



Amendment No. 2  
to  
Contract No. NA200000167  
for  
Cleanup Services for Overpasses, Under Bridges, and in the Transportation Right of Way  
between  
Relief Enterprise of Texas, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this unilateral extension option for the subject contract. This extension option will be effective July 30, 2021 through July 29, 2022. One option will remain.
- 2.0 The total contract amount is increased by \$575,000 for this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/30/2020 – 07/29/2021	\$575,000.00	\$575,000.00
Amendment No. 1: Replace Exhibit C 01/06/2021	\$0.00	\$575,000.00
Amendment No. 2: Option 1 – Extension 07/30/2021 – 07/29/2022	\$575,000.00	\$1,150,000.00

- 3.0 By signing this Amendment, the City of Austin confirms 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.
- 4.0 All other terms and conditions remain the same.

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

**CITY OF AUSTIN**  
**Sandy**  
**Wirtanen**

Digitally signed by Sandy  
Wirtanen  
Date: 2021.07.29  
16:28:45 -05'00'

Signature

Sandy Wirtanen

Printed Name of Authorized Person

Procurement Specialist IV

Title

7/29/2021

Date



Amendment No. 1  
of  
Contract No. NA200000167  
for  
Cleanup Services for Overpasses, Under Bridges, and in the Transportation Right of Way  
between  
Relief Enterprise of Texas, Inc.  
and the  
City of Austin

- 1.0 The City amends the above referenced contract to replace Exhibit C with Exhibit C – VERSION 2.
- 2.0 The total contract amount is unchanged. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/2/2018 – 7/1/2023	\$575,000.00	\$575,000.00
Amendment No. 1: Replace Exhibit C 1/6/2021	\$0.00	\$575,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 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.

**RELIEF ENTERPRISE OF TEXAS, INC.**

Calvin  
Williams

Digitally signed by Calvin Williams  
DN: cn=Calvin Williams, o=Relief  
Enterprise, Inc., ou,  
email=calvin\_williams@reliefenterprise.or  
g, c=US  
Date: 2021.01.08 10:53:29 -06'00'

Signature

Calvin Williams

Printed Name of Authorized Person

COO

Title

01/08/2021

Date

**CITY OF AUSTIN**

Sandy  
Wirtanen

Digitally signed by Sandy  
Wirtanen  
Date: 2021.01.08  
16:46:11 -05'00'

Signature

Sandy Wirtanen

Printed Name of Authorized Person

Procurement Specialist IV

Title

1/8/2021

Date

## EXHIBIT C - VERSION 2

LOCATION	
TOTAL LOCATIONS: 63	Price Per Group
GROUP 1: BEN WHITE & SLAUGHTER (15 SITES)	
Montopolis Burleson Omin Hotel & Ben White IH35 Ben White (Payload Pass & Santiago St.) South Congress 1st Street Banister Menchaca Pack Saddle Pass Cavendar's & Ben White South Lamar West Gate IH35/Slaughter Lane Slaughter Lane/Menchaca (Union Pacific)	\$ 21,542.15
GROUP 2: HWY 183 CAMERON ROAD TO SHOAL CREEK TURNAROUND (11 SITES)	
Cameron Road I35 Northcrest / Georgian N Lamar Anderson Sq Fairfield Ohlen Payton Gin Metric / Burnet Entrance SB Burnet Shoal Creek Turnaround	\$ 8,700.00
GROUP 3: I35 FROM GRAND AVENUE TO RUNDBERG & US290/SS69 (15 Sites)	
IH35 TRACT (11 Sites)	
Grand Avenue Wells Branch Howard Lane Parmer Lane Rundberg Lane Braker Lane US 183 US 290 - Entrance Ramp South of Huntland Dr - Lincoln Village Shopping Center 51st Airport MLK Exit (Lower Deck)	\$ 4,910.00

<b>US290/SS69 (4 Sites)</b>	
Berkman	\$ 2,358.57
Cameron Road	
I35	
Airport Blvd - Rail Road Tracks	
<b>GROUP 4: I35 FROM 15TH TO Holly) &amp; RIVERSIDE / PLEASANT VALLEY (8 Sites)</b>	
15th Street	\$ 6,410.00
12th Street	
8-11th Street	
6-7 Street	
4th Street	
1st Street (Cesar Chavez)	
Holly St	
Riverside & Pleasant Valley	
<b>GROUP 5: US183 -GREAT HILLS TRAIL TO LAKE CREEK PKWY (14 SITES)</b>	
<b>US183/LP1 (5 Sites)</b>	
US 183	\$ 2,600.00
MoPAC Interchange	
LP 360	
LP 1	
Parmer Lane	
<b>US183 BRIDGES UNDERNEATH (9 Sites)</b>	
Great Hills Overpass	\$ 4,920.00
Balcones Overpass	
Braker Lane Overpass	
Duval Road Overpass	
Oak Knoll Overpass	
Ponds Springs Road Overpass	
Spicewood Springs Overpass	
Anderson Mill Overpass	
Lake Creek Pkwy	

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)  
and  
RELIEF ENTERPRISE OF TEXAS, INC (“Contractor”)  
for  
CLEANUP SERVICES FOR OVERPASSES, UNDER BRIDGES, AND IN THE TRANSPORTATION RIGHT OF  
WAY**

**Contract Number: MA 6200 NA200000167**

The City accepts the Contractor’s Offer for the above requirement and enters into the following Contract. This Contract is between Relief Enterprise of Texas, Inc having offices at Austin, TX 78723 and the City, a home-rule municipality incorporated by the State of Texas. Capitalized terms used but not defined herein have the meanings given in the Solicitation.

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

- 1.1.1 This Document
- 1.1.2 Exhibit A – The City’s Terms and Conditions
- 1.1.3 Exhibit B – The City’s Scope of Work
- 1.1.4 Exhibit C – Contractor’s Offer

**1.2 Compensation.**

The Contractor shall be paid a total Not-to-Exceed amount of \$575,000 for the initial Contract term and \$575,000 for each extension option.

Unless otherwise specified, prices are firm and fixed for the first twelve (12) months. Thereafter, pricing is subject to the Economic Price Adjustment provisions of this Contract.

**1.3 Term of Contract.**

This Contract shall commence upon execution and shall remain in effect for an initial term of 12 months or the City terminates the Contract.

This Contract may be extended beyond the initial term for up to two additional 12-month periods 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, subject only to any economic price adjustment otherwise allowed under this Contract.

- 1.4 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:

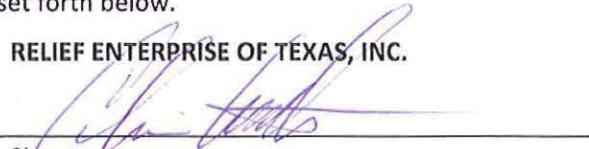
	<u>Name</u>	<u>Phone Number</u>	<u>Email Address</u>
Contractor Contract Manager	Ronda Houston	512-467-0115	<a href="mailto:Ronda_houston@reliefenterprise.org">Ronda_houston@reliefenterprise.org</a>
City Contract Manager	Gumecindo Lopez	512-974-5648	<a href="mailto:Gumecindo.lopez@austintexas.gov">Gumecindo.lopez@austintexas.gov</a>
City Procurement Specialist	Sandy Wirtanen	512-974-7711	<a href="mailto:Sandy.wirtanen@austintexas.gov">Sandy.wirtanen@austintexas.gov</a>

- 1.5 **Invoices.** The Contractor shall email invoices to [PWDPurchasing@austintexas.gov](mailto:PWDPurchasing@austintexas.gov). For questions regarding your invoice/payment please contact the City Contract Manager.

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

**RELIEF ENTERPRISE OF TEXAS, INC.**

  
Signature

Calvin Williams

Printed Name of Authorized Person

COO

Title

07/28/20

Date

**CITY OF AUSTIN**

Sandy  
Wirtanen  
Signature

Digitally signed by Sandy Wirtanen  
DN: cn=Sandy Wirtanen, o=City of Austin,  
ou=Purchasing Office,  
email=sandy.wirtanen@austintexas.gov,  
c=US  
Date: 2020.07.30.08:07:00 -0400

Sandy Wirtanen

Printed Name of Authorized Person

Procurement Specialist IV

Title

7/30/2020

Date

**EXHIBIT A  
CITY OF AUSTIN  
TERMS AND CONDITIONS**

**1. GENERAL**

**1.1 TERM OF CONTRACT:**

- A. The Contract shall commence upon execution unless otherwise specified and shall continue in effect until all obligations are performed in accordance with the Contract. Upon written notice to the Contractor from the City's Purchasing Officer or designee, the Contract may be extended beyond the initial term at the City's sole option unless the Contractor is notified 30 days prior to the expiration. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- B. Upon expiration of the initial term or any period of extension, the Contractor agrees to holdover under the terms and conditions of this Contract for such a period as is reasonably necessary for the City to re-solicit and/or complete the Deliverables due under this Contract. Any holdover period will not exceed 180 calendar days unless mutually agreed on by both parties in writing.

**1.2 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.

**1.3 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.

**1.4 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.

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CITY OF AUSTIN  
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- 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.

**1.5 FINAL PAYMENT AND CLOSE OUT:**

- A. If a Minority-Owned Business Enterprise/Women-Owned Business Enterprise (MBE/WBE) Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project Manager or Contract Manager no later than the 15th calendar day after completion of all work under the Contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:



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- i. A waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
- ii. A waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**1.6 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.

**1.7 FINANCIAL DISCLOSURES AND ASSURANCE:**

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

**1.8 RIGHT TO ASSURANCE:**

Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. If no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

**1.9 STOP WORK NOTICE:**

The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

**1.10 DEFAULT:**

The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or Deliverable required to be

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submitted by the Contractor to the City. The City shall be in default if it fails to make payment in accordance with the Payment terms of this Contract.

**1.11 TERMINATION FOR CAUSE:**

In the event of a default by either party, the non-defaulting party shall have the right to terminate the Contract for cause, by written notice effective ten 10 calendar days, unless otherwise specified, after the date of such notice, unless the defaulting party, within such 10 day period, cures such default, or provides evidence sufficient to prove to the non-defaulting party's reasonable satisfaction that such default does not, in fact, exist. Additionally, the City shall have the right to act in accordance with the terms defined by "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors." In addition to any other remedy available under law or in equity, either party shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the party as a result of the Contractor's default, including, without limitation, cost of cover, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and not exclusive of any other right or remedy provided by law.

**1.12 ATTORNEY'S FEES:**

In consideration of the award and execution of this Contract and in consideration of the City's waiver of its right to attorney's fees, the Contractor knowingly and intentionally waives its right to attorney's fees under §271.153, Texas Local Government Code, in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Contract.

**1.13 TERMINATION WITHOUT CAUSE:**

The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon 30 calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations incurred prior to the date of termination in accordance with the terms hereof.

**1.14 FRAUD:**

Fraudulent Statements by the Contractor on any Offer or in any report or Deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

**1.15 DELAYS:**

The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within 30 calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution Clause. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

**1.16 FORCE MAJEURE:**

Contractor may be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, pandemic, sovereign conduct, or court order provided that the Contractor experiences the event of force majeure and prudently

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and promptly acts to take any and all steps that are within the Contractor's control to ensure performance and to shorten the duration of the event of force majeure. Contractor shall provide notice of the force majeure event to the City within three (3) business days of the event or delay, whichever occurs later, to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. However, the City may terminate an order under the Contract if it is determined by the City that the Contractor will not be able to deliver goods or services in a timely manner to meet the business needs of the City.

**1.17 INDEMNITY:**

A. IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS ASSIGNED BELOW:

- i. "INDEMNIFIED PARTY" IS THE CITY AND THE CITY'S OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS.
  - (1) "INDEMNIFYING PARTY" IS THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.
  - (2) THE INDEMNIFYING PARTY SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE INDEMNIFIED PARTY AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, DEFICIENCIES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, PENALTIES, FINES, COSTS OR EXPENSES, INCLUDING PROFESSIONAL FEES AND ATTORNEYS' FEES, THAT ARE INCURRED BY THE INDEMNIFIED PARTY ARISING OUT OF ANY DIRECT OR THIRD PARTY CLAIM OF:
- ii. BREACH OR NON-FULFILLMENT OF ANY PROVISION OF THIS CONTRACT BY THE INDEMNIFYING PARTY;
- iii. ANY FALSE REPRESENTATION OR WARRANTY MADE BY THE INDEMNIFYING PARTY IN THIS CONTRACT OR IN THE INDEMNIFYING PARTY'S PROPOSAL/RESPONSE LEADING TO THIS CONTRACT;
- iv. ANY NEGLIGENT OR MORE CULPABLE ACT OR OMISSION OF THE INDEMNIFYING PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT, RELATED TO THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT;
- v. BODILY INJURY; DEATH OF ANY PERSON; OCCUPATIONAL ILLNESS OR DISEASE; LOSS OF SERVICES, WAGES, OR INCOME; OR DAMAGE TO REAL OR PERSONAL PROPERTY CAUSED BY THE NEGLIGENT OR MORE CULPABLE ACTS OR OMISSIONS OF INDEMNIFYING PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT; OR
- vi. ANY FAILURE OF THE INDEMNIFYING PARTY TO COMPLY WITH ANY APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, REGULATIONS, OR CODES RELATED TO THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT.

B. ***THE INDEMNIFYING PARTY'S OBLIGATIONS UNDER THIS SECTION ARE NOT EXCUSED IN THE EVENT A CLAIM IS CAUSED IN PART BY THE ALLEGED NEGLIGENCE OR MORE CULPABLE ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT.***

C. THE INDEMNIFIED PARTY SHALL GIVE THE INDEMNIFYING PARTY WRITTEN NOTICE (A "CLAIM NOTICE") OF ANY CLAIM RECEIVED RELATED TO THIS CONTRACT. THE INDEMNIFYING PARTY'S DUTY TO DEFEND APPLIES IMMEDIATELY. THE INDEMNIFIED PARTY'S FAILURE TO PROVIDE A CLAIM NOTICE TO THE INDEMNIFYING PARTY DOES NOT RELIEVE THE INDEMNIFYING PARTY OF ITS DUTY TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE INDEMNIFIED PARTY.

D. THE INDEMNIFIED PARTY MAY SELECT ITS OWN LEGAL COUNSEL TO REPRESENT ITS INTERESTS. THE INDEMNIFYING PARTY SHALL:

- i. REIMBURSE THE INDEMNIFIED PARTY FOR ITS COSTS AND ATTORNEY'S FEES IMMEDIATELY UPON REQUEST, AS THEY ARE INCURRED, AND

**EXHIBIT A  
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- ii. REMAIN RESPONSIBLE TO THE INDEMNIFIED PARTY FOR ANY LOSSES INDEMNIFIED UNDER THIS SECTION.
- E. THE INDEMNIFYING PARTY SHALL GIVE PROMPT, WRITTEN NOTICE TO THE INDEMNIFIED PARTY OF ANY PROPOSED SETTLEMENT OF A CLAIM THAT IS INDEMNIFIABLE UNDER THIS SECTION. THE INDEMNIFYING PARTY MAY NOT, WITHOUT THE INDEMNIFIED PARTY'S PRIOR, WRITTEN CONSENT, SETTLE OR COMPROMISE ANY CLAIM OR CONSENT TO THE ENTRY OF ANY JUDGMENT REGARDING WHICH INDEMNIFICATION IS BEING SOUGHT UNDER THIS SECTION.
- F. MAINTENANCE OF THE INSURANCE REQUIRED BY THIS CONTRACT SHALL NOT LIMIT THE INDEMNIFYING PARTY'S OBLIGATIONS UNDER THIS SECTION. THE INDEMNIFYING PARTY SHALL REQUIRE ALL SUBCONTRACTORS TO INDEMNIFY THE CITY IN THE SAME MANNER AS PROVIDED IN THIS SECTION.

**1.18 NOTICES:**

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Notices to the Contractor shall be sent to the address registered with the City. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the assigned Procurement Specialist.

**1.19 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

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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.

**1.20 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.

**1.21 PUBLICATIONS:**

All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

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**1.22 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.

**1.23 NO CONTINGENT FEES:**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**1.24 GRATUITIES:**

The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were Offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such Contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

**1.25 PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:**

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any Solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that Solicitation. Any willful violation of this Section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

**1.26 INDEPENDENT CONTRACTOR:**

The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent Contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

**1.27 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.

**1.28 WAIVER:**

The claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is



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in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

**1.29 MODIFICATIONS:**

The Contract can be modified or amended only in writing and signed by both parties. No pre-printed or similar terms on any Contractor Invoice, Order, clickwrap agreement or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

**1.30 INTERPRETATION:**

The Contract is intended by the parties as a final, complete and exclusive Statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

**1.31 DISPUTE RESOLUTION:**

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this Section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within 14 calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within 30 calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within 30 calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to consider qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a Contract interpretation expert. If the parties fail to agree on a mediator within 30 calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center. The parties agree to participate in mediation in good faith for up to 30 calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

**1.32 JURISDICTION AND VENUE:**

The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another State or jurisdiction. All

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issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

**1.33 INVALIDITY:**

The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

**1.34 HOLIDAYS:**

The following holidays are observed by the City:

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

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

**1.35 SURVIVABILITY OF OBLIGATIONS:**

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

**1.36 COOPERATIVE CONTRACT:**

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, for the purpose of accessing their cooperative contracts and making available our cooperative contracts, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions of this cooperative contract to other eligible governmental agencies that have entered into an interlocal agreement with the City for the purpose of accessing the City's cooperative contracts.
- B. The City does not accept any responsibility or liability for the purchases by other governmental entities made under a separate contract based on this cooperative contract.



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**1.37 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.

**1.38 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.

**1.39 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.

**1.40 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

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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.

**1.41 ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first 12 months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the Contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the Solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed 25 percent for any single line item and in no event shall the total amount of the Contract be automatically adjusted as a result of the change in one or more-line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of Contract award and remain in effect until Contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
- i. The following definitions apply:
- (1) **Base Period:** Month and year of the original Contracted price (the Solicitation close date).
  - (2) **Base Price:** Initial price quoted, proposed and/or Contracted per unit of measure.
  - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
  - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
  - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- a. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- i. Utilize final Compilation data instead of Preliminary data
  - ii. If the referenced index is no longer available shift up to the next higher category index.
  - iii. Index Identification:

Weight % or \$ of Base Price: 100%	
Database Name: CPI – All Urban Customers	
Series ID: CUUR0300SAO	
<input checked="checked" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: South Urban	

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Description of Series ID: All items in South Urban
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: All

- E. **Calculation:** Price adjustment will be calculated as follows:

**Single Index:** Adjust the Base Price by the same factor calculated for the index change.

Index at time of calculation
Divided by index on Solicitation close date
Equals Change Factor
Multiplied by the Base Rate
Equals the Adjusted Price

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

**1.42 INSURANCE:**

**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](mailto: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

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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

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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.

**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.

## **2. SERVICES**

### **2.1 ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES AND/OR SERVICES:**

If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables or Services, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables or Services. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables or Services. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor within 30 calendar days of notification provided by the City.

### **2.2 WORKFORCE:**

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

### **2.3 GUARANTEE – SERVICES:**

The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices following the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the

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Contractor shall promptly upon receipt of demand perform the services again in accordance with the services warranty standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.

- C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

**2.4 PLACE AND CONDITION OF WORK:**

The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and Specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**2.5 COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:**

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



**EXHIBIT B: UNDERPASS CLEANUP  
SCOPE OF WORK**

1. Scheduled Clean-Ups. The contractor shall be required to remove and dispose of garbage, debris, waste, unsafe items, and other like material to an appropriate facility from the locations identified in the following groups:
  - a. Group 1: Ben White & 290/71 & Slaughter/ Manchaca Bridge
  - b. Group 2: HWY 183 Cameron Road to Shoal Creek Turnaround
  - c. Group 3: I35 from Grand Avenue to Rundberg MLK Exit (Lower Deck) & US290 / SS69
  - d. Group 4: I35 from 15<sup>th</sup> to Cesar Chavez & Riverside / Pleasant Valley
  - e. Group 5: US183 from Great Hills Trail to Lake Creek Parkway
    - i. The Groups and the individual sites within these groups shall be cleaned once a month, but additional cleanings could be scheduled as needed. The Contractor shall be given notification when to begin work and be provided a monthly schedule. Work shall begin within seven (7) days of notification and be completed within one (1) day per cycle request.
2. Unscheduled Clean-Ups. In addition to these identified underpass and City Right of Way locations, the Contractor may be asked to provide these services at other identified locations located in the City Right of Way. The Contractor shall work with the City to create a specific scope and cost for the identified location. Once agreed upon, the City will give the Contractor the notice to proceed. Additional cleanings may also be needed for the locations in Section 1 and shall be performed for the price of the specific location or for same unit pricing as a monthly cleaning if all locations are cleaned.
3. Services. The area to be cleaned includes concrete, brush, and grass areas between the north and southbound or east and westbound areas located near and under the bridge underpasses, along the sides near the bridge underpass, and/or in the City Right of Way. Services are to be performed in accordance to outline City protocols and procedures. The Contractor shall focus on the removal of garbage, debris, waste, unsafe items, and other like material but will not remove any identified personal items of any individuals living in this area as defined in City protocols and procedures. **Personal Property** means an item that is reasonably recognizable as belonging to a person; has apparent utility in its present condition and circumstances; and is not an unsafe item. Examples of personal property include but are not limited to identification, personal papers and documents, tents, bicycles, radios and other electronic equipment, eyeglasses, over-the-counter or prescription medications, photographs, jewelry, crutches, and wheelchairs. Personal property generally does not include building materials such as wood products, metal, pallets, or rigid plastic. The relevant staff member will determine whether an item is personal property, and in cases when the status of an item cannot reasonably be determined in the staff member's judgment based on the totality of the circumstances, the staff member will treat the item as personal property. If there are any changes to relevant City protocols and procedures these changes will be provided to the Contractor.
4. Safety Equipment/Provisions. The Contractor shall be responsible for providing all safety equipment to protect their employees in accordance with current and any subsequent City Guidelines and Orders. The Contractor shall be aware that hazardous materials may be

encountered and therefore employee protection during cleanup operations is extremely important.

5. Staffing Level. A minimum of five workers are required to be present at all times.
6. Work Zones. The City will assist the Contractor in establishment of a work zone to designate the area to be cleaned and will work with the Contractor to provide Austin Police Department support as needed in managing the work zone to ensure safety and efficient operations.
7. Payments. Payments will be made based on the monthly payment schedule established for the five specific groups included in Section 1. Additional authority has been included in the not to exceed contract amount but will only be used if needed to service additional sites and or for additional unscheduled cleanings per Section 2. The Contractor shall adhere to all terms and conditions and ensure all invoices are submitted accurately, timely, and properly for payment.



## EXHIBIT C

LOCATION			
TOTAL LOCATIONS: 60	Price Per Group		
GROUP 1: BEN WHITE & SLAUGHTER (13 SITES)			
Montopolis Burleson IH35 South Congress Ben White Cavendar's & Ben White Omin Hotel & Ben White 1st Street Banister Manchaca South Lamar West Gate Slaughter Lane/Manchaca (Union Pacific)	\$ 17,170.00		
GROUP 2: HWY 183 CAMERON ROAD TO SHOAL CREEK TURNAROUND			
Cameron Road I35 Northcrest / Georgian N Lamar Anderson Sq Fairfield Ohlen Payton Gin Metric / Burnet Entrance SB Burnet Shoal Creek Turnaround		\$ 8,700.00	
GROUP 3: I35 FROM GRAND AVENUE TO RUNDBERG & US290/SS69 (15 IH35 TRACT (11 Sites))			
Grand Avenue Wells Branch Howard Lane Parmer Lane Rundberg Lane Braker Lane US 183 US 290 - Entrance Ramp South of Huntland Dr - Lincoln Village Shopping Center 51st Airport MLK Exit (Lower Deck)			\$ 4,910.00

<b>US290/SS69 (4 Sites)</b>	
Berkman Cameron Road I35 Airport Blvd - Rail Road Tracks	\$ 2,358.57
<b>GROUP 4: I35 FROM 15TH TO CESAR CHAVEZ) &amp; RIVERSIDE / PLEASANT</b>	
15th Street 12th Street 8-11th Street 6-7 Street 4th Street 1st Street (Cesar Chavez) Holly St Riverside & Pleasant Valley	\$ 6,410.00
<b>GROUP 5: US183 -GREAT HILLS TRAIL TO LAKE CREEK PKWY: 14 SITES</b>	
<b>US183/LP1 (5 Sites)</b>	
US 183 MoPAC Interchange LP 360 LP 1 Parmer Lane	\$ 2,600.00
<b>US183 BRIDGES UNDERNEATH (9 Sites)</b>	
Great Hills Overpass Balcones Overpass Braker Lane Overpass Duval Road Overpass Oak Knoll Overpass Ponds Springs Road Overpass Spicewood Springs Overpass Anderson Mill Overpass Lake Creek Pkwy	\$ 4,920.00



## City of Austin Purchasing Office

### Certificate of Exemption for Professional Services, Public Health and Safety or Other Exempt Purchase (Non-Competitive)

DATE: 06/5/2020

DEPT: Public Works

TO: Matt Duree

FROM: James Snow

PURCHASING POC: Peggy Ybanez

PHONE: 512-974-9795

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure unless the expenditure falls within an exemption listed in Section 252.022.

Refer to Local Government Code 252.022 for a complete list of exemptions:

[Link to Local Government Code](#)

The City has selected a vendor for contract award and declares the competitive solicitation procedures in Local Government Code Chapter 252.022 to be exempt for this procurement. This Certificate of Exemption is hereby executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized and certifies that the following exemption is applicable to this procurement.

Please check the criteria listed below that applies to this request:

- ☐ A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of a municipality.
- ☒ A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
- ☐ A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- ☐ A procurement of personal, professional, or planning services
- ☒ Other exemption from Chapter 252.022: services performed by blind or severely disabled person

## 2. Describe this procurement

What it is for and why it is needed?

1. City of Austin has a current contract with Workquest, formerly TIBH, for the removal of debris and trash in homeless encampments under bridge overpasses throughout the city. These campsites represent an immediate public health, safety and fire risks. Workquest's contract is expiring and they have requested not to renew their contract. In order to continue the cleanup service, the City of Austin Public Works is requesting to contract with Relief Enterprises, Inc., the current subcontractor performing the work, for this vital service working under the current scope and pricing structure. Relief Enterprises is in agreement with contracting with the Public Works department and willing to continue providing this service for the City of Austin.

2. Describe the following (as applicable):

○ **For Public Calamity, Public Health and Safety, Unforeseen Damage to Public Machinery or Equipment, or Critical Business Need Exemptions:**

- Provide description of the event leading to the procurement and a business justification for this purchase. See above response
- What would be the impact to department operations and the community if this purchase was not made? See above response
- How and why this vendor was selected? See above response.

○ **For Professional, Personal, or Planning Service Exemptions:**

- Why is the vendor the most qualified to provide the services?
- Does this vendor have a history of working with the City? If so, was it on this particular service?
- Will this procurement be component of a larger service or phases of service?
- Is the vendor a City of Austin local vendor?
- Does the vendor hold an M/WBE certification with the City, a HUB certification with the State of Texas, or any other minority or women owned certifications?
- What qualifications, certifications, or specialized training does the vendor have?
- What is the impact if a contract is not secured with this particular vendor (loss of project timeline, loss of funding etc.)?
- What other vendors can provide these services and why are they not the best fit for the contract?

○ **For Other Exceptions from Chapter 252.022:**

- Explain the circumstances of the procurement. **Services performed by the blind or severely disabled.**

○ **Prices were determined to be reasonable based on the following (select all that apply):**

- ☐ Prices are established under a current Cooperative contract.

Notes: At a minimum, note the contract number, contract title, cooperative entity, and government or entity who created the contract.

- ☒ Prices are the same or similar to current City contract.

Notes: Pricing is similar to contract NA190000105.

- ☐ Prices are the same or similar to current contract with another government.

Notes: At a minimum, note the contract number, title and government that created the

contract.

- ☐ Prices are on a current and publicly available list price, for the same or similar products, available to all government and commercial customers.

Notes: At a minimum, note the list price title, source of the list price (catalog and catalog publish date or web address and download date).

- ☐ Prices are established by law or regulation.

Notes: At a minimum, note the legal or regulatory reference that established the prices.

- ☐ Other means of determining Price Reasonableness.

Notes: Describe any other source that was used to establish Price Reasonableness.

\* The questions in the form are designed to justify why this purchase should be exempt from a competitive procurement process. Failure to provide adequate documentation to substantiate the request may lead to the request being rejected.

Forward the completed and signed Certificate of Exemption to the Purchasing Office along with the following documentation:

- ☒ Scope of Work or Statement of Work (if applicable)  
☒ Vendor's proposal/quote (if applicable)  
☐ Project timeline with associated tasks, schedule of deliverables or milestones, and proposed payment schedule  
☐ Professional resumes, certifications, and/or licenses (Professional, Personal or Planning Services Only)  
☐ Other supporting documentation

4. Because of the above facts and supporting documentation, the City of Austin exempts this procurement from Local Government Code Chapter 252 and intends to contract with:

(Vendor Name): Relief Enterprises for

(Description of Procurement): Homeless Encampment Clean-Up Services/Public Works

5. Check the contract type (one-time or multi-term) and fill in the dollar amount and term as applicable:

☐ This is a one-time request for \$\_\_

☒ This is a multi-term contract request for Twelve (12) month base term in the amount of \$575,000 with two (2) 12 month contract renewal options, each at \$575,000 for a total contract amount of \$1,725,000.

Recommended  
Certification

[Signature]  
Originator

6/5/2020  
Date

Approved  
Certification

[Signature]  
Department Director or designee

6/5/2020  
Date

[Signature]  
Assistant City Manager / General Manager  
or designee (procurement requiring Council approval)

6/12/2020  
Date

Purchasing Office  
Review

\_\_\_\_\_  
Authorized Purchasing Office Staff

\_\_\_\_\_  
Date

Purchasing Office  
Management Review  
(If required due to signature authority level)

\_\_\_\_\_  
Purchasing Officer or designee

\_\_\_\_\_  
Date



**City of Austin, Texas  
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE  
NON-DISCRIMINATION CERTIFICATION**

**SOLICITATION NO** MA 6200 NA200000167

**City of Austin, Texas  
Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** 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 and agrees:

- (B) (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. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER 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, veteran status, 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 OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

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

**City of Austin  
Minimum Standard Non-Discrimination 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.*

*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 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 A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 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.

**Term:**

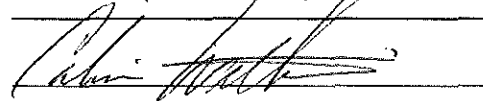
The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration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

Dated this 2 day of June, 2020.

CONTRACTOR

Relief Enterprise of Texas, Inc.

Authorized Signature



Title

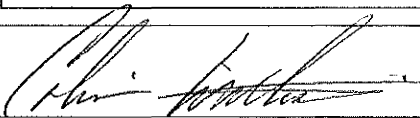
COO

**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**

SOLICITATION NO.

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:	<div style="border: 1px solid black; padding: 2px;">Relief Enterprise of Texas, Inc.</div>		
Signature of Officer or Authorized Representative:		Date:	<div style="border: 1px solid black; padding: 2px;">Jun 2, 2020</div>
Printed Name:	<div style="border: 1px solid black; padding: 2px;">Calvin Williams</div>		
Title:	<div style="border: 1px solid black; padding: 2px;">COO</div>		





## City of Austin Purchasing Office

### Certificate of Exemption for Professional Services, Public Health and Safety or Other Exempt Purchase (Non-Competitive)

DATE: 6/15/2020

DEPT: Public Works

TO: Matt Duree

FROM: James Snow

PURCHASING POC: Peggy Ybanez

PHONE: 512-974-9795

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure unless the expenditure falls within an exemption listed in Section 252.022.

Refer to Local Government Code 252.022 for a complete list of exemptions:

[Link to Local Government Code](#)

The City has selected a vendor for contract award and declares the competitive solicitation procedures in Local Government Code Chapter 252.022 to be exempt for this procurement. This Certificate of Exemption is hereby executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized and certifies that the following exemption is applicable to this procurement.

Please check the criteria listed below that applies to this request:

- ☐ A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of a municipality.
- ☒ A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
- ☐ A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- ☐ A procurement of personal, professional, or planning services
- ☒ Other exemption from Chapter 252.022: services performed by blind or severely disabled person

## 2. Describe this procurement

What it is for and why it is needed?

1. City of Austin has a current contract with Workquest, formerly TIBH, for the removal of debris and trash in homeless encampments under bridge overpasses throughout the city. These campsites represent an immediate public health, safety and fire risks. Workquest's contract is expiring and they have requested not to renew their contract. In order to continue the cleanup service, the City of Austin Public Works is requesting to contract with Relief Enterprises, Inc., the current subcontractor performing the work, for this vital service working under the current scope and pricing structure. Relief Enterprises is in agreement with contracting with the Public Works department and willing to continue providing this service for the City of Austin.

### 2. Describe the following (as applicable):

- **For Public Calamity, Public Health and Safety, Unforeseen Damage to Public Machinery or Equipment, or Critical Business Need Exemptions:**
  - Provide description of the event leading to the procurement and a business justification for this purchase. See above response
  - What would be the impact to department operations and the community if this purchase was not made? See above response
  - How and why this vendor was selected? See above response.
- **For Professional, Personal, or Planning Service Exemptions:**
  - Why is the vendor the most qualified to provide the services?
  - Does this vendor have a history of working with the City? If so, was it on this particular service?
  - Will this procurement be component of a larger service or phases of service?
  - Is the vendor a City of Austin local vendor?
  - Does the vendor hold an M/WBE certification with the City, a HUB certification with the State of Texas, or any other minority or women owned certifications?
  - What qualifications, certifications, or specialized training does the vendor have?
  - What is the impact if a contract is not secured with this particular vendor (loss of project timeline, loss of funding etc.)?
  - What other vendors can provide these services and why are they not the best fit for the contract?
- **For Other Exceptions from Chapter 252.022:**
  - Explain the circumstances of the procurement. **Services performed by the blind or severely disabled.**
- **Prices were determined to be reasonable based on the following (select all that apply):**
  - ☐ Prices are established under a current Cooperative contract.  
Notes: *At a minimum, note the contract number, contract title, cooperative entity, and government or entity who created the contract.*
  - ☒ Prices are the same or similar to current City contract.  
Notes: Pricing is similar to contract NA190000105.
  - ☐ Prices are the same or similar to current contract with another government.  
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\* The questions in the form are designed to justify why this purchase should be exempt from a competitive procurement process. Failure to provide adequate documentation to substantiate the request may lead to the request being rejected.

Forward the completed and signed Certificate of Exemption to the Purchasing Office along with the following documentation:

- ☒ Scope of Work or Statement of Work (if applicable)  
☒ Vendor's proposal/quote (if applicable)  
☐ Project timeline with associated tasks, schedule of deliverables or milestones, and proposed payment schedule  
☐ Professional resumes, certifications, and/or licenses (Professional, Personal or Planning Services Only)  
☐ Other supporting documentation

4. Because of the above facts and supporting documentation, the City of Austin exempts this procurement from Local Government Code Chapter 252 and intends to contract with:

(Vendor Name): Relief Enterprises for

(Description of Procurement): Homeless Encampment Clean-Up Services/Public Works

5. Check the contract type (one-time or multi-term) and fill in the dollar amount and term as applicable:

☐ This is a one-time request for \$ \_\_\_\_\_

☒ This is a multi-term contract request for Twelve (12) month base term in the amount of \$575,000 with Two (2) 12 month contract renewal options, each at \$575,000 for a total contract amount of \$1,725,000.

Recommended  
Certification

James M. Smith 6/15/2020  
Originator Date

Approved  
Certification

Michael M. Smith 06/15/2020  
Department Director or designee Date

Shirley D. Smith 06/16/2020

Assistant City Manager / General Manager Date  
or designee (procurement requiring Council approval)

Purchasing Office  
Review

\_\_\_\_\_  
Authorized Purchasing Office Staff Date

Purchasing Office  
Management Review  
(If required due to signature authority level)

\_\_\_\_\_  
Purchasing Officer or designee Date