are debarred from Federal Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently 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 Contractor shall notify the Procurement Specialist within five business days if they become debarred from doing business with the Federal Government during the term of the Contract.

1.9 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. **Non-Retaliation:** 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.
- C. **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.

1.10 MANDATORY ANTI-ISRAEL BOYCOTT PROVISION:

Pursuant to *Amawi v. Pflugerville Independent School District*, 373 F.Supp.3d 717 (W.D. Texas 2019), the State of Texas is preliminarily enjoined from enforcing this provision. However, if that injunction is lifted, this provision may apply to the Contract:

Pursuant to Texas Government Code §2271.002, 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 §2271.001.
- B. If the Contractor qualifies as a "company", then the Contractor verifies that he:
 - i. does not "boycott Israel"; and
 - ii. will not "boycott Israel" during the term of this Contract.
- C. The Contractor'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 2271 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.

1.11 PROHIBITION ON LGBTQ+ CONVERSION THERAPY:

The Contractor certifies that it is aware of City Council Resolution No. 20191114-056, which prohibits the City from Contracting with entities that engage in certain practices related to conversion therapy. By accepting this Contract, the Contractor agrees that: (1) its firm and its principals are not currently and will not during the term of the Contract engage in practicing LGBTQ+ conversion therapy; referring persons to a healthcare provider or other person or organization for LGBTQ+ conversion therapy; or Contracting with another entity to conduct LGBTQ+ conversion therapy; and (2) if the City determines in its sole discretion that Contractor has during the term of this Contract engaged in any such practices, the City may terminate this Contract without penalty to the City.

1.12 SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or Subcontractor 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 Subcontractor 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 no later than the 10th 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 and services 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 follow terms as defined in section, AUDITS AND RECORDS and City Code Chapter 2-11
- 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 10 calendar days after receipt of payment from the City.

1.13 CONFIDENTIALITY:

The Contractor may be granted access to certain of the City's or licensor's confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which City or its licensors consider confidential) (Confidential Information) to provide the Deliverables to the City. The Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and its licensors. The Contractor (including its employees, Subcontractors, agents, or representatives) agrees it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without

prior written consent of City, or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an Order of a court or other governmental authority (including a Texas Attorney General opinion) with proper jurisdiction. In all cases, the Contractor agrees to promptly notify the City before disclosing Confidential Information 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 in its business to protect its own most valuable information. In all circumstances, the Contractor's protective measures must be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

- A. Confidential information includes, but is not limited to, all information regarding commercial data, customer information, financial data and projections, pricing proposals, and cost analyses, whether in tangible form or orally or visually conveyed to, or acquired by, the Contractor in the course of its work under the Contract. Confidential Information may be in any medium and may be written or oral.
- B. The Contractor agrees: (i) not to use Confidential Information for any reason other than for the purpose of providing or receiving the Deliverables, (ii) not to disclose Confidential Information to any third party other than to its employees who have a need to know the Confidential Information for furtherance of providing the Deliverables, (iii) to promptly notify City of any request for Confidential Information to be disclosed under any law or Order of any court or other governmental authority with proper jurisdiction, so as to permit City reasonable time to seek an appropriate protective Order, and (iv) to use measures to protect the Confidential Information that are 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.
- C. All Confidential Information and derivations thereof shall remain the sole and exclusive property of City, and no license or other right to the Confidential Information or intellectual property is granted or implied hereby. Upon the written request of City, the Contractor shall promptly return to City all tangible items of Confidential Information furnished by City and all copies thereof or certify in writing that all Confidential Information, including all copies, has been destroyed.
- D. No expiration or termination of the Contract shall affect either party's rights or obligations with respect to Confidential Information.
- E. The parties acknowledge and agree that any breach or threatened breach of the Contract could cause harm for which money damages may not provide an adequate remedy.

The parties agree that in the event of such a breach or threatened breach of the Contract, in addition to any other available remedies, City may seek temporary and permanent injunctive relief restraining the Contractor from disclosing or using, in whole or in part, any Confidential Information.

1.14 SUMMUS INSURANCE REQUIREMENTS:

A GENERAL INSURANCE REQUIREMENTS:

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages and endorsements required in Section B., Specific Insurance Requirements, to the City 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. 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.
- ii. All endorsements naming the City as additional insured, waivers, and notices of cancellation shall indicate, and the Certificate of Insurance shall be mailed to the following address:

City of Austin Purchasing Office

P.O. Box 1088
Austin, Texas 78767
OR
PURInsuranceCompliance@austintexas.gov

- 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 authorized to do business in the State of Texas and have an A.M. Best rating 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 B., Specific Insurance Requirements, 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 exposure, 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 greater than \$499,999 shall be disclosed on the Certificate of Insurance.
- xii. If any required insurance is written on a claims-made basis, the Certificate of Insurance shall state that the coverage is claims-made and the retroactive date shall be prior to or coincident with the date of the Contract and the coverage continuous and shall be provided for 24 months following the completion of the Contract.
- xiii. The insurance coverages specified in Section B., Specific Insurance Requirements, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. **Specific Insurance Coverage Requirements:** The Contractor, consistent with its status as an independent Contractor shall carry and will cause its Subcontractors to carry, at a minimum 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.

- 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. 30 Days' Notice of Cancellation, Form WC420601, or equivalent coverage.
- ii. **Commercial General Liability Insurance:** Coverage with minimum bodily injury and property damage per occurrence limits of \$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. Independent Contractors coverage (Contractor/Subcontracted work);
 - c. Products/Completed Operations Liability for the duration of the warranty period;
 - d. If the project involves digging or drilling, provide Explosion, Collapse, and Underground (X, C, & U) 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. 30 Day's 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:** 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. 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. **Cyber Liability Insurance:** coverage of not less than \$1,000,000 each claim and \$1,000,000 annual aggregate providing coverage for damages and claims expenses, including notification expenses, arising from (1) breach of network security, (2) alteration, corruption, destruction or deletion of information stored or processed on a computer system, (3) invasion of privacy, including identity theft and unauthorized transmission or publication of personal information, (4) unauthorized access and use of computer systems, including hackers (5) the transmission of malicious code, and (6) website content, including claims of libel, slander, trade libel, defamation, infringement of copyright, trademark and trade dress and invasion of privacy.
 - a. Policy shall be endorsed to name City of Austin, its Affiliates, and their respective directors, officers, employees, and agents, as additional insureds.

- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. If 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.
- D. If delivery is made by common carrier, then the requirements for Workers Compensation and Business Automobile insurance do not apply.

1.15 STAPLES INSURANCE REQUIREMENTS:

A. **GENERAL INSURANCE REQUIREMENTS:**

- i. Staples shall provide a Certificate of Insurance as verification of coverages and endorsements required in Section B., Specific Insurance Requirements, to the City upon 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. Staples 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.
- ii. All endorsements naming the City as additional insured, waivers, and notices of cancellation shall indicate, and the Certificate of Insurance shall be mailed to the following address:

City of Austin Purchasing Office
P.O. Box 1088
Austin, Texas 78767
OR
PURInsuranceCompliance@austintexas.gov
- iii. Staples 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 Staples hereunder and shall not be construed to be a limitation of liability on the part of Staples.
- iv. The City may request that Staples submit certificates of insurance to the City for all Subcontractors prior to the Subcontractors commencing work on the project.
- v. Staples and all Subcontractors' insurance coverage shall be written by companies authorized to do business in the State of Texas and have an A.M. Best rating 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 Staples, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section B., Specific Insurance Requirements, Staples 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. Notwithstanding the minimum limits of coverage set forth herein, Staples shall include the City of Austin as an additional insured for the full limits of insurance coverage, including but not limited to any excess policy coverage, purchased by Staples.
- viii. The City shall be entitled, upon thirty (30) business days' prior written request at Staples' corporate headquarters (Staples Contract & Commercial LLC 500 Staples Drive Framingham, MA) during normal business hours, 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 exposure, statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as Staples.
- x. Staples 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. Staples shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions greater than \$499,999 shall be disclosed on the Certificate of Insurance.
- xii. If any required insurance is written on a claims-made basis, the Certificate of Insurance shall state that the coverage is claims-made and the retroactive date shall be prior to or coincident with the date of the Contract and the coverage continuous and shall be provided for 24 months following the completion of the Contract.
- xiii. The insurance coverages specified in Section B., Specific Insurance Requirements, are required minimums and are not intended to limit the responsibility or liability of Staples.

B. **Specific Insurance Coverage Requirements:** Staples, consistent with its status as an independent Contractor shall carry, at a minimum 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.

- 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;
- ii. **Commercial General Liability Insurance:** Coverage with minimum bodily injury and property damage per occurrence limits of \$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 an insured Contract;
 - b. Coverage for work performed by Staples or on Staples' behalf;
 - c. Products/Completed Operations Liability for the duration of the warranty period;
 - d. If the project involves digging or drilling, provide Explosion, Collapse, and Underground (X, C, & U) 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. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.
- iii. **Business Automobile Liability Insurance:** 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. The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
- iv. **Cyber Liability Insurance:** coverage of not less than \$2,000,000 providing coverage for damages and claims expenses, including notification expenses, arising from (1) breach of network security, (2) alteration, corruption, destruction or deletion of information stored or processed on a computer system, (3) invasion of privacy, including identity theft and unauthorized transmission or publication of personal information, (4) unauthorized access and use of computer systems, including hackers (5) the transmission of malicious code, and (6) website content, including claims of libel, slander, trade libel, defamation, infringement of copyright, trademark and trade dress and invasion of privacy.

C. Endorsements: The specific insurance coverage endorsements specified above, or their equivalents must be provided. If 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.

D. If delivery is made by common carrier, then the requirements for Workers Compensation and Business Automobile insurance do not apply.

2. SERVICES

2.1 WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):

- A. Access to any City Department building by the Contractor, all Subcontractors and their employees will be strictly controlled, at all times, by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the City building at least 30 days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than 20 days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the Contract, the Contractor shall so notify the City's Contract Manager, in writing, within 10 days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the City building and security badges must be on display, at all times, when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and Subcontractors are kept fully informed as to these requirements.

SOURCEWELL PROGRAM AGREEMENT

This Sourcewell Program Agreement (“Program Agreement”) by and between **City of Austin** (“Buyer”), Summus Industries, Inc., (“Diversity Supplier”) and **Staples Contract & Commercial LLC** (“Staples”) is made effective as of 08/01/2020, (the Program Agreement Effective Date”) and is attached to and governed by the Sourcewell Agreement(s) specifically marked and identified in Section 3.2 below (“Sourcewell Agreement(s)”) between Staples and Sourcewell. Buyer, Diversity Supplier, and Staples are collectively referred to herein as the “Parties”. All capitalized terms used herein shall have the meaning assigned to them in the Sourcewell Agreement unless otherwise defined herein.

WHEREAS, Buyer, a member of Sourcewell (as defined below), Diversity Supplier, and Staples desire to enter into this Program Agreement pursuant to which Buyer may participate in the Sourcewell Program to purchase Products (as defined below).

NOW, THEREFORE, in consideration of the foregoing mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1.0 Previous Program Agreement(s). The Parties acknowledge and agree that this Program Agreement shall replace and supersede any previous Program Agreement including any amendments attached thereto as of the Program Agreement Effective Date set forth in paragraph 1 above.

2.0 Term. The term of this Program Agreement with respect to Buyer shall commence on the Program Agreement Effective Date and shall terminate upon the earlier of (i) termination or expiration of the Sourcewell Agreement, or (ii) the date at which Buyer ceases to be a Member of Sourcewell (“Program Agreement Term”). In the event that the Program Agreement terminates or expires pursuant to (i) or (ii) above, Diversity Supplier and Staples agree to offer Buyer the option to enter into a separate agreement with Diversity Supplier and Staples, provided, however, Diversity Supplier, Staples and Buyer mutually agree upon the terms and conditions of such separate agreement.

3.0 Definitions.

3.1 **Sourcewell.** Sourcewell is public agency serving as a national government/education contracting agency. Sourcewell was created and organized under the “Service Cooperative” section of the Minnesota Statute, M.S. 123A.21. Sourcewell is governed by publicly elected officials while cooperatively serving all municipal and educational agencies nationally under the authority of the Minnesota Joint Exercise of Powers laws M.S. 471.59.

3.2 **Sourcewell Program.** The specific program(s) checked below:

☒ **Supplies Program.** Office, school, and other workplace-related supplies and services offered for sale by Staples to Sourcewell members that are included in the Sourcewell national contract solution for the procurement of OFFICE, SCHOOL, AND OTHER WORKPLACE-RELATED SUPPLIES AND SERVICES pursuant to RFP award #012320-SCC as amended from time to time.

☒ **Furniture Program.** Furniture with related accessories and services offered for sale by Staples to Sourcewell members that are included in the Sourcewell national contract solution for the procurement of FURNITURE WITH RELATED ACCESSORIES AND SERVICES pursuant to RFP award #121919-SCC as amended from time to time.

3.3 **Products.** All items included in the Sourcewell Program that Buyer purchases or may purchase from Diversity Supplier which are sourced from Staples.

3.4 **Purchase Orders.** Unless otherwise agreed by the parties in writing, all purchase orders issued by Member during the Term of this Program Agreement shall be governed only by the terms and conditions of this Program Agreement notwithstanding any preprinted language on Member's purchase order or Staples' acknowledgement thereof.

4.0 Buyer Representations and Warranties. Buyer hereby represents and warrants that:

4.1 it is a governmental entity as defined in Minnesota Statute 471.59 or it is a nonpublic school administrative unit eligible to participate in the Sourcewell Program pursuant to Minnesota Statute 123a.21;

4.2 it is an Sourcewell member and will maintain its Sourcewell membership during the Program Agreement Term;

4.3 it has the local legal ability to recognize and participate in joint exercise of powers activities under the applicable state and federal procurement laws; and

4.4 as a member of Sourcewell, Buyer may participate in the Sourcewell Program, provided, however, Buyer acknowledges that it (i) will be bound in all respects by the terms and conditions of the Sourcewell Agreement and terms and conditions of this Program Agreement

5.0 Prices. Prices for Products and Services are as specified in the Sourcewell Program and are subject to adjustment as set forth therein. Buyer acknowledges that in accordance with the Sourcewell Program, it shall receive pricing that deviates by 2 percent from the applicable pricing in order to accommodate the inclusion of the services to be provided by Diversity Supplier.

Additionally, Buyer will receive customized pricing on the items contained in the attached Local Core Price List "Exhibit C", which will be held firm for a period of 12 months from the effective date of this agreement, and thereafter may be adjusted upon thirty (30) days' notice to Buyer.

6.0 Rebates.

6.1 In lieu of receiving the standard annual Sourcewell volume rebate for purchases made under the Sourcewell Furniture Program #121919-SCC, Buyer will receive a 4% volume rebate for those items of such member's Net Sales pursuant to this agreement annually based on an annual period of August 1 through July 31, to be paid within forty-five (45) calendar days after each annual period ending July 31. For the avoidance of doubt, the aforesaid rebate shall not apply to any excluded items. Excluded items include but are not limited to; non-stock or special-order items such as janitorial equipment, technology hardware products, custom print items, custom promotional products, Managed Print Services (MPS), and retail store purchases.

6.2 "Net Sales" - Net Sales will be defined as the gross sales price of the applicable products and services sold under this contract, less taxes, duties, any rebates actually paid, discounts and allowances actually taken, rejections and returns to the extent credit is given or paid and also excluding purchases made via staples.com, or any Staples retail channel.

- 6.3 Payment of all incentives and/or rebates paid hereunder is contingent upon Buyer paying all invoices within the agreed-upon payment terms.
- 7.0 **Conflict.** In the event of conflict between this Program Agreement and the Sourcewell Agreement, the terms and conditions of this Program Agreement shall control.
- 8.0 **Termination.** Any Party may terminate this Program Agreement for any reason upon at least thirty (30) calendar days' prior written notice to the other Parties, provided, however, in the event that Diversity Supplier so terminates this Program Agreement, Staples reserves the right to propose an alternative diversity supplier to Buyer.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Program Agreement under seal as of the Program Agreement Effective Date.

CITY OF AUSTIN (“BUYER”)

By its authorized agent:

(Signature)

Name: Claudia Rodriquez

Title: Procurement Specialist IV

Date: _____

Address for Notices:

City of Austin Purchasing Office

124 W. 8th St. Ste#301

Austin, Texas 78701

ATTN: Contract #

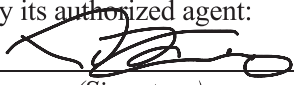
Telephone: (512) 974-2500

Facsimile: (512) 974-2388

Email: claudiar.rodriquez@austintexas.gov

SUMMUS INDUSTRIES, INC

By its authorized agent:



(Signature)

Name: Rodney Craig

Title: CEO

Date: July 21, 2020

Address for Notices:

77 Sugar Creek Center

Suite 420

Sugar Land TX 77478

ATTN: Fabiola Tillman

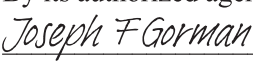
Telephone: (281) 640-1765, Ext. 102

Facsimile: (281) 640-1766

Email: Fabiola.tillman@summusindustries.com

STAPLES CONTRACT & COMMERCIAL LLC

By its authorized agent:



(Signature)

Name: Joseph Gorman

Title: VP Commercial Sales

Date: Jul 22, 2020

Address for Notices:

Staples Contract & Commercial LLC

500 Staples Drive

Framingham, MA 01702

ATTN: Joseph Gorman

Telephone: 508-253-5000

Facsimile: _____

Email: Joseph.Gorman@staples.com

with a copy to: General Counsel

Item # w/ Whls			Custom er Item #	Ediversity price	UOM Conv	Sell UOM
Pfx	Manufacturer #	Item Description				
689615	WPS2000	PREMIUM PRIVACY SCREEN 38X65	689615	\$ 356.10	1	EA
932412	TP1000-BLACK	TEMPUR-PEDIC 1000	932412	\$ 349.99	1	EA
830051	CE262A	HP 648A YELLOW TONER CART	830051	\$ 239.49	1	EA
830053	CE263A	HP 648A TONER MAGENTA	830053	\$ 239.49	1	EA
830056	CE261A	HP 648A CYAN TONER CART	830056	\$ 239.49	1	EA
324021	TP9000-BLK	TEMPUR-PEDIC 9000	324021	\$ 232.54	1	EA
771137	CC530AD	HP 304A BLACK TONER 2PK	771137	\$ 154.68	1	PK
486755	C9720A	HP 641A BLACK TONER CART	486755	\$ 142.36	1	EA
760477	CE505X	HP 05X HY BLACK TONER	760477	\$ 139.13	1	EA
830188	CE260A	HP 647A BLACK TONER	830188	\$ 132.12	1	EA
577282	Q5949X	HP 49X HY BLACK TONER	577282	\$ 131.33	1	EA
804574	CE255A	HP 55A BLACK TONER CART	804574	\$ 114.85	1	EA
754631	CC530A	HP 304A BLACK TONER CART	754631	\$ 107.49	1	EA
754639	CC531A	HP 304A CYAN TONER CART	754639	\$ 98.69	1	EA
195418	5104	11X17 20 ENIRO100	195418	\$ 94.69	1	CT
754627	CC533A	HP 304A MAGENTA TONER CART	754627	\$ 93.70	1	EA
591215	C9353FN#140	HP 96 BLK/97 CLR INK 2PK	591215	\$ 84.87	1	PK
423879	CE410A	HP 305A BLACK TONER CARTRIDGE	423879	\$ 72.41	1	EA
614437	TR614437/614437	FOLDER CLASS 3 DIV LTR LT BLUE	614437	\$ 58.66	1	BX
137919	HY-260W	QUIETSET WHOLE ROOM TOWER FAN	137919	\$ 54.57	1	EA
620014	620014 US/CC	SPLS 8.5X11 100% REC COPY CS	620014	\$ 49.50	1	CT
614430	TR614430/614430	FOLDER CLASS 1 DIV LTR GREEN	614430	\$ 48.62	1	BX
384869	TR384869/384869	PRSRBD FLDR W/FAST 3IN EXP LTR	384869	\$ 43.65	1	BX
756976	33509	SPLS 8.5X11 100% MULTI 5RM CS	756976	\$ 42.85	1	CT
614615	TR614615/614615	FOLDER CLASS 2 DIV LTR RED	614615	\$ 37.80	1	BX
026993	102541	COLOR COPY PAPER 11X17 WHITE	026993	\$ 35.78	1	RM
657463	PRO18999	FOLGERS CLASSIC REGULAR COFFE	657463	\$ 29.34	1	CT
570221	PRO06930	FOLGERS CLSC RST COFEE PK .9OZ	570221	\$ 22.55	1	CT
622853	12735	STAPLES 100PK DVD-R SPINDLE	622853	\$ 22.30	1	EA
209882	05160	AVY LSR LBL 3000PK 1X2 5/8	209882	\$ 22.17	1	BX
917881	TZE-2312PK	BROTHER TZE-2312PK 12MM BKWHT	917881	\$ 21.90	1	PK
633539	9625-04	PURELL HD SNTZR PUMP 2L	633539	\$ 20.07	1	EA
559217	33951	SIGNO GEL 207 RT BLUE	559217	\$ 19.07	1	DZ
598880	61256	UNI-BALL SIGNO GEL 207 RT	598880	\$ 18.79	1	DZ
917883	TZE-241	P-TCH TAPE 3/4IN BLK/WHT	917883	\$ 13.88	1	EA
326197	SPL07ENFR-4	SPLS ELECTRONICS DUSTER 7OZ4PK	326197	\$ 12.22	1	PK
703715	MN1500B20Z	BATTERY AA ALKALINE 20PK	703715	\$ 11.46	1	PK
424575	31021	PILOT G2 RT FINE BLU 12	424575	\$ 11.21	1	DZ
429174	31020	PILOT G2 RET FINE BLACK 12	429174	\$ 11.21	1	DZ
648102	31256	PILOT G2 RETRCT GEL BOLD BK DZ	648102	\$ 11.21	1	DZ
917860	TZE-231	P-TOUCH TAPE 1/2IN BLK/WHT	917860	\$ 10.03	1	EA
452175	452175	THERMALPOSROLLS 2 1/4X80 10PK	452175	\$ 9.41	1	PK
385581	30251	LABEL ADDRESS WHT 2 ROLLS/130	385581	\$ 8.66	1	BX
791162	17651	SPLS 6OL 6FT POWERSTRIP WHT	791162	\$ 7.92	1	EA
490887	49701	8.5X11 WHITE CARD STOCK 250	490887	\$ 7.55	1	PK
504878	845-2	TAPE BOOK SCOTCH 2X540	504878	\$ 6.89	1	RL
490948	14787	PASTELS 8.5X11 CANARY PAPER RM	490948	\$ 5.56	1	RM
490936	14781	PASTELS 8.5X11 GREEN PAPER RM	490936	\$ 5.54	1	RM
490947	14786	PASTELS 8.5X11 BLUE PAPER RM	490947	\$ 5.54	1	RM
563226	22210	PEN RETR Z-GRIP 1.0MM BLACK	563226	\$ 4.49	1	DZ
749565	TR52120M/52120	BAGASSE 9X6 NOTEBOOK	749565	\$ 3.36	1	EA
127878	3331131/C	PAPMATE BP STIC MED BLK DZ	127878	\$ 1.40	1	DZ
199984	TR11491N/11491	STPLS 5 TOPBND MEMOBK 3X5 75CR	199984	\$ 0.72	1	PK

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

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

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

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

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

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

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

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

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

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

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

Sanctions:

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

Term:

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

Dated this 24th day of July, 2020

CONTRACTOR
Authorized
Signature

Title

Summus Industries, Inc.



CEO

City of Austin, Texas
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.

Contractor's Name: Summus Industries, Inc

Signature of Officer or
Authorized
Representative:



Date: July 24, 2020

Printed Name: Rodney Craig

Title: CEO

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Claudia Rodriquez 4-2959	PM Name/Phone	N/A
Sponsor/User Dept.	Purchasing/City Wide	Sponsor Name/Phone	Claudia Rodriquez 4-2959
Solicitation No	134268	Project Name	Office Supplies
Contract Amount	\$20,000,000	Ad Date (if applicable)	N/A
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> IFB – IDIQ <input type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
Provide Project Description**			
A 5 year contranct for the purchase and delivery of office supplies including an on-line ordering platform through an approved cooperative.			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
GC160000002 - no goals established.			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
61500 - 100%			
Claudia Rodriquez		3/30/2020	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY			
Date Received	3/30/2020	Date Assigned to BDC	3/30/2020
In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

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

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

N/A

Subcontracting Opportunities Identified

N/A

Tracy Burkhalter

SMBR Staff

Signature/ Date

SMBR Director or Designee

Jessica Oberembt

Date 03.31.2020

Returned to/ Date: