



MEMORANDUM

**City of Austin
Financial Services Department
Purchasing Office**

DATE: February 17, 2022
TO: Memo to File
FROM: Mike Zambrano, Jr. – Contract Management Specialist III
RE: EDD Contract – NA200000154 – Amendment No. 2

The Master Agreement was created, administered, and maintained by the Economic Development Department. All original documents are located with the Economic Development Department. The Purchasing Office is not responsible for any procurement actions taken for this Master Agreement Contract other than the creation of the payment mechanism for accounting purposes.

EDD Point of Contact:

Julian Perez
Julian.perez@austintexas.gov
(512) 974-7788

Amendment No. 2
To Contract MA 5500-200000154
For
Opportunity Austin
Between
Greater Austin Economic Development Corporation
And the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. The extension option will be effective January 15, 2022, through January 14, 2023. Two extension options will remain.

2.0 The total contract amount is increased by \$350,000.00 for the extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 1/15/2020 – 1/14/2021	\$350,000.00	\$350,000.00
Amendment No. 1: Term Extension 1/15/2021 – 1/14/2022	\$350,000.00	\$700,000.00
Amendment No. 2: Term Extension 1/15/2022 – 1/14/2023	\$350,000.00	\$1,050,000.00

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.



SIGNER
TITLE, Greater Austin Economic Development Corporation



J. Rodney Gonzales
Assistant City Manager, City of Austin

Approved as to Form:



City of Austin Law Department



M E M O R A N D U M

**City of Austin
Financial Services Department
Purchasing Office**

DATE: February 11, 2021

TO: Memo to File

FROM: Mike Zambrano, Jr. - Contract Management Specialist III

RE: MA 5500 NA200000154

This Master Agreement Contract was negotiated and created by Economic Development. The original contract is administered, maintained, and located with the department. The Purchasing Office is not responsible for any procurement action for this Master Agreement Contract other than creation of the payment mechanism for accounting purposes.

**AMENDMENT NO. 1 TO THE
AGREEMENT BY AND BETWEEN
THE CITY OF AUSTIN
AND THE
GREATER AUSTIN ECONOMIC DEVELOPMENT CORPORATION
FOR PARTICIPATION IN THE
OPPORTUNITY AUSTIN CAMPAIGN**

This Amendment ("Amendment") to the Agreement ("Agreement") for participation in the Opportunity Austin Campaign is entered by and between the City of Austin ("City") and the Greater Austin Economic Development Corporation ("GAEDC").

Section 4 of the Agreement is amended as follows:

4. Term - This Agreement shall become effective on January 15, 2020 and shall continue for a period of one year (until January 14, 2021). This Agreement may be extended for up to four additional one-year periods, subject to the approval of the funding during the City budget process and agreement of the GAEDC and the City Manager or designee.

The parties agree to extend this Agreement's term for the first additional one-year period, making the termination date January 14, 2022. Three additional one-year extension periods remain.

All other terms and conditions, including Section 5's limitation on the City's financial obligation to \$350,000 per contract year and that GAEDC must spend \$100,000 of that on clean energy business recruitment initiative, as stated in the Agreement shall remain in effect.

The parties' duly authorized representatives execute this Amendment on the dates set forth, below.

CITY OF AUSTIN

GREATER AUSTIN ECONOMIC DEVELOPMENT CORPORATION

BY: 

BY: 

Name: Synovia Holt-Rabb

NAME: Leslie Gruver

Title: Acting Director

TITLE: CFO

Date: February 5, 2021

DATE: Feb. 3, 2021

Approved as to form:

Ron Pigott

Digitally signed by Ron Pigott
DN: cn=Ron Pigott, o=City of Austin,
ou=Assistant City Attorney,
email=ron.pigott@austintexas.gov,
c=US
Date: 2021.02.04 15:51:51 -0600

Assistant City Attorney



MEMORANDUM

TO: File

FROM: Diana McIntosh, Procurement Specialist II

DATE: June 24, 2020

SUBJECT: MA 5500 NA200000154

The Master Agreement and its contents were created, administered, and maintained by the City of Austin, Economic Development Department. All original documents are located with the City of Austin, Economic Development Department. The Purchasing Office is not responsible for any procurement actions taken for this Master Agreement Contract other than the creation of the payment mechanism for accounting purposes.

Per Economic Development Department, one-year contract for the Opportunity Austin Campaign with the Greater Austin Economic Development Corporation for a total contract amount NTE \$350,000.

**AGREEMENT BY AND BETWEEN THE
THE CITY OF AUSTIN
AND THE
GREATER AUSTIN ECONOMIC DEVELOPMENT CORPORATION
FOR PARTICIPATION IN THE
OPPORTUNITY AUSTIN CAMPAIGN**

This Agreement is made and entered into by and between the City of Austin ("City"), acting through its Economic Development Department ("EDD"), and the Greater Austin Economic Development Corporation.

RECITALS

WHEREAS, the GAEDC has implemented Opportunity Austin, a business initiative for Austin and surrounding areas that encourages economic development and job creation; and

WHEREAS, the Austin City Council has authorized \$350,000 for the City's participation in Opportunity Austin; and

WHEREAS, the Austin City Council has requested that \$250,000 specifically be used for national advertising/public relations and workforce development; and

WHEREAS, GAEDC and the City desire to enter into this Agreement to facilitate further implementation of the Opportunity Austin program;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, GAEDC and City agree as follows:

1. General

GAEDC will complete the scope of Work described below. Acceptance and approval of documents or reports by the City shall not constitute a release of the responsibilities and liability of GAEDC for the accuracy and competency of GAEDC's work product or other documents and services prepared/performed under this Agreement. No approvals or acceptances by or on behalf of the City shall be an assumption of responsibility by the City for any defect, error, or omission in the work products or other documents and services as prepared/performed by GAEDC. GAEDC shall not complete tasks unauthorized by the City. It is understood and agreed that no claim for extra work finished or materials furnished by GAEDC, nor shall the GAEDC perform any work or furnish any materials, unless it is first requested of and authorized in writing by the City. Any work or materials furnished by GAEDC without a written request of and authorization from the City shall be at GAEDC's own risk, cost, and expense. GAEDC further agrees to correct documents or re-execute services as may be required, due to the GAEDC's development of documents that are found to be in error or contain defects or omissions, at no additional costs to the City.

2. Scope of Work

- A. National Marketing: Execute a media campaign to a national business audience in an effort to create a greater awareness of the benefits of Austin's and Central Texas' location to operate a business and create jobs.

Specific objectives:

- a) Create advertisements that differentiate Austin from other communities
- b) Identify appropriate business publications for placement of advertising that reaches the targeted audience.

Deliverables:

- a) Place advertisements between January 15, 2021 and January 14, 2022 in accordance with the current Greater Austin Chamber of Commerce Strategic Plan.
- b) Provide the City a copy of each advertisement, sourcing the publication that contains a placement advertising Austin as a business location.
- c) City may appoint a City employee to serve on the Economic Development Council that receives monthly reports on the implementation of marketing strategies.
- d) The City will be invited to quarterly meetings of Opportunity Austin, at which time achievements for the previous three months will be reported.
- e) Implement a national media relations program to generate earned, out-of-market media coverage for the Greater Austin area.
- f) Provide quarterly reports to the City, listing accomplishments during the period, including dates and descriptions of earned media coverage generated.

- B. Long Term Workforce Development: Execute a strategy designed to assist in closing the performance achievement gap at the high school level among the most at-risk students.

Specific objectives:

- a) Define and implement one high school group tutoring project focused on improving grade point average ("GPA"), TAKS performance and attendance of at-risk students; and
- b) Create a sustainable, standardized one on one tutoring development program.

Deliverables:

- a) Establish one high school tutoring study group at a high school with a high percentage of at-risk students that has

- a goal of 80% attendance for students and tutors.
- b) Train at least 25 tutors to work with students individually and/or in groups.
- c) Provide the City with quarterly progress reports on achieving objectives and program accomplishments.

C. Clean Energy Technology Business Development: Attract/recruit clean energy technology businesses and related support businesses to Austin.

Specific objectives:

- a) Develop a strategy to determine initial focus for attracting clean energy technology businesses.
- b) Hire staff to focus on implementing business attraction strategies.

Deliverables:

- a) Annually update the clean energy technology business attraction strategy.
- b) Employ a full time economic development professional to implement the strategy.
- c) Develop and distribute marketing materials targeting the clean energy industry.
- d) Provide the with City copies of those materials and details regarding their distribution, in quarterly reports.
- e) Provide statistics related to economic development activities associated with clean energy prospects to the City, in quarterly reports.

- 3. GAEDC shall furnish and assume full responsibility for all services, facilities, and incidentals necessary for the proper execution and completion of the work.
- 4. Term - This Agreement shall become effective on January 15, 2020 and shall continue for a period of one year (until January 14, 2021). This Agreement may be extended for up to four additional one-year periods, subject to the approval of the funding during the City budget process and agreement of the GAEDC and the City Manager or designee.
- 5. Payment
 - A. The City's financial obligations under this Agreement shall not exceed \$350,000.00 per year, during the term of this Agreement, of which \$100,000.00 per year is to be dedicated to the "clean energy" business recruitment initiative.
 - B. The City shall pay any proper invoice within 30 days of the City's receipt of the invoice and quarterly report.

- C. The City's payment obligations are payable only and solely from funds appropriated and available for the purpose of this Agreement. The absence of appropriated or other lawfully available funds shall render this Agreement null and void to the extent funds are not appropriated or available. The City shall provide GAEDC written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Agreement, or the reduction of any appropriation to an amount insufficient to permit City to pay its obligations under this Agreement.
6. Right to Audit: GAEDC 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, examines, or reproduces, any and all records of GAEDC related to the performance under this Agreement.
7. Indemnity: GAEDC 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 claims, causes of action, damages, attorney's fees and other costs arising out of, incident to, concerning or resulting from the fault of GAEDC, or GAEDC's agents, employees or subcontractors, in the performance of GAEDC's obligations under the Agreement. Nothing herein shall be deemed to limit the rights of the City or GAEDC (including, but not limited to, the right to seek contribution) against any third party who may be liable for an indemnified claim.
8. Right to Assurance: Whenever one party to the Agreement 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 Agreement.
9. Default: The GAEDC shall be in default under the Agreement if it (a) fails to fully, timely and faithfully perform any of its material obligations under the Agreement, (b) fails to provide adequate assurance of performance under Section 8 or (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States.
10. Termination for Cause: In the event of a default by GAEDC, the City shall have the right to terminate the Agreement for cause, by written notice effective 10 days, unless otherwise specified, after the date of such notice, unless GAEDC, within such 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. 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 GAEDC'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 Agreement are cumulative and are not exclusive of any other right or remedy provided by law.

11. Miscellaneous:

- A. Amendment: This Agreement may only be amended by mutual agreement of the Parties expressed in writing and approved and signed by appropriate representatives of each Party.
- B. Jurisdiction and Venue: The Agreement is made under and shall be governed by the laws of the State of Texas. All issues arising from this Agreement shall be resolved in the state 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 injunction relief from any competent authority as contemplated herein.
- C. Independent Contractor: The Agreement shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. GAEDC shall be considered an independent contractor.
- D. Notices: Any notices given regarding this Agreement shall be provided to the following contacts. A Party may specify a new contract by notifying the other Party in writing:

GAEDC Contact:

Leslie Gruver, Chief Financial Officer
Greater Austin Chamber of Commerce
535 E. 5th Street
Austin, TX 78701
P: (512) 322-5614
F: (512) 478-9615

City Contact:

David Colligan, Economic Development Manager
Economic Development Department
301 W. 2nd Street, Suite 2030
Austin, TX 78701
P: (512) 974-6381
F: (512) 974-7825

- E. Confidentiality: Each Party agrees that it shall not disclose to a third party (other than the Party's employees, counsel, consultants or agents) and will maintain in strict confidence the terms and conditions of this Agreement and any information that may be exchanged or

developed pursuant to this Agreement, except when such disclosure may be required by applicable law or regulation.

- F. Entire Agreement: This Agreement and its attachments constitute the entire agreement between the parties with respect to the matters contained in this Agreement.
- G. 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 Agreement resulting from the 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 GAEDC shall render the Agreement voidable by the City.
- H. Gratuities: The City may, by written notice to GAEDC, terminate the Agreement without liability, if it is determined by the City that gratuities were offered or given by GAEDC or any agent or representative of GAEDC to any officer or employee of the City of Austin with a view toward securing the Agreement or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such agreement. In the event the Agreement is terminated by City pursuant to this provision, City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by GAEDC in providing such gratuities.
- I. Living Wages and Benefits (applicable to procurements involving the use of labor):
 - 1. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum living wage for City employees is \$15.00 per hour. This minimum wage is required for any GAEDC employee assigned to this City Contract unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
 - 2. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain

coverage for their family members. GAEDC must provide health insurance with optional family coverage for all GAEDC employees assigned to this Agreement.

- J. Insurance: GAEDC's Worker's Compensation and Employer's Liability Insurance 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, and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements: Waiver of Subrogation, Form WC 420304, or equivalent coverage; and thirty (30) calendar days' Notice of Cancellation, Form WC 420601, or equivalent coverage.

City of Austin

By: Rodney Gonzales
Name: J. Rodney Gonzales
Title: Assistant City Manager
Date: June 12, 2020

Greater Austin Economic Development Corporation

By: Leslie Gruver
Name: Leslie Gruver
Title: Chief Financial Officer
Date: 6/3/2020

Approved as to Form:

RP
Assistant City Attorney

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO.

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

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

Answer: Resident Bidder

- (1) Texas Resident Bidder – A Bidder whose 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: Greater Austin Economic Development Corp.

Signature of Officer or
Authorized
Representative:

Leslie Gruber Date: 5/5/2020

Printed Name:

Leslie Gruber

Title

CFO

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.

Contractor's Name:

Greater Austin Economic Development Corp

Signature of Officer or
Authorized
Representative:

Leslie Gruver

Date:

5/5/2020

Printed Name:

Leslie Gruver

Title

CFO

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 5th day of May, 2020

CONTRACTOR
Authorized
Signature

Greater Austin Economic Dev Corp
Keslie Bruner

Title

CFO