

By signing below, I represent and certify that I am submitting a binding Offer and am authorized to bind the Offeror to fully comply with the Solicitation to which I submit this Offer. I acknowledge that I have received, read, and understood the entire solicitation document packet sections, including any addenda issued, and agree to be bound by its terms. I understand and agree that Offers submitted with incomplete and/or unsigned Offer Sheets will not be considered and will be rejected as non-responsive.

By submitting this Offer, I certify the following statements are true now and will be for the term of any resulting contract:

1. That my firm and its principals (collectively "we" or "us") are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.
2. That we have not in any way directly or indirectly:
 - a. Colluded, conspired, or agreed with any other person, firm, corporation, Proposer or potential Proposer to the amount of this Proposal or the terms or conditions of this Proposal.
 - b. paid or agreed to pay any other person, firm, corporation Proposer or potential Proposer any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Proposal or the Proposal of any other Proposer.
3. That we have not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, we have not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Proposers, so as to have an unfair advantage over other Proposers, provided that we may have provided relevant product or process information to a consultant in the normal course of its business.
4. That we have not participated in the evaluation of Proposals or other decision making process for this Solicitation and, if we are awarded a Contract, no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with us, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that we may have provided relevant product or process information to a consultant in the normal course of its business.
5. In accordance with Chapter 176 of the Texas Local Government Code, that we:
 - a. Do not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income

- b. Have not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$100 in the twelve-month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror; and
- c. Do not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.

6. That we have and will continue to comply with the City's Anti-Lobbying Ordinance, Chapter 2-7, Article 6.

No Lobbying Period. The No-Lobbying Period begins on the date this Solicitation was initially published and continues through the earlier of (i) 60-days following Council authorization of any contracts resulting from this Solicitation, (ii) the date the last resulting contract is signed, (iii) the date this Solicitation is cancelled.

Prohibited Communications. During the No Lobbying Period, Respondents to this Solicitation or their Agents, shall not make prohibited communications to City officials or City employees.

Ordinance. https://www.austintexas.gov/financeonline/afo_content.cfm?s=15&p=145

Rules. https://www.austintexas.gov/financeonline/afo_content.cfm?s=16&p=77

7. Pursuant to City Council Resolution No. 20191114-056, we 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. If the City determines in its sole discretion that we have, during the term of the resulting Contract, engaged in any such practices, the City may terminate this Contract without penalty to the City.

8. Pursuant to Texas Government Code §2271.002, we verify that we do not boycott Israel and will not boycott Israel during the term of the resulting contract.

9. Pursuant to Texas Government Code Chapter 2274, we verify that if we have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of any City contract, that we are not owned by or the majority of stock or other ownership interest of our firm is not held or controlled by:

- a. individuals who are citizens of China, Iran, North Korea, Russia, or a Governor-designated country; or
- b. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a Governor-designated country; or
- c. headquartered in China, Iran, North Korea, Russia, or a Governor-designated country.

10. Pursuant to Texas Government Code Chapter 2274, we verify that, if we have 10 or more full-time employees: (1) we do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the resulting contract against a firearm entity or firearm trade association.

11. Pursuant to Texas Government Code Chapter 2274, we certify that, if we have 10 or more full-time employees: (1) we do not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Company
Name:

KBS

Company
Address:

3811 Trade Center Dr.

City, State, Zip:

Austin TX 78744

City Vendor Registration No.

KBS0049104

Printed Name of Officer or Authorized

Representative:

Matt McGuire

Title:

Branch Manager

Signature of Officer or Authorized

Representative:



Date:

1-12-22

Email
Address:

mmequre@kbs-electric.com

Phone
Number:

512-416-6003

ACCEPTANCE BY THE CITY

For City Staff only. The City will complete and sign this section only if the City accepts the Offer.

Contract Number: MA 1100 GA230000011

Printed Name of City's Authorized Procurement Staff: Cedric Zachary

Title of City's Authorized Procurement Staff: Procurement Specialist II

Signature: Cedric Zachary

Digitally signed by Cedric Zachary
Date: 2022.11.17 14:04:21 -0600
Adobe Acrobat version: 2022.003.20258

Date: 11/17/2022

Email: cedric.zachary@austintexas.gov

Phone: 512-974-2883

ACCEPTANCE: The Offer is hereby accepted. Contractor is now bound to sell the materials or services specified in the Contract.

NONRESIDENT BIDDER PROVISIONS

Instruction. Offerors shall read and checking the applicable boxes in response to both certifications below.

☐ YES ☒ NO

OFFEROR HEREBY CERTIFIES

(Check One)

Offeror **IS (YES)** or **IS NOT (NO)** a Nonresident Bidder in accordance with Texas Government Code Ch. 2252.002.

If "Yes" is checked, provide the name of the state where Nonresident Bidder's Principle Place of Business is located.

Click or tap here to enter text.

(State)

☒ YES ☐ NO

OFFEROR HEREBY CERTIFIES

(Check One)

Offer **INCLUDES (YES)** or **DOES NOT INCLUDE (NO)** Equipment, Supplies and/or Materials in accordance with Texas Government Code Ch. 2252.002

If "YES" is checked, provide the name of the State where majority of the Equipment, Supplies and/or Materials were manufactured

Click or tap here to enter text.

Canada
(State)

Reciprocal Preference. In accordance with Texas Government Code Ch. 2252.002 (see below), the City must apply a reciprocal preference to a Nonresident Bidder's offer, consistent with the applicable preference granted by the state of the Nonresident Bidder's principal place of business. The City will also apply a reciprocal preference to a Resident Bidder or Nonresident Bidder's offer, consistent with the applicable preference granted by the state where the majority of the equipment, supplies and/or materials were manufactured.

Resident bidder. An Offeror whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

Nonresident Bidder. An Offeror that is not a Resident Bidder.

Statute: <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm>

LOCAL PRESENCE CERTIFICATION - OPTIONAL

Instruction. Offerors wishing to claim Local Presence shall read and acknowledge this certification by checking the applicable box and providing the physical address below.

OFFEROR HEREBY CERTIFIES

Offeror's **HEADQUARTERS** or a **BRANCH OFFICE** is within the Austin Corporate City Limits.

☐ **HEADQUARTERS**

Offeror's Physical Address.

☒ **BRANCH OFFICE**

(Physical Address of Offeror's Headquarters or Branch Office)

(Check One)

5811 Trade Center Dr.
Austin TX 78744

Do you employ anyone at the location checked above who is a resident of the City of Austin?

☒ **Yes**

☐ **No**

(Check One)

Benefit to the City. In accordance with Resolution No. 20140807-113, Council has determined that contracts awarded to local companies that provide employment to Austin residents are an economic benefit.

Local Presence. Offerors may claim Local Presence if at least one (1) of the following are located within the Austin Corporate City Limits, employing residents of Austin.

1. Headquarters; or
2. Branch office.

Austin Corporate City Limits. The City of Austin's Full Purpose Jurisdiction, not including the City's Extraterritorial Jurisdiction.

Headquarters. The Offeror's administrative center where most of the company's important functions and full responsibility for managing and coordinating the business activities of the firm are located.

Branch Office. A company office other than the Offeror's headquarters, that has been in place for at least five (5) years.

SUBCONTRACTING UTILIZATION FORM

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Procurement Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation. However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

Instructions:

- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.
- b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.

☒ **NO, I DO NOT intend to use Subcontractors/Sub-consultants.**

Instructions: Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

☐ **YES, I DO intend to use Subcontractors /Sub-consultants.**

Instructions: Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

Offeror Information			
Company Name			
City Vendor ID Code			
Physical Address			
City, State Zip			
Phone Number		Email Address	
Is the Offeror City of Austin M/WBE certified?	<input type="checkbox"/> NO <input type="checkbox"/> YES Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture		
<p>Offeror Certification: I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed Subcontracting/Sub-Consulting Utilization Form, and if applicable my completed Subcontracting/Sub-Consulting Utilization Plan, shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add</p>			

Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the **Request For Change** form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form.

Matt M. Gume Brand Manager

Name and Title of Authorized Representative (Print or Type)

Matthew S. 7-12-22

Signature/Date

SUBCONTRACTING UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

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

GOOD FAITH EFFORTS CHECK LIST –

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



Contact SMBR. Offerors shall contact SMBR (512-974-7600 or SMBRComplianceDocuments@austintexas.gov) to obtain a list of City of Austin certified M/WBE firms that are certified to provide the goods and services the Offeror intends to subcontract out. (Availability List). Offerors shall document their contact(s) with SMBR in the "SMBR Contact Information" table on the following page.



Contact M/WBE firms. Offerors shall contact all of the M/WBE firms on the Availability List with a Significant Local Business Presence which is the Austin Metropolitan Statistical Area, to provide information on the proposed goods and services proposed to be subcontracted and give the Subcontractor the opportunity to respond on their interest

to bid on the proposed scope of work. When making the contacts, Offerors shall use at least two (2) of the following communication methods: email, fax, US mail or phone. Offerors shall give the contacted M/WBE firms at least seven days to respond with their interest. Offerors shall document all evidence of their contact(s) including: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.



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



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



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

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

NA

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

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

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

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:	
Having reviewed this plan, I acknowledge that the Offeror <input type="checkbox"/> HAS or <input type="checkbox"/> HAS NOT complied with these instructions and City Code Chapters 2-9A/B/C/D, as amended.	
Reviewing Counselor	Date
I have reviewed the completing the Subcontracting/Sub-Consultant Utilization Plan and <input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur with the Reviewing Counselor's recommendation.	
Director/Assistant Director or Designee	Date



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:1

Date: 06/23/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Questions:

Question 1: The manufacturer's current pricing mechanism for long term contracts is to establish a price that is firm for a minimum of 3 months at a time or even possibly more such as 4 or 5 months. As a result, the manufacture's price increases may not coincide with the City's. Is this acceptable?

Answer: To allow for more flexibility in reviewing pricing for circuit switches, the City is changing from an annual review to a quarterly review. The Contractor should anticipate fluctuations in their prices if the manufacturer's quarter does not align with the City's anniversary date of the contract execution. Price increase requests will not be accepted outside of the terms that are stated in contract.

Question 2: The manufacture does not use the Producer Price Index but rather an internal index to justify price changes. Per the Standard Terms & Conditions, Section 1.41, paragraph B, allows the City to approve a price request that is not supported by PPI. What happens if the City does not approve the price request?

Answer: If an Offeror has an alternate index that is relative to circuit switchers, please email the Authorized Contact/Procurement Specialist of the solicitation as soon as possible for review before the solicitation closes. Alternatively, if another verifiable index is presented during the contract, it is up to the City's discretion to accept it or not. If not, the City will utilize the identified index in the Economic Price Adjustment of the contract.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Matt McGuire
Name

Matt McGuire
Authorized Signature

7-12-22
Date

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



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:2

Date: 06/27/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Clarifications:

1. Cover Sheet is updated to add a call in number for the Pre-Offer Meeting.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Matt McGuire
Name

Matt McGuire
Authorized Signature

1-22-22
Date

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



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:3

Date: 07/01/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Questions:

Q1: Can a manufacturer base their price adjustments on a factor other than the Bureau of Labor Statistics index stated in the Terms and Conditions?

A1: If an Offeror has an alternate index related to circuit switchers, please email the Authorized Contact/Procurement Specialist of the solicitation as soon as possible for review before the solicitation closes. As a reminder, exceptions taken to the solicitation may result in an Offer being deemed Non-Responsive. Alternatively, if another verifiable index is presented during the contract, it is the City's discretion whether to accept the other index for pricing purposes. If another index is not referenced by the contractor, the City will utilize the identified index in the Economic Price Adjustment section of the Terms and Conditions.

Q2: Our Manufacturer's warranty begins from the date of shipment. The solicitation states the City's requirement is that the warranty begins from the date of acceptance. The issue with date of acceptance is that the Contractor does not know how long it will take the City to accept the shipment and it would be difficult to have an open-ended warranty. Would it be possible to change the language to "date of shipment" or provide a cap on the timeframe of acceptance such as "date of acceptance, not to exceed 66 months from date of shipment"?

A2: Section 2.2 of the Terms and Conditions have been updated to reflect the change in warranty.

Q3: Where do questions get submitted after the Pre-Offer meeting?

A3: Questions can be submitted in writing to the authorized contact, Cedric Zachary, at Cedric.Zachary@austintexas.gov

Q4: The resulting contract is for 60 months. With changes in materials availability in the current market, how do you think a Contractor should address price increases throughout the term of the contract?

A4: To allow for more flexibility in reviewing pricing for circuit switches, the contract allows for quarterly pricing review. The Contractor should anticipate fluctuations in their prices if the manufacturer's quarter does not align with the City's anniversary date of the

contract execution. Price increase requests will not be accepted outside of the terms that are stated in contract.

II. Change:

II.1 Section 2.2, C, ii- Deliverables of the Standard Terms and Conditions has been changed as follows:

Unless otherwise specified in the Contract, the warranty period shall begin at the date of acceptance, not to exceed ninety (90) days from the date of shipment. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 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.

III. Additional Information:

III.1 Please see the attached Pre-Offer Conference attendance sheet.

IV. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Matt McGuire
Name

Matt McGuire
Authorized Signature

1-12-22
Date

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



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No: 4 Date: 07/07/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Question:

Q1: Will Austin Energy consider a circuit switcher with provisions to mount V-Switch only?

A1: No. Please refer to section 5.1.12 and 5.2 of the specifications to see if switcher meets requirements.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Matt McGuire
Name

Matt McGuire
Authorized Signature

7-12-22
Date

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

**PRICE SHEET
CITY OF AUSTIN
PURCHASING OFFICE
CIRCUIT SWITCHERS**

SOLICITATION NO.: IFB 1100 CSZ1006REBID

PROCUREMENT SPECIALIST: Cedric Zachary

****BIDDERS SHALL ENTER THE PROPOSED MANUFACTURER AND PART NUMBER IN THE SPACE PROVIDED. IF BIDDING AN ALTERNATIVE ITEM, CUT SHEETS ARE REQUIRED TO BE CONSIDERED.****

ITEM NO.	Manufacturer	Part#	DESCRIPTION	QTY. (Annual)	U/M	TIME (Days)	UNIT PRICE	EXTENDED PRICE
1	SEC	397839-BE 12H1MTVW	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	360	114,509	229,018
2	SEC	397839-BE 12H1MTVW	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 22"X 22" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	360	114,509	229,018
3	SEC	597839-BE 12H1MNTV	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	1	EA	360	88,918	88,918
4	SEC	398839-BE 12H1MTVW	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	360	129,759	259,518
5	SEC	398839-BE 12H1MTVW	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 22"X 22" anchor bolt hole pattern. See Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	360	129,759	259,518
6	SEC	598839-BE 12H1MNTV	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with an 18"X 18" anchor bolt hole pattern. See Austin Energy Specification E-1496, dated Sept 9, 2021.	1	EA	360	102,066	102,066

TOTAL BID 1,168,050

NON-SPECIFIED ITEMS

ITEM NO.	The City reserves the right to add additional items to the resulting contract.	% MARKUP OVER MFG'S CONFIGURED PRICE
7	Bidders shall provide a percentage markup over their invoice. Reference Solicitation Instructions, Section 4.7 - Pricing Requirements - Non-Specified Items. Offeror shall bid a percentage markup over their cost.	12 %

DELIVERY METHOD: ☒ COMMON CARRIER ☐ VENDOR DELIVERY

COMPANY NAME: KBS

PRINTED NAME: Math McGuire

EMAIL ADDRESS: mmcguire@kbselect1.2.com

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
KBS Electrical Distributors, Inc
Bryan, TX United States

Certificate Number:
2022-951054

Date Filed:
11/02/2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Austin

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 1100 CSZ1006REBID
Circuit Switchers

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Gidley, Brian	Bryan, TX United States		X

5 Check only if there is NO Interested Party. ☐

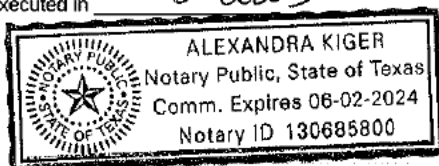
6 UNSWORN DECLARATION

My name is Alexandra Kiger, and my date of birth is [REDACTED]

My address is PO Box 4591 (street), Bryan (city), TX (state), 77805 (zip code), US (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Brazos County, State of Texas, on the 2 day of November, 22 (month) (year)



Alexandra Kiger
Signature of authorized agent of contracting business entity
(Declarant)

By signing below, I represent and certify that I am submitting a binding Offer and am authorized to bind the Offeror to fully comply with the Solicitation to which I submit this Offer. I acknowledge that I have received, read, and understood the entire solicitation document packet sections, including any addenda issued, and agree to be bound by its terms. I understand and agree that Offers submitted with incomplete and/or unsigned Offer Sheets will not be considered and will be rejected as non-responsive.

By submitting this Offer, I certify the following statements are true now and will be for the term of any resulting contract:

1. That my firm and its principals (collectively "we" or "us") are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.
2. That we have not in any way directly or indirectly:
 - a. Colluded, conspired, or agreed with any other person, firm, corporation, Proposer or potential Proposer to the amount of this Proposal or the terms or conditions of this Proposal.
 - b. paid or agreed to pay any other person, firm, corporation Proposer or potential Proposer any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Proposal or the Proposal of any other Proposer.
3. That we have not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, we have not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Proposers, so as to have an unfair advantage over other Proposers, provided that we may have provided relevant product or process information to a consultant in the normal course of its business.
4. That we have not participated in the evaluation of Proposals or other decision making process for this Solicitation and, if we are awarded a Contract, no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with us, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that we may have provided relevant product or process information to a consultant in the normal course of its business.
5. In accordance with Chapter 176 of the Texas Local Government Code, that we:
 - a. Do not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income

- b. Have not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$100 in the twelve-month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror; and
- c. Do not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.

6. That we have and will continue to comply with the City's Anti-Lobbying Ordinance, Chapter 2-7, Article 6.

No Lobbying Period. The No-Lobbying Period begins on the date this Solicitation was initially published and continues through the earlier of (i) 60-days following Council authorization of any contracts resulting from this Solicitation, (ii) the date the last resulting contract is signed, (iii) the date this Solicitation is cancelled.

Prohibited Communications. During the No Lobbying Period, Respondents to this Solicitation or their Agents, shall not make prohibited communications to City officials or City employees.

Ordinance. https://www.austintexas.gov/financeonline/afo_content.cfm?s=15&p=145

Rules. https://www.austintexas.gov/financeonline/afo_content.cfm?s=16&p=77

7. Pursuant to City Council Resolution No. 20191114-056, we 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. If the City determines in its sole discretion that we have, during the term of the resulting Contract, engaged in any such practices, the City may terminate this Contract without penalty to the City.

8. Pursuant to Texas Government Code §2271.002, we verify that we do not boycott Israel and will not boycott Israel during the term of the resulting contract.

9. Pursuant to Texas Government Code Chapter 2274, we verify that if we have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of any City contract, that we are not owned by or the majority of stock or other ownership interest of our firm is not held or controlled by:

- a. individuals who are citizens of China, Iran, North Korea, Russia, or a Governor-designated country; or
- b. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a Governor-designated country; or
- c. headquartered in China, Iran, North Korea, Russia, or a Governor-designated country.

10. Pursuant to Texas Government Code Chapter 2274, we verify that, if we have 10 or more full-time employees: (1) we do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the resulting contract against a firearm entity or firearm trade association.

11. Pursuant to Texas Government Code Chapter 2274, we certify that, if we have 10 or more full-time employees: (1) we do not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Company Name: PRIESTER-MELL + NICHOLSON INC.

Company Address: 601 E. 56TH STREET

City, State, Zip: AUSTIN, TX 78751

City Vendor Registration No. PR13766500

Printed Name of Officer or Authorized

Representative: ROSS NICHOLSON

Title: SALES

Signature of Officer or Authorized

Representative: Ross Nicholson

Date: JUNE 27, 2022

Email Address: ROSS.NICHOLSON@PMN-INC.COM

Phone Number: 512-596-3259

ACCEPTANCE BY THE CITY

For City Staff only. The City will complete and sign this section only if the City accepts the Offer.

Contract Number: MA 1100 GA230000011

Printed Name of City's Authorized Procurement Staff: Cedric Zachary

Title of City's Authorized Procurement Staff: Procurement Specialist II

Signature: Cedric Zachary
Digitally signed by Cedric Zachary
Date: 2022.11.17 15:01:17 -06'00'
Adobe Acrobat version: 2022.003.20258

Date: 11/17/2022

Email: cedric.zachary@austintexas.gov

Phone: 512-974-2883

ACCEPTANCE: The Offer is hereby accepted. Contractor is now bound to sell the materials or services specified in the Contract.

NONRESIDENT BIDDER PROVISIONS

Instruction. Offerors shall read and checking the applicable boxes in response to both certifications below.

☐ YES ☒ NO

OFFEROR HEREBY CERTIFIES

(Check One)

Offeror **IS (YES)** or **IS NOT (NO)** a Nonresident Bidder in accordance with Texas Government Code Ch. 2252.002.

If "Yes" is checked, provide the name of the state where
Nonresident Bidder's Principle Place of Business is located.

Click or tap here to enter text.

(State)

☐ YES ☒ NO

OFFEROR HEREBY CERTIFIES

(Check One)

Offer **INCLUDES (YES)** or **DOES NOT INCLUDE (NO)** Equipment, Supplies and/or
Materials in accordance with Texas Government Code Ch. 2252.002

If "YES" is checked, provide the name of the State where majority
of the Equipment, Supplies and/or Materials were manufactured

Click or tap here to enter text.

(State)

Reciprocal Preference. In accordance with Texas Government Code Ch. 2252.002 (see below), the City must apply a reciprocal preference to a Nonresident Bidder's offer, consistent with the applicable preference granted by the state of the Nonresident Bidder's principal place of business. The City will also apply a reciprocal preference to a Resident Bidder or Nonresident Bidder's offer, consistent with the applicable preference granted by the state where the majority of the equipment, supplies and/or materials were manufactured.

Resident bidder. An Offeror whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

Nonresident Bidder. An Offeror that is not a Resident Bidder.

Statute: <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm>

LOCAL PRESENCE CERTIFICATION - OPTIONAL

Instruction. Offerors wishing to claim Local Presence shall read and acknowledge this certification by checking the applicable box and providing the physical address below.

OFFEROR HEREBY CERTIFIES

Offeror's **HEADQUARTERS** or a **BRANCH OFFICE** is within the Austin Corporate City Limits.

☒ **HEADQUARTERS**

☐ **BRANCH OFFICE**

(Check One)

601 E. 56TH STREET

Offeror's Physical Address.

(Physical Address of Offeror's Headquarters or Branch Office)

Do you employ anyone at the location checked above who is a resident of the City of Austin?

☒ **Yes**

☐ **No**

(Check One)

Benefit to the City. In accordance with Resolution No. 20140807-113, Council has determined that contracts awarded to local companies that provide employment to Austin residents are an economic benefit.

Local Presence. Offerors may claim Local Presence if at least one (1) of the following are located within the Austin Corporate City Limits, employing residents of Austin.

1. Headquarters; or
2. Branch office.

Austin Corporate City Limits. The City of Austin's Full Purpose Jurisdiction, not including the City's Extraterritorial Jurisdiction.

Headquarters. The Offeror's administrative center where most of the company's important functions and full responsibility for managing and coordinating the business activities of the firm are located.

Branch Office. A company office other than the Offeror's headquarters, that has been in place for at least five (5) years.

SUBCONTRACTING UTILIZATION FORM

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Procurement Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation. However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

Instructions:

- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.
- b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.

☒ **NO, I DO NOT intend to use Subcontractors/Sub-consultants.**

Instructions: Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

☐ **YES, I DO intend to use Subcontractors /Sub-consultants.**

Instructions: Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

Offeror Information			
Company Name			
City Vendor ID Code			
Physical Address			
City, State Zip			
Phone Number		Email Address	
Is the Offeror City of Austin M/WBE certified?	<input type="checkbox"/> NO <input type="checkbox"/> YES Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture		
Offeror Certification: I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed Subcontracting/Sub-Consulting Utilization Form , and if applicable my completed Subcontracting/Sub-Consulting Utilization Plan , shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add			

Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the **Request For Change** form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form.

ROSS NICHOLSON SALES

Name and Title of Authorized Representative (Print or Type)

Ross Nicholson 6/27/22

Signature/Date

SUBCONTRACTING UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

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

GOOD FAITH EFFORTS CHECK LIST –

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

☐ **Contact SMBR.** Offerors shall contact SMBR (512-974-7600 or SMBRComplianceDocuments@austintexas.gov) to obtain a list of City of Austin certified M/WBE firms that are certified to provide the goods and services the Offeror intends to subcontract out. (Availability List). Offerors shall document their contact(s) with SMBR in the "SMBR Contact Information" table on the following page.

☐ **Contact M/WBE firms.** Offerors shall contact all of the M/WBE firms on the Availability List with a Significant Local Business Presence which is the Austin Metropolitan Statistical Area, to provide information on the proposed goods and services proposed to be subcontracted and give the Subcontractor the opportunity to respond on their interest

to bid on the proposed scope of work. When making the contacts, Offerors shall use at least two (2) of the following communication methods: email, fax, US mail or phone. Offerors shall give the contacted M/WBE firms at least seven days to respond with their interest. Offerors shall document all evidence of their contact(s) including: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.

- ☐ **Follow up with responding M/WBE firms.** Offeror shall follow up with all M/WBE firms that respond to the Offeror's request. Offerors shall provide written evidence of their contact(s): emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, company contacted, phone number, and contact person.
- ☐ **Advertise.** Offerors shall place an advertisement of the subcontracting opportunity in a local publication (i.e. newspaper, minority or women organizations, or electronic/social media). Offerors shall include a copy of their advertisement, including the name of the local publication and the date the advertisement was published.
- ☐ **Use a Community Organization.** Offerors shall solicit the services of a community organization(s); minority persons/women contractors'/trade group(s); local, state, and federal minority persons/women business assistance office(s); and other organizations to help solicit M/WBE firms. Offerors shall provide written evidence of their Proof of contact(s) include: emails, fax confirmations, proof of mail delivery, and/or phone logs. These documents shall show the date(s) of contact, organization contacted, phone number, email address and contact person.

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

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

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

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

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

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

Reviewing Counselor

Date

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

Director/Assistant Director or Designee

Date



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:1

Date: 06/23/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Questions:

Question 1: The manufacturer's current pricing mechanism for long term contracts is to establish a price that is firm for a minimum of 3 months at a time or even possibly more such as 4 or 5 months. As a result, the manufacture's price increases may not coincide with the City's. Is this acceptable?

Answer: To allow for more flexibility in reviewing pricing for circuit switches, the City is changing from an annual review to a quarterly review. The Contractor should anticipate fluctuations in their prices if the manufacturer's quarter does not align with the City's anniversary date of the contract execution. Price increase requests will not be accepted outside of the terms that are stated in contract.

Question 2: The manufacture does not use the Producer Price Index but rather an internal index to justify price changes. Per the Standard Terms & Conditions, Section 1.41, paragraph B, allows the City to approve a price request that is not supported by PPI. What happens if the City does not approve the price request?

Answer: If an Offeror has an alternate index that is relative to circuit switchers, please email the Authorized Contact/Procurement Specialist of the solicitation as soon as possible for review before the solicitation closes. Alternatively, if another verifiable index is presented during the contract, it is up to the City's discretion to accept it or not. If not, the City will utilize the identified index in the Economic Price Adjustment of the contract.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Ross Nicholson
Name

Ross Nicholson
Authorized Signature

7/12/22
Date



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:2

Date: 06/27/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Clarifications:

1. Cover Sheet is updated to add a call in number for the Pre-Offer Meeting.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

ROSS NICHOLSON
Name

Ross Nicholson
Authorized Signature

7/12/22
Date

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



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No:3

Date: 07/01/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Questions:

Q1: Can a manufacturer base their price adjustments on a factor other than the Bureau of Labor Statistics index stated in the Terms and Conditions?

A1: If an Offeror has an alternate index related to circuit switchers, please email the Authorized Contact/Procurement Specialist of the solicitation as soon as possible for review before the solicitation closes. As a reminder, exceptions taken to the solicitation may result in an Offer being deemed Non-Responsive. Alternatively, if another verifiable index is presented during the contract, it is the City's discretion whether to accept the other index for pricing purposes. If another index is not referenced by the contractor, the City will utilize the identified index in the Economic Price Adjustment section of the Terms and Conditions.

Q2: Our Manufacturer's warranty begins from the date of shipment. The solicitation states the City's requirement is that the warranty begins from the date of acceptance. The issue with date of acceptance is that the Contractor does not know how long it will take the City to accept the shipment and it would be difficult to have an open-ended warranty. Would it be possible to change the language to "date of shipment" or provide a cap on the timeframe of acceptance such as "date of acceptance, not to exceed 66 months from date of shipment"?

A2: Section 2.2 of the Terms and Conditions have been updated to reflect the change in warranty.

Q3: Where do questions get submitted after the Pre-Offer meeting?

A3: Questions can be submitted in writing to the authorized contact, Cedric Zachary, at Cedric.Zachary@austintexas.gov

Q4: The resulting contract is for 60 months. With changes in materials availability in the current market, how do you think a Contractor should address price increases throughout the term of the contract?

A4: To allow for more flexibility in reviewing pricing for circuit switches, the contract allows for quarterly pricing review. The Contractor should anticipate fluctuations in their prices if the manufacturer's quarter does not align with the City's anniversary date of the

contract execution. Price increase requests will not be accepted outside of the terms that are stated in contract.

II. Change:

II.1 Section 2.2, C, ii- Deliverables of the Standard Terms and Conditions has been changed as follows:

Unless otherwise specified in the Contract, the warranty period shall begin at the date of acceptance, not to exceed ninety (90) days from the date of shipment. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 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.

III. Additional Information:

III.1 Please see the attached Pre-Offer Conference attendance sheet.

IV. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Ross Nicholson
Name

Ross Nicholson
Authorized Signature

7/12/22
Date

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



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

Solicitation: IFB 1100 CSZ1006REBID Addendum No: 4 Date: 07/07/2022

This addendum is to provide the following clarifications to the above referenced solicitation:

I. Question:

Q1: Will Austin Energy consider a circuit switcher with provisions to mount V-Switch only?

A1: No. Please refer to section 5.1.12 and 5.2 of the specifications to see if switcher meets requirements.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Ross NICHOLSON

Name

Ross Nicholson

Authorized Signature

7/12/22

Date

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

**PRICE SHEET
CITY OF AUSTIN
PURCHASING OFFICE
CIRCUIT SWITCHERS**

SOLICITATION NO.: IFB 1100 CSZ1006REBID

PROCUREMENT SPECIALIST: Cedric Zachary

****BIDDERS SHALL ENTER THE PROPOSED MANUFACTURER AND PART NUMBER IN THE SPACE PROVIDED. IF BIDDING AN ALTERNATIVE ITEM, CUT SHEETS ARE REQUIRED TO BE CONSIDERED.****

ITEM NO.	Manufacturer	Part#	DESCRIPTION	EST. QTY. (Annual)	U/ M	LEAD TIME (Days)	UNIT PRICE	EXTENDED PRICE
1	S&C	397839-BE12H1MTVW1N-SXXX	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	392	\$112,450.00	\$224,900.00
2	S&C	397839-BE12H1MTVW1N-SXXX	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 22"X 22" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	392	\$112,380.00	\$224,760.00
3	S&C	597839-BE12H1MNTVW1-SXXX	145 kV, 25kA, Circuit Switcher, Vertical Interrupters, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	1	EA	392	\$87,320.00	\$87,320.00
4	S&C	398839-BE12H1MTVW1N-SXXX	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 18"X 18" anchor bolt hole pattern in Accordance with Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	392	\$127,430.00	\$254,860.00
5	S&C	398839-BE12H1MTVW1N-SXXX	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with a Side-break Disconnect, with an 22"X 22" anchor bolt hole pattern. See Austin Energy Specification E-1496, dated Sept 9, 2021.	2	EA	392	\$127,830.00	\$255,660.00
6	S&C	598839-BE12H1MNTVW1-SXXX	145 kV, 40kA, Circuit Switcher, Vertical Interrupters, with an 18"X 18" anchor bolt hole pattern. See Austin Energy Specification E-1496, dated Sept 9, 2021.	1	EA	392	\$100,230.00	\$100,230.00
TOTAL BID							\$1,147,730.00	

NON-SPECIFIED ITEMS

ITEM NO.	The City reserves the right to add additional items to the resulting contract.	% MARKUP OVER MFG'S CONFIGURED PRICE
7	Bidders shall provide a percentage markup over their invoice. Reference Solicitation Instructions, Section 4.7 - Pricing Requirements - Non-Specified Items. Offeror shall bid a percentage markup over their cost.	15%

DELIVERY METHOD: X COMMON CARRIER VENDOR DELIVERY
COMPANY NAME: Priester-Mell & Nicholson Inc.
PRINTED NAME: Ross Nicholson
EMAIL ADDRESS: ross.nicholson@pmn-inc.com

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Priester-Mell & Nicholson Inc.
Austin, TX United States

Certificate Number:
2022-950931

Date Filed:
11/01/2022

2	Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
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Austin Energy

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

MA 1100 GA230000011

BLANKET CONTRACT FOR CIRCUIT SWITCHERS

[illegible]

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is ROSS NICHOLSON, and my date of birth

My address is 601 E. 56TH STREET, AUSTIN, TX, 78751, US.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in TRAVIS County, State of TEXAS, on the 1ST day of NOVEMBER 20 22.
(month) (year)

Ross Nicholson

Signature of authorized agent of contracting business entity
(Declarant)



Solicitation **COVER SHEET**

IDENTIFICATION

Number	IFB 1100 CSZ1006REBID
Title	Circuit Switchers
Summary	The City of Austin, DBA Austin Energy seeks qualified Contractor(s) to supply circuit switchers for Austin Energy substations from qualified manufacturers and/or distributors.
Type	Invitation for Bid (IFB)
Version (Addenda)	3

AUTHORIZED CONTACT PERSONS

Primary	Cedric Zachary, Procurement Specialist 2; (512) 322-6215; cedric.zachary@austintexas.gov
Secondary	Liz Lock, Procurement Supervisor; (512) 322-6251; liz.lock@austintexas.gov
Subcontractor Questions	Small Minority Business Resources Department; (512) 974-7600; SMBRComplianceDocuments@austintexas.gov
Notes	See Solicitation Instructions, 3.1 Authorized Contact Persons.

IMPORTANT DATES

OFFERS DUE

Date and Time	July 14, 2022, 2:00pm CT
Notes	See Solicitation Instructions, 5 Offer Submission.

BID OPENING

Date and Time	July 14, 2022, 3:00pm CT
Notes	See Solicitation Instructions, 5 Offer Submission.

QUESTIONS DUE

Date and Time	July 7, 2022, 5:00pm CT
Submission Method	Email Only
Notes	See Solicitation Instructions, 3.2 Questions.

PRE-OFFER CONFERENCE

Conference (Yes/No)	Yes
Mandatory (Yes/No)	No
Date and Time	June 28, 2022 10 AM CST
Location	Microsoft Teams: Click here to join the meeting
Notes	If you are only able to dial-in please call +1 (512) 831-7858, Phone Conference ID# 823271715. Use *6 to mute and unmute yourself if dialing into the meeting. Please have the solicitation documents available to review.

PUBLISHED

Date	June 20, 2022
Available Online	https://www.austintexas.gov/financeonline/account_services/solicitation/solicitations.cfm
Available Hardcopy	Purchasing Office; 124 W. 8 th Street, Suite 300; Austin, TX 78701

SOLICITATION DOCUMENTS

Document name	Pages	Date
<u>Solicitation Packet – IFB 1100 CSZ1006REBID Includes the following:</u>		
<u>Solicitation Cover Sheet</u>	3	6/20/2022
<u>Solicitation Instructions</u>	8	6/20/2022
<u>Terms and Conditions</u>	23	6/20/2022
<u>Specifications</u>	13	6/20/2022
<u>Scope of Work</u>	4	6/20/2022
<u>Pricing Submittal - Complete and return</u>	1	6/20/2022
<u>Offer and Certifications - Complete and return</u>	10	6/20/2022
<u>Addendum 1 - Complete and return</u>	2	6/23/2022
<u>Addendum 2 - Complete and return</u>	1	6/27/2022
<u>Addendum 3 - Complete and return</u>	3	7/1/2022

NIGP CODES**COMMODITY CODES**

Code	Description
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2851460

Bushings, Circuit Braker



Solicitation INSTRUCTIONS

Solicitation No.
IFB 1100
CSZ1006REBID

1 INVITATION FOR BIDS

- 1.1 Invitation.** The City of Austin invites all Responsible Offerors to submit Bids to provide the goods and/or services described in this Solicitation.
- 1.2 Documents.** This Invitation for Bids ("IFB" or "Solicitation") is composed of all documents listed in the Attachments section of the Solicitation Cover Sheet.
- 1.3 Process.** The process described in this IFB is the Competitive Sealed Bidding process. This process is procedurally compliant with the competitive bidding processes prescribed by Texas Local Government Code Ch. 252, Ch. 271, as well as Government Code Ch. 2269.
- 1.4 Changes.** The City may change or revise any of the contents of this Solicitation through the issuance of a written Addendum. Any Addenda issued will be added to the Attachments section of the Solicitation Cover Sheet. The Version number displayed in the Solicitation Cover Sheet will indicate the number of Addenda issued. Any explanation, clarification, interpretation or change to the Solicitation made in any other manner is not binding upon the City, and Offerors shall not rely upon such explanation, clarification, interpretation or change. Oral explanations or instructions given before the award of the Contract are not binding.
- 1.5 Review of Documents.** Offerors shall review the entire Solicitation, as revised. Offerors shall notify the Authorized Contact Person(s) listed on the Solicitation Cover Sheet in writing of any omissions, ambiguities, inconsistencies or errors in the Solicitation prior to the Offer Due Date and Time displayed in the Important Dates section of the Solicitation Cover Sheet. Offerors shall also notify the City of any Solicitation contents the Offeror believes may be unreasonably restrictive.
- 1.6 Cancellation.** The City reserves the right to cancel this Solicitation at any time for any reason and to resolicit the goods and services included in this Solicitation.

2 PUBLICATION AND NOTICES

- 2.1 Publication.** This Solicitation was published in the City's financial services website, Austin Finance Online, as of the Published date displayed in the Solicitation Cover Sheet section.
- 2.2 Email Notices.** On the Solicitation's Published date, email notices regarding this Solicitation were issued to all vendors registered in Austin Finance Online, that had previously selected the NIGP Codes displayed in the Solicitation Cover Sheet section. All subsequent email notices regarding this Solicitation will be limited to those vendors or other persons that subscribe to this Solicitation in Austin Finance Online.
- 2.3 Newspaper Notices.** If applicable, one or more notices of this Solicitation were published in the newspaper as required by statute.
- 2.4 Third-Party Notices.** Austin Finance Online is the only source of official notices regarding this Solicitation. Prospective Offerors shall not rely on any notices concerning this Solicitation received from sources other than Austin Finance Online.

3 COMMUNICATIONS AND MEETINGS

- 3.1 Authorized Contact Persons.** The names and contact information for the authorized contact persons for this Solicitation are displayed in the Solicitation Cover Sheet. Offerors needing assistance contacting an Authorized Contact Person regarding this Solicitation may also contact the Purchasing Office's main line at (512) 974-2500 and request assistance from any member of the Purchasing Office's management team. Offerors may direct specific questions concerning subcontractors and responding to the Minority-owned Business Enterprise and Women-owned Business Enterprise Procurement Program requirements to the SMBR contact, also listed on the Solicitation Cover Sheet.

- 3.2 Questions.** Offerors shall submit any questions concerning this Solicitation in writing via e-mail to the Authorized Contact Persons displayed on the Solicitation Cover Sheet. The City will respond to all questions received by the Questions Due Date and Time displayed on the Solicitation Cover Sheet. The City will publish one or more Addenda displaying all timely received questions and the City's responses to each for any information not already contained in the solicitation.
- 3.3 Vendor Help Desk.** For general questions concerning the City's online financial services system, Austin Finance Online, Vendor Connection ("Vendor Connection"), Offerors may contact the Vendor Help Desk at (512) 974-2018. Assistance from the Vendor Help Desk is limited to navigating and using Vendor Connection only. The Vendor Help Desk will not respond to any questions concerning a specific Solicitation.
- 3.4 No-Lobbying.** This Solicitation is subject to City Code, Ch. 2-7, Article 6, Anti-Lobbying and Procurement. (https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf) The No-Lobbying period for this Solicitation starts on the Published Date displayed on the Solicitation Cover Page. The No-Lobbying Period continues through the earliest of the following: (i) the Solicitation is cancelled, (ii) the last of any resulting contract(s) are executed, or (iii) 60-days following Council authorization of the last contract resulting from this Solicitation. The No-Lobbying Period continues throughout the completion of the solicitation process. During the No-Lobbying Period, Offerors, Respondents and/or their Agents shall not make any prohibited communications to City Officials or City employees other than the Authorized Contact Persons. Respondents includes both prospective and actual Offerors.
- 3.5 Pre-Offer Conferences.** The City may hold one or more pre-Offer conferences to review the Solicitation and to receive verbal questions. The Solicitation Cover Sheet will display if a Pre-Offer Conference is being held and if attendance at this meeting is mandatory. If a Pre-Offer Conference is planned, the date, location, time and any other necessary information regarding this meeting will also be displayed in the Solicitation Cover Sheet. Attendance at any Pre-Offer Conference will be recorded and will be included in an Addendum published following the meeting. As the Solicitation is subject to changes (See Solicitation Instruction, 1.4 Changes.) Offerors shall not rely on verbal exchanges that may occur at a Pre-Offer Conference. Offerors shall continue to submit all questions in writing (See Solicitation Instructions, 3.2 Questions.)
- 3.6 Site Visits.** The City may hold one or more site visits to allow prospective Offerors to inspect the location(s) where work under any resulting contract will be performed and to receive verbal questions. The Solicitation Cover Sheet will display if a Site Visit is being held and if attendance at this meeting is mandatory. If a Site Visit is planned, the date, location, time and any other necessary information regarding this meeting will also be displayed in the Solicitation Cover Sheet. Attendance at any Site Visit will be recorded and will be included in an Addendum published following the meeting. As the Solicitation is subject to changes (See Solicitation Instruction, 1.4 Changes.) Offerors shall not rely on verbal exchanges that may occur at a Pre-Offer Conference. Offerors shall continue to submit all questions in writing (See Solicitation Instructions, 3.2 Questions.)
- 4 OFFER PREPARATION**
- 4.1 Offer Submittals.** Offerors intending to respond to this Solicitation shall download and complete each of the Submittal documents listed in the Solicitation Cover Sheet. Submittal documents will include additional Solicitation instructions specific to its contents. Offerors will complete each Submittal in accordance with the instructions in the submittal. At a minimum, submittals will include a Price Offer and an Offer and Certifications submittal.
- 4.2 Offer Acceptance Period.** All Offers are valid for a period of one hundred and fifty (150) calendar days subsequent to the IFB closing date.
- 4.3 Alternate Offers.** Unless excluded elsewhere in the Solicitation, Offerors may submit alternative Offers, in addition to their primary Offer. Offerors seeking to submit an alternative Offer may include with their completed Submittals, any alternative Submittals as applicable.

- 4.4 Proprietary and Confidential Information.** All Offers received and opened by the City are subject to the Texas Government Code, Ch. 552, and will be made available to the public. With the exception of the Prices and Pricing Submittal, which shall not be kept confidential, Offerors seeking to keep any other portions of their Offer confidential shall mark each such portion as “Proprietary”. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The City may request a review and determination from the Attorney General’s Office of the State of Texas, of any Bid contents marked as “Proprietary”. A copyright notice or symbol is insufficient to identify proprietary or confidential information.
- 4.5 Cost of Offer Preparation and Participation.** Offerors are responsible for all costs related to the preparation of their Offer and incurred while participating in this Solicitation process.
- 4.6 Minority and Women Owned Business Enterprise (MBE/WBE) Procurement Program.** If the solicitation includes an MBE/WBE Program Compliance Plan or Offeror intends to subcontract, the Offeror shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Subcontractor Utilization Plan as approved by the City (the “Plan”).
- 4.7 Materials Specifications/Descriptive Literature.**
- 4.7.1** If a Solicitation refers to a Qualified Products List (QPL), Standard Products List (SPL) or a manufacturer’s name and product, any Offeror offering products not referenced in the solicitation must submit as part of their Offer materials specifications/descriptive literature for the non-referenced product. The manufacturer shall provide a list of recommended spare sheets. The manufacturer shall also provide cut sheets to every proposed item. Materials specifications/descriptive literature must be identified to show the item(s) in the Offer to which it applies.
- 4.7.2** Material specifications/descriptive literature are defined as product manufacturer’s catalog pages, “cut sheets” applicable tests results, or related detailed documents that specify material construction, performance parameters, and any industrial standards that are applicable such as ANSI, ASTM, ASME, SAE, NFPA, NBS, EIA, ESL, and NSA. The submitted materials specifications/descriptive literature must include the manufacturer’s name and product number of the product being offered.
- 4.7.3** The failure of the materials specifications/descriptive literature to show that the product offered conforms to the requirements of the Solicitation shall result in rejection of the Offer.
- 4.7.4** Failure to submit the materials specifications/descriptive literature as part of the Offer may subject the Offer to disqualification from consideration for award.
- 4.8 Qualified products List:**
- 4.8.1** If a solicitation refers to a Qualified Products List (QPL) or a manufacturer’s name and/or product number, only offers for those pre-qualified items and/or manufacturers will be considered for award.
- 4.9 Pricing Requirements – Non-Specified Items.**
- 4.9.1** The City may purchase additional related items that are available from the Contractor in various quantities. Pricing for these non-specified items will be calculated based on a percentage markup over Contractors cost as identified in the Price Sheet under the Non-Specified Parts Section.
- 4.9.2** Offeror shall bid a percentage markup to their cost.
- 4.9.2.1** The percentage markup shall be fixed throughout the term of the Contract and are not subject to increase. They shall also remain firm through subsequent renewal periods if the City and the Contractor choose to renew the Contract.
- 4.9.2.2** The Offeror may offer a different percentage discount or markup amount per manufacturer for any Non-Specified Part; however, parts within each manufacturer’s product line shall be priced by taking the stated list price and applying that percentage discount or markup.
- 4.10 Hazardous Materials.**
- 4.10.1** If this Solicitation involves hazardous materials, the Offeror will furnish with the Offer Safety Data Sheets (SDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards.

Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.

- 4.10.2** Failure to submit the SDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- 4.10.3** The SDS, instructions and information required in paragraph “4.10.1” must be included with each shipment under the contract.

5 OFFER SUBMISSION

Offers in response to this Solicitation may be submitted using one of the following methods.

- 5.1 Electronic Offers.** Electronic Offers (electronic documents) shall be submitted to the City of Austin using the Solicitation’s eResponse function, available through the City’s online financial system, Austin Finance Online. To submit Electronic Offers using the eResponse function, Offeror’s must first be registered as a vendor with the City of Austin in Austin Finance Online.

See [Instructions, Submitting Offers in Austin Finance Online](#).

- 5.1.1 Due Date and Time for Electronic Offers.** Electronic Offers in response to this Solicitation shall be submitted via eResponse by the Offer Due Date and Time displayed in the Important Dates section of the Solicitation Cover Sheet. The system time within Austin Finance Online shall be the official time of record for Electronic Offers.
- 5.1.2 Withdrawing Electronic Offers.** Electronic Offers submitted online in response to this Solicitation may be withdrawn, revised and resubmitted using the eResponse function any time prior to the Solicitation’s Due Date and Time. Withdrawn Electronic Offers may be resubmitted, with or without modifications, up to the Solicitation’s Due Date and Time.
- 5.1.3 Late Electronic Offers.** The Solicitation’s eResponse function in Austin Finance Online will not allow Electronic Offers to be submitted past the Solicitation’s Due Date and Time.
- 5.1.4 Opening Electronic Offers.** The information regarding Electronic Offers will become available on or shortly after the Offer Opening Date and Time stated on the Solicitation’s Cover Sheet. When Electronic Offers are opened, the names of each Offeror would be displayed within the Solicitation’s eResponse section. For Solicitations conducted via Competitive Sealed Bidding, the Price Offer for each Offeror will also be displayed in the eResponse section.
- 5.2 Hardcopy Offers.** Hardcopy Offers (physical documents including paper and flash drives) must be returned in a sealed envelope and shall be delivered to the City of Austin’s Purchasing Office at one of the following addresses, depending on the delivery method:

Deliveries by US Mail	Deliveries by Courier Services (e.g., Fedex, UPS, etc.) and In-Person Deliveries
City of Austin Purchasing Office Response to Solicitation: IFB 1100 CSZ1006REBID P.O. Box 1088 Austin, Texas 78767-8845	City of Austin, Municipal Building Purchasing Office Response to Solicitation: IFB 1100 CSZ1006REBID 124 W 8 th Street, Rm 310 Austin, Texas 78701 Reception Phone: (512) 974-2500

- 5.2.1 Due Date and Time for Hardcopy Offers.** Hardcopy Offers in response to this Solicitation shall be received by the City via one of the aforementioned delivery methods by the Offer Due Date and Time displayed in the

Important Dates section of the Solicitation Cover Sheet. The time stamp clock at the Purchasing Office reception desk shall be the official time of record for Hardcopy Offers.

5.2.2 Withdrawing Hardcopy Offers. See below for changes due to the COVID-19 pandemic.

5.2.3 Late Hardcopy Offers. All Hardcopy Offers received after the Solicitation's Due Date and Time will be rejected. Late Hardcopy Offers that are inadvertently received by the City shall be returned to the Offeror. It is the responsibility of the Offeror to ensure that their Offer arrives at the proper location by the Solicitation's Due Date and Time. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Hardcopy Offer arriving on time. The City may, at its sole discretion, receive a late Hardcopy Offer if the City's misdirection or mishandling was the sole or main cause for the Hardcopy Offer's late receipt at the designated location.

5.2.4 Opening Hardcopy Offers. The City will open Hardcopy Offers on or shortly after the Offer Opening Date and Time stated on the Solicitation's Cover Sheet. When Hardcopy Offers are opened, the names of each Offeror would be read aloud. For Solicitations conducted via Competitive Sealed Bidding, the Price Offer for each Offeror will be available to read aloud. If no one is in attendance at the Solicitation Opening, the aggregate price will be read aloud, with the remaining Price Offer available for public inspection immediately following the Solicitation opening.

5.3 Special procedures due to 2020 COVID-19 Pandemic.

5.3.1 Confirmation of Submittals – Due to the current Pandemic circumstances, the City is not able to provide written confirmation of Hardcopy Offers when they are received or able to verify receipt of Hardcopy Offers or provide signature confirmation of Offers delivered by common carriers.

5.3.2 Withdrawing Hardcopy Offers – Hardcopy Offers may be withdrawn in writing or by email at any time prior to the Solicitations Due Date and Time. Offerors must send emails to withdraw Offers to the following email address: PurchasingAdmin@austintexas.gov

5.3.3 Solicitation Openings - Due to the current Pandemic circumstances, the City is not facilitating public attendees at Solicitation openings. Instead, the City will conduct this Solicitation opening via live webcast at the following website: https://www.austintexas.gov/financeonline/afo_content.cfm?s=66.

When conducting a Solicitation opening via webcast, the City will read the applicable information from Hardcopy Offers aloud and will referring the public to the Solicitation's eResponse section to view the remaining Electronic Offers.

6 OFFER EVALUATION

6.1 Basis of Competition. The City may compare bids based on the prices for individual line items, the prices for categories of line items or the aggregate price bid. The City will choose the basis of competition that best meets the City's needs for the resulting contracts.

6.2 Price Evaluation. Once the City determines the basis of competition, the City will sort the bids from low to high price.

6.3 Responsiveness Evaluation. Once the low bid is identified, the City will evaluate the bid for responsiveness with all Solicitation requirements. A bid is responsive if it complies with all Solicitation Instructions, scope and specifications. If a bid is found to be nonresponsive, the City will set it aside and proceed with evaluating the next lowest bid for responsiveness.

6.4 Responsibility Evaluation. Once the low responsive bid is identified, the City will evaluate the Offeror submitting the low responsive bid for their responsibility. An Offeror is responsible if they have the financial and practical ability, resources, expertise, past performance and positive compliance history with all City ordinances. If an Offeror is found to be non-responsible, the City will set their bid aside and proceed with evaluating the responsibility of the Offeror submitting the next low and responsive bid.

6.5 Minor Informalities. In conducting evaluations, the City may waive as an informality, any minor deviations in the Solicitation's contents or in the Offers received, in procedure or in specifications, provided such deviations do not affect the Solicitation's competition.

7 CONTRACT AWARD AND EXECUTION

7.1 Award Determination. The City will award the contract to the responsible Offeror submitting the low responsive bid. If the City receives a Bid from an offeror who has Local Business Presence and whose bid is within three percent of the lowest bid price received from an offeror who does not have Local Business Presence, the City may enter into a contract with the local vendor. Local Business Presence is determined per the form in the Offer and Certifications Section of the Solicitation.

7.2 Multiple Awards. If the City determines that multiple contracts are needed, the City will award one or more additional contracts to the responsible Offerors submitting the next lowest responsive bids.

7.3 Contract Execution. Contracts within the City Manager's authority will be awarded and executed simultaneously. Contracts above the City Manager's authority will be executed following their authorization by the Austin City Council.

8 ADMINISTRATIVE MATTERS

8.1 Solicitation File. All documents included in this Solicitation, and all timely received Offers in response to this Solicitation, except for Offer contents deemed by Offerors to be proprietary and confidential, will be available for public inspections upon the publication of the City's recommendation of award. The recommendation of award will be posted in Austin Finance Online.

8.2 Debriefings. Offerors may request a debriefing meeting to ask any questions concerning the Solicitation's contents, process or the evaluation of their Offer. Debriefing meetings are informal exchanges and may be requested anytime following the earlier of (i) after the contract resulting from this Solicitation is executed, or in the case of multiple awards, the last contract is executed; (ii) the date the Solicitation is cancelled. Debriefings are not public called meetings in accordance with the Texas Open Meetings Act and are usually limited to a single Offeror and any of their representatives. Only information regarding the Solicitation documents and the Offeror's Offer in response to the Solicitation will be discussed.

8.3 Reservations. The City expressly reserves the right to the following: (i) specify approximate quantities in the Solicitation; (ii) extend the Solicitation closing date and time; (iii) add additional terms or modify existing terms in the Solicitation; (iv) reject an Offer containing exceptions, additions, qualifications or conditions not called for in the Solicitation; (v) reject an Offer received from an Offeror who is currently debarred or suspended by the City, State, or Federal Government; (vi) reject an Offer that contains fraudulent information; (vii) reject an Offer that has material omissions; (viii) reject or cancel any or all Offers; (ix) reissue a Solicitation; (x) procure any item by other means; (xi) consider and accept alternate Offers, if specified in the Solicitation, when most advantageous to the City; and/or (xii) reject an Offer if prices in the Offer are unbalanced (significantly less than cost for some items and significantly more than cost for others).

8.4 Protests. The Purchasing Officer has the authority to settle or resolve any claim of an alleged deficiency or protest. The procedures for notifying the City of Austin of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Purchasing Officer may dismiss your complaint or protest.

8.4.1 Protest regarding the Solicitation (Pre-Bid Protest). Any protest regarding the Solicitation by the City shall be filed no later than five (5) days before the opening of Bids. Any protest filed after that date which raises issues regarding the Solicitation will not be considered.

8.4.2 Protests regarding the evaluation of Bids. Any protest regarding the evaluation of Bids by the City shall be filed with the City no later than five (5) days after the opening of Bids, or notification that the protestor's status as a

Offeror has changed, such as notification that a Bid has been rejected. Any protest filed after such date which raises issues regarding the evaluation will not be considered.

- 8.4.3** Protest Regarding Award of Contract (Post-Award Protest). Any protest regarding the award of the contract shall be filed no later than ten (10) days after the date of award. Any protest regarding the award of the contract filed after such date will not be considered.
- 8.4.4** You shall submit your protest in writing and it shall include the following information: (i) your name, address, telephone, and email address; (ii) the Solicitation number; (iii) the specific facts and/or law upon which the protest of the Solicitation or the award is based, including all pertinent documents and evidence thereto; and (iv) the form of relief requested.
- 8.4.5** Your protest shall be concise and presented logically and factually to help with the City's review.
- 8.4.6** When the City receives a timely written protest, the Purchasing Officer will determine whether the grounds for your protest are sufficient. If the Purchasing Officer decides that the grounds are sufficient, the Purchasing Office will schedule a protest hearing, usually within five (5) working days. If the Purchasing Officer determines that your grounds are insufficient, the City will notify you of that decision in writing.
- 8.4.7** The protest hearing is informal and is not subject to the Open Meetings Act. The purpose of the hearing is to give you a chance to present your case, it is not an adversarial proceeding. Those who may attend from the City are: representatives from the department that requested the purchase, the Department of Law, the Purchasing Office, and other appropriate City staff. You may bring a representative or anyone else that will present information to support the factual grounds for your protest with you to the hearing.
- 8.4.8** A decision will usually be made within fifteen (15) calendar days after the hearing.
- 8.4.9** The City will send you a copy of the hearing decision after the appropriate City staff has reviewed the decision.
- 8.4.10** When a protest is filed, the City usually will not make an award until a decision on the protest is made. However, the City will not delay an award if the City Manager or the Purchasing Officer determines that the City urgently requires the supplies or Services to be purchased, or failure to make an award promptly will unduly delay delivery or performance. In those instances, the City will notify you and make every effort to resolve your protest before the award.
- 8.5 Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in place. Link to Texas Ethics Commission Form 1295 process and procedures below:

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

9 DEFINITIONS

Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

"Addendum" means a written instrument issued by the Contract Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.

“Bid” means a complete, properly signed Offer submitted in response to this Solicitation, which if accepted, would bind the Offeror to perform the resultant Contract.

“City” means the City of Austin, a Texas home-rule municipal corporation.

“Competitive Sealed Bidding” means the competitive process described within an Invitation for Bids, wherein the City invites Offerors to submit bids to supply the City with the Goods and/or Service describes in the Solicitation document, where the City will award the resulting contract to the responsible Offeror submitting the low responsive bid.

“Invitation for Bids (IFB)” means a complete packet of documents describing the City’s competitive sealed bidding process, including but not limited to Solicitation instructions, Standard and Special contract terms and conditions, and the submittals necessary for Offerors to respond to the Solicitation.

“Offer” means a complete signed response to a Solicitation including, but not limited to, an Invitation for Bids.

“Offeror” means a person, firm, or entity that submits an Offer in response to this Solicitation. Any Offeror may be represented by an agent after submitting evidence demonstrating the agent’s authority. The agent cannot certify as to his own agency status.

“Price and Pricing Submittal” means a document, submitted by an Offeror in response to this Solicitation, containing unit and extended Bid prices for one or more of the Goods and/or Services identified by in the Prices and Pricing Submittal document.

“Purchasing Office” refers to the Purchasing Office in the Financial Services Department of the City.

“Purchasing Officer” means the director of the Purchasing Office and the principle recipient of procurement authority from the City Manager.

“Responsible Offeror” means the financial and practical ability of the Offeror to perform the Contract and takes into consideration resources, expertise, and past performance of the Offeror as well as compliance with all City ordinances concerning the purchasing process.

“Responsive” means meeting all the requirements of a Solicitation.

“Solicitation” means this Invitation for Bids or IFB.

10 MINIMUM QUALIFICATION & PRICE SUBMITTAL

10.1 MINIMUM QUALIFICATION: Offerors that do not meet the minimum qualifications shall be deemed nonresponsive. Provide documentation that demonstrates how you meet each minimum qualification:

- 10.1.1** Evidence that the product submitted has been in commercial service in an electric utility in the United States for a minimum of five (5) years in the configuration offered and manufactured.
- 10.1.2** Evidence that the manufacturer of the product has five (5) years of experience producing 145kV circuit switchers for the United States electric utility industry.
- 10.1.3** A list of installations where a 145kV have been operational for a minimum of five (5) years. The installation information shall include date of initial operation, location, owner, and contact number of owner’s representatives.
- 10.1.4** As evidence of meeting the requirements of Specification E-1496, Offeror should provide the following:
 - 10.1.4.1** Technical specifications/cut sheets.

- 10.1.4.2** Preliminary outline drawing and nameplate drawing.
- 10.1.4.3** A template for the proposed test procedure.

10.2 PRICE SUBMITTAL SHEET:

- 10.2.1** Offerors must use the Pricing Sheet to submit pricing. Be advised that altering the pricing sheet or taking exceptions to any portion of the solicitation may jeopardize acceptance of your Offer.
- 10.2.2** A bid of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of "no bid" or no response (space left blank) will be interpreted by the City that the Offeror does not wish to bid on that item. Be advised, a "no bid" or no response may be considered as non-responsive and may result in disqualification of the bid.
- 10.2.3** Prices offered on the pricing sheet shall be all inclusive of fees not expressly allowed in the scope of work. The Offeror shall not charge separately for administrative, overhead, per diem, insurance, or shipping to deliver items to the Austin, Texas, area. The Offeror shall provide all tools, labor, travel, and equipment necessary to perform the services required under this contract.

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The Contractor agrees that the Contract shall be governed by the following 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, unless specified otherwise in the Scope of Work, 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 of 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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- 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 SPECIAL TOOLS & TEST EQUIPMENT:

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

1.7 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, including security audits, 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.

1.8 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.

1.9 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.

1.10 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

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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.

1.11 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 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.

1.12 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. In the event of termination of the Contract under this Section, the Contractor shall handover all complete and partially complete Work Products and Documentation developed under this Contract.

1.13 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.

1.14 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. In the event of termination of the Contract under this Section, the Contractor shall handover all complete and partially complete Work Products and Documentation developed under this Contract.

1.15 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.

1.16 DELAYS:

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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.

1.17 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 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.

1.18 INDEMNITY:

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

- (1) "INDEMNIFIED PARTY" IS THE CITY AND THE CITY'S OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS.
- (2) "INDEMNIFYING PARTY" IS THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.
- (3) 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:
 - i. BREACH OR NON-FULFILLMENT OF ANY PROVISION OF THIS CONTRACT BY THE INDEMNIFYING PARTY;
 - ii. 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;
 - iii. 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;
 - iv. 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
 - v. 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.

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- B. 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.
- C. THE INDEMNIFIED PARTY MAY SELECT ITS OWN LEGAL COUNSEL TO REPRESENT ITS INTERESTS. THE INDEMNIFYING PARTY SHALL:
 - i. REIMBURSE THE INDEMNIFIED PARTY FOR ITS REASONABLE COSTS AND ATTORNEY'S FEES IMMEDIATELY UPON REQUEST, AS THEY ARE INCURRED, AND
 - ii. REMAIN RESPONSIBLE TO THE INDEMNIFIED PARTY FOR ANY LOSSES INDEMNIFIED UNDER THIS SECTION.
- D. 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.
- E. 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.

1.19 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.

1.20 CONFIDENTIALITY:

The Parties may be granted access to certain of the other Party's or Licensor's Confidential Information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the Party or its licensors consider confidential) (Confidential Information) to provide the Deliverables to the City. The Parties acknowledge and agree that the Confidential Information is the valuable property of the disclosing Party and its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the disclosing Party and its licensors. The receiving Party (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 disclosing Party, 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 receiving Party agrees to promptly notify the disclosing Party before disclosing Confidential Information to permit the disclosing Party reasonable time to seek an appropriate protective Order. The receiving Party agrees to use protective measures no less stringent than the receiving Party uses in its business to protect its own most valuable information. In all circumstances, the receiving Party's protective

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measures must be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

- A. The Parties agree: (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, and (iii) to promptly notify the disclosing Party of any request for Confidential Information to be disclosed under any law or order of any court or other governmental authority with proper jurisdiction, so as to permit disclosing Party reasonable time to seek an appropriate protective order.
- B. All Confidential Information and derivations thereof shall remain the sole and exclusive property of disclosing Party, and no license or other right to the Confidential Information or intellectual property is granted or implied hereby. Upon the written request of disclosing Party, the receiving Party shall promptly return to disclosing Party all tangible items of Confidential Information furnished by disclosing Party and all copies thereof or certify in writing that all Confidential Information, including all copies, has been destroyed.
- C. No expiration or termination of the Contract shall affect either Party's rights or obligations with respect to Confidential Information.
- D. 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.
- E. 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.

1.21 TEXAS PUBLIC INFORMATION ACT:

- A. All material submitted by the Contractor to the City related to the Contract may become subject to public disclosure upon receipt by the City. 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.

1.22 PUBLICATIONS:

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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.

1.23 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.

1.24 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.

1.25 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.

1.26 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.

1.27 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.

1.28 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.

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1.29 WAIVER:

The claim or right arising out of a breach of the Contract cannot be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

1.30 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.

1.31 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.

1.32 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.

1.33 JURISDICTION AND VENUE:

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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 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.

1.34 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.

1.35 HOLIDAYS:

Dates for the holidays observed by the City can be found here <https://www.austintexas.gov/departments/official-city-holidays>

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.

1.36 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.

1.37 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.

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.

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- 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 SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or Subcontractor Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Subcontractor Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager no later than the 10th calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written Contract between the Contractor and Subcontractor. The terms of the Subcontract may not conflict with the terms of the Contract and shall contain provisions that
 - i. Require that all Deliverables and services to be provided by the Subcontractor be provided in strict accordance with the provisions, Specifications and terms of the Contract;
 - ii. Prohibit the Subcontractor from further Subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further Subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
 - iii. Require Subcontractors to submit all Invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its Invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. Require that all Subcontractors obtain and maintain, throughout the term of their Contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. Require that the Subcontractor follow terms as defined in section, AUDITS AND RECORDS and City Code Chapter 2-11
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any Contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than 10 calendar days after receipt of payment from the City.

1.40 NON-SPECIFIED ITEMS:

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The City may purchase additional related items that are available from the Contractor. Pricing for these non-specified items will be calculated based on a percentage markup over Contractor's cost, percentage discount of list price or as otherwise identified in the Price Sheet under the Non-Specified Items Section. The percentage markup or discount shall be fixed throughout the term of the Contract and are not subject to increase. They shall also remain firm through subsequent Contract extension options. The City may request additional information from the Contractor to substantiate the percentage markup or discount prior to placing an order.

1.41 ECONOMIC PRICE ADJUSTMENT:

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm until 3 months after Contract execution. 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 a 3 month basis from the anniversary date of Contract execution. 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. 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. Prices will not be adjusted without approval from both parties.
- B. If the requested adjustment is not supported by the referenced indexes in E, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.
- C. **Effective Date:** Approved price adjustments will go into effect on the first day of the three-month anniversary date of Contract execution and remain in effect until Contract expiration unless changed by subsequent amendment.
- D. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the three-month 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.
- E. **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:

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Weight % or \$ of Base Price: 100%	
Database Name: Producer Price Index industry data	
Series ID: PCU335313335313	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Description of Series ID: Switchgear and Switchboard Apparatus MFG	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: 1-6	

F. **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

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
- 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.

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- vi. The “other” insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
 - vii. If insurance policies are not written for amounts specified in Section B., Specific Insurance Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
 - viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
 - ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in exposure, statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
 - x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
 - xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions greater than \$499,999 shall be disclosed on the Certificate of Insurance.
 - xii. If any required insurance is written on a claims-made basis, the Certificate of Insurance shall state that the coverage is claims-made and the retroactive date shall be prior to or coincident with the date of the Contract and the coverage continuous and shall be provided for 24 months following the completion of the Contract.
 - xiii. The insurance coverages specified in Section B., Specific Insurance Requirements, are required minimums and are not intended to limit the responsibility or liability of the Contractor.
- B. **Specific Insurance Coverage Requirements:** The Contractor, consistent with its status as an independent Contractor shall carry and will cause its Subcontractors to carry, at a minimum insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- i. **Worker’s Compensation and Employers’ Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker’s Compensation Act (Section 401). The minimum policy limits for Employer’s Liability are \$1,000,000 bodily injury each accident, \$1,000,000 bodily injury by disease policy limit and \$1,000,000 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 \$5,000,000 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;

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- 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 Days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage;
 - c. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.
 - iii. **Business Automobile Liability Insurance:** Coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$2,000,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$2,000,000 bodily injury per person, \$2,000,000 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.

Note: If shipment is made by common carrier, then the requirements for Workers Compensation Employee Liability and Business Automobile Liability Insurance are not required. The Contractor must provide a written statement if a common carrier will be used to deliver parts.
 - 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 GOODS**
- 2.1 DELIVERY AND PACKAGING TERMS:**
- A. **DELIVERY AND TRANSPORTATION CHARGES:** Deliverables shall be shipped F.O.B. destination, prepaid and allowed unless otherwise specified. Unless otherwise stated in this Contract, the Contractor's price shall be deemed to include all delivery and transportation charges of required mode of transportation. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be set forth in the block of the Purchase Order or Delivery Order entitled "SHIP TO" and/or Offer Sheet. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays. The City expressly reserves all rights under law, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables.
 - B. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach. However, the Contractor shall have the right to substitute a conforming tender; provided if the time for performance has not yet expired. The Contractor shall notify the City of the intention to cure and may then make a conforming tender within the time allotted in the Contract.
 - C. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** All Deliverables must be shipped complete unless arrangements for partial shipments are made in advance. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming

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Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables 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.

- D. **RIGHT OF INSPECTION AND REJECTION:** The City expressly reserves all rights under law to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables
- E. **CONTRACTOR PACKAGING DELIVERABLES:** The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and Purchase Order or Delivery Order number and the price agreement number if applicable, (c) container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear the cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable Specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2.2 WARRANTY:

- A. **PRICE:**
 - i. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
 - ii. The Contractor warrants that its prices provided in this Contract are no higher than its current prices on orders for similar goods under similar terms of purchase.
- B. **TITLE & RISK OF LOSS:** Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables. The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
- C. **DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the Specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Contract, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
 - i. 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.
 - ii. Unless otherwise specified in the Contract, the warranty period shall begin at the date of acceptance, not to exceed 90 (ninety) days from the date of shipment. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the

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breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.

- iii. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
- iv. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall fully assist and cooperate with the City to enforce such manufacturer's warranty for the benefit of the City.
- i. Contractor warrants that all Equipment shall be at current engineering change levels and shall be eligible for the manufacturer's standard prime shift maintenance contract upon delivery.

2.3 WARRANTY BY CONTRACTOR AGAINST INFRINGEMENTS:

- A. The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the Specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims.
- B. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties Stated in this Contract.
- C. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's Specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this Paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.

2.4 RESTOCKING FEES:

- A. The Contractor may bill the City restocking fees (if specifically authorized by this Contract) for parts that are Ordered by the City under the Contract and returned for refund. The Contractor is not obligated to accept for refund any part that is not resalable and/or not in the same condition as when purchased.
- B. Restocking fees may be charged to the City when multiple parts or groups of parts are returned for refund at one time due to the City inventory warehouse cleaning, unless these parts are returned at an annual pre-arranged date. The date for the annual return shall be mutually agreed upon between the City and the Contractor.

2.5 PUBLISHED PRICE LISTS:

The Published Price List may be superseded or replaced during the Contract term only if price revisions are the result of a modification to the manufacturer's official Published Price List. Written notification from the

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Contractor of price changes, along with one copy of the revised manufacturer's official Published Price List must be submitted to the Purchasing Office with the effective date of change to be at least 30 calendar days after written notification. The City reserves the right to refuse any list revision. The discounts or markups on equipment rental, material, supplies, parts, and Contract services shall be fixed throughout the term of the Contract and are not subject to increase. Failure to submit written notification of Published Price List revisions will result in the rejection of new prices being Invoiced. The City will only pay Invoices according to the last approved price list.

2.6 OWNERSHIP AND USE OF DELIVERABLES:

The City shall own all rights, titles, and interests throughout the world in and to the Deliverables, except as stated below.

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

2.7 HAZARDOUS MATERIALS:

- A. If this Contract involves hazardous materials, the Contractor shall provide the City the Safety Data Sheets (SDS) on all chemicals and hazardous materials being used, specifying the generic and trade

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name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.

- B. Failure to submit the SDS is grounds for the City to terminate this Contract immediately.
- C. The SDS, instructions and information required in Paragraph "A" must be included with each shipment under the Contract.

3 SERVICES

3.1 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.

3.2 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.

3.3 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 Final Acceptance Date. The maintenance period shall not begin until after the Final Acceptance Date and no associated maintenance fees will be charged until commencement of the maintenance period. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with the services warranty standard

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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.

4 DEFINITIONS

1. **"Affiliate"** – including but not limited to, (i) Contractor's parent, subsidiaries, sister companies, partnerships, joint ventures, franchisees, assigns, business partners, contractors, subcontractors and consultants, controlling, controlled by or under common control of Contractor as they may change from time to time and (ii) Users, as they may change from time to time.
2. **"Amendment"** – a written document executed by both Parties that modifies the terms of this Contract, including referenced attachments.
3. **"Authorized Persons"** – the Contractor personnel (including subcontractor personnel) located in the contiguous United States having successfully completed the required background check and related requirements of the Contract.
4. **"Change Order Request"** – the written document provided by the City to Contractor requesting changes to Contractor's obligations under this Contract.
5. **"Change Order Response"** – the written document provided to the City by Contractor in response to City's Change Order Request.
6. **"City Confidential Information"** – (a) information provided by the City that is marked or identified as confidential, (b) information, including software, computer programs, documentation, processes, procedures, techniques, technical, financial, customer, personnel and other business information of a non-public nature that would reasonably be understood to be confidential whether or not marked or identified as confidential, (c) information generated by Contractor (or subcontractor) that contains, reflects, or is derived from Confidential Information, (d) Personal Identifying Information, (e) Restricted Data, and (f) all other information made confidential by federal, state or local law or regulation. City Confidential Information is part of City Data.
7. **"City Data"** – data or information (in any form) regarding the City or its customers that is created, collected, provided, obtained, or otherwise made available in connection with this Contract to an Authorized Person.
8. **"City Identified Contact"** – the person or persons designated in writing by the City to receive security incident notifications.
9. **"City"** – the City of Austin, Texas, a municipal corporation and subdivision of the State of Texas, or a department of same.
10. **"Cloud Service"** – any Service made available to Users via the Internet from a provider's servers as opposed to being provided from the City's own on-premises servers. In this instance, it would mean such Services provided by the Contractor.
11. **"Confidential Information"** – all written or oral information, which may be disclosed by either Party to the other, related to the business operations of either Party or a third party that has been identified as confidential or that by the nature of the information or the circumstances surrounding disclosure ought reasonably to be treated as confidential; **"City Confidential Information"** is a subsets of Confidential Information.
12. **"Contract"** – the final general authorizing document (including Change Orders thereto) utilized by the City to procure Services from Contractor and any attachments and appendices attached thereto.

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13. **"Contract Price"** – the total amount to be paid to Contractor under any Purchase Order as it may be adjusted or changed in accordance with the terms of the final Contract.
14. **"Contractor"** – the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
15. **"Contractor Information"** – all techniques, algorithms and methods or rights thereto owned by or licensed to Contractor during the term of this Contract and employed by Contractors in connection with the Services provided to City.
16. **"Contractor Software"** – software that was developed or licensed to Contractor independent of this Contract and which Contractor utilizes to provide the Subscription Services or the Non-subscription Services.
17. **"Data Breach"** – the unauthorized access by a non-authorized person(s) that results in the use, disclosure or theft of City's or City's customers' unencrypted Personally Identifiable Information or City Confidential Information.
18. **"Documentation"** – the documentation created by the Contractor for the Services provided but does not include customized documentation prepared under the Contract and which are Deliverables under the Contract, including the Statement of Work; such Deliverables are wholly owned by City and Contractor shall make no claim to such Deliverables.
19. **"Facility"** – the City designated facility or location set forth in the Purchase Order where Services are to be performed by Contractor or Supplier or software installed.
20. **"FACTA"** – the Fair and Accurate Credit Transactions Act, 15 U.S.C. §§ 1681-1681x.
21. **"Final Acceptance Date"** – the date upon which the City confirms that all Services and Work Products have been completed and tested and function in accordance with the terms of the Contract.
22. **"IaaS Subscription Schedule"** – the document, part of the Contract, executed by both Parties that sets out the Parties' rights and obligations with respect to City's access to and use of the IaaS services.
23. **"Infrastructure-as-a-Service"** (IaaS) – the capability provided to the consumer to provision processing, storage, networks and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications and possibly limited control of select networking components (e.g., host firewalls).
24. **"Non-Public Data"** – data typically considered internal and used for city business or mission needs. All information is considered Non-Public unless otherwise classified or explicitly defined through the Information Governance Program or official policy or procedural documents.
25. **"Public Data"** means data typically created for public release or released to the public through management decision and/or a public information request.
26. **"Restricted Data"** means data typically exempt from public disclosure requirements under the provisions of applicable state or federal law. Examples of restricted information are regulated and confidential data.
27. **"Non-Subscription Services"** – the Services provided to City by Contractor under this Contract that are not included in the definition of Subscription Services. Non-subscription Services shall include, but not be limited to, consulting, implementation, customization and other services provided to City by Contractor under this Contract, together with all documentation provided by or otherwise required of Contractor for any of the consulting, implementation, customization or other Services it provides.
28. **"PaaS Subscription Schedule"** – the document, part of the Contract, executed by both Parties that sets out the Parties' rights and obligations with respect to City's access to and use of the PaaS services.
29. **"Party"** or **"Parties"** – the City and Contractor, individually or together, as applicable.
30. **"Personally Identifiable Information"** – information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. PII includes, but is not limited to, personal information and/or personal data. Some forms of PII are considered Restricted Data and require additional protection, including, but not

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limited to, Sensitive Personal Information (SPI), Sensitive and/or Protected PII, and Protected Health Information (PHI).

31. **"Platform-as-a-Service" (PaaS)** – the capability provided to the City to deploy onto the cloud infrastructure consumer-created or -acquired applications created using programming languages and tools supported by the provider. This capability does not necessarily preclude the use of compatible programming languages, libraries, services and tools from other sources. The consumer does not manage or control the underlying cloud infrastructure, including network, servers, operating systems or storage, but has control over the deployed applications and possibly application hosting environment configurations.
32. **"Purchase Order"** – the general authorizing document (including Change Orders thereto) utilized by the City to procure Services from Contractor under this Contract and any attachments and appendices attached thereto.
33. **"SaaS Software Application" and "SaaS Software"** – the computer software listed on a SaaS Subscription Schedule to which Contractor has granted City access and use as part of the Subscription Services. This includes any customization, other derivative works, upgrades, releases, fixes, patches, etc. related to the software that Contractor develops or deploys during the term of this Contract, together with all documentation provided by or otherwise required of Contractor for any of the software, customization, other derivative works, upgrades, releases, fixes, patches, etc.
34. **"SaaS Subscription Schedule"** – the document, part of the Contract, executed by both Parties that sets out the Parties' rights and obligations with respect to City's access to and use of the SaaS Software Application.
35. **"Security Incident"** – any actual or potential unauthorized disclosure of, or unauthorized access to, City Confidential Information; or a violation or imminent threat of violation of computer security policies, acceptable use policies, or violation or imminent threat of violation of industry standard security practices.
36. **"Service Level Agreement" (SLA)** – a written agreement between both the City and the Contractor that is subject to the terms and conditions of the Contract that, unless otherwise agreed, includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures by or otherwise required of Contractor for any of the software, customization, other derivative works, upgrades, releases, fixes, patches, etc.
37. **"Service Levels"** – the performance specifications for work performed by the Contractor under a SaaS Subscription Schedule or Statement of Work.
38. **"Services"** – work, direction of work, installation services, technical information, technical consulting, software programming and development, software maintenance and support services, or other professional and technical services furnished by Contractor as described in detail in the final Contract.
39. **"Software"** – the computer programs in source code, object code or binary form or in any other form, including any related or included computer programs, whether owned by Licensor or licensed to Licensor by a third party which has authorized Licensor to sublicense such computer programs, and including any documentation or related materials concerning the application, use, training of users, theory of operation, maintenance or any other aspect of the Software.
40. **"Software-as-a-Service" (SaaS)** – the Services provided to the City to use the Contractor's offering running on non-City owned infrastructure. The User does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
41. **"Specifications"** – those technical specifications attached to the Contract and to which the Services and Work Products supplied by Contractor must conform.
42. **"Statement/Scope of Work"** – a written statement of Deliverables including Services and, ultimately, the Contract, which describes the City's Service needs and expectations.

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- 43. **"Subscription Services"** – City's access to and use of and Contractor's provision of the SaaS Software Applications and other Services listed on a SaaS Subscription Schedule and in accordance with the terms and conditions set forth in the SaaS Subscription Schedule and Contract documents, as appropriate.
- 44. **"Third Party"** – any natural person or legal entity other than Contractor and City.
- 45. **"Transition Date"** – the date upon which it is established to City's satisfaction that the SaaS Software Application is stable enough to support City's production processing.
- 46. **"User Information"** – all information directly or indirectly obtained from Users accessing the SaaS Software Applications where such information is obtained by Contractor or by any of its employees, representatives, agents or any Third Parties having contractual privity with Contractor or who are under Contractor's supervision or control.
- 47. **"User"** – City's employees, agents, consultants, outsourcing companies, contractors and others who are authorized by City to access and use the SaaS Software Applications and any part or portion of the Subscription Services or non-Subscription Services in the performance of their duties for City.
- 48. **"Work Product"** – all deliverables and other materials, products or modifications developed or prepared for City by Contractor under this Contract, including without limitation, any integration software or other software, all data, program images and text viewable on the Internet, any HTML code relating thereto, or any program code, including program code created, developed or prepared by Contractor under or in support of the performance of its obligations under this Contract, including manuals, training materials and documentation, but excluding the Contractor's Software.

**CITY OF AUSTIN ELECTRIC UTILITY DEPARTMENT
PURCHASE SPECIFICATION
FOR
CIRCUIT SWITCHER, 145 KV, VERTICAL, OUTDOOR SF6**

1 **SCOPE AND CLASSIFICATION**

1.1 Scope

- 1.1.1 The City of Austin Electric Utility Department d/b/a Austin Energy sets forth this specification as minimum requirements for operating characteristics and safety features of a 145 kV circuit switcher.

1.2 Classification

- 1.2.1 The circuit switcher shall be a 145 kV, 25 kA or 40 kA, 1200 Ampere Continuous Current Rating, three-pole, Sulfur Hexafluoride (SF₆), outdoor, vertical circuit switcher.
- 1.2.2 The circuit switcher will be installed in an outdoor electric utility substation below an altitude of 1,000 meters and subjected to an annual ambient temperature variance of -30° C to +45° C at 100% humidity. The maximum average temperature for any twenty-four hour period is 30° C.
- 1.2.3 Any product submitted in response to this specification shall have been in commercial service in an electric utility in the United States for a minimum of five (5) years in the configuration being offered and manufactured by a Contractor that has five (5) years of experience producing 145kV circuit switchers for the United States electric utility industry.
- 1.2.4 To provide evidence that the requirements of paragraph 1.2.3 is met, the Contractor shall, upon request, provide a list of installations where an 145 kV, 25 kA or 40 kA 3-pole SF₆ vertical circuit switcher, like the ones being offered, have been operational for a minimum of five (5) years. The installation information shall include: date of initial operation, location, owner, and contact number of owner's representatives.

2 **APPLICABLE STANDARDS**

The circuit switcher furnished under this specification shall conform to the latest NEMA, OSHA, IEEE, ANSI/IEEE, ANSI, ASTM, NESC, and NEC standards applicable to the AC high voltage power circuit switchers. In the case of a conflict between any of the standards mentioned in this specification and the content of this document, the AE specification shall govern.

3 **FUNCTIONAL REQUIREMENTS**

The circuit switcher will be used in an electric utility distribution substation to perform the necessary switching and protection functions for 138/12.47 kV 18/24/30 MVA and 24/32/40 MVA power transformers.

3.1 Design

- 3.1.1 All circuit switchers of the same design and rating furnished on a given purchase order shall be electrical duplicates and have mechanically interchangeable parts.

- 3.1.2 SF₆ gas shall be used as the insulating and interrupting medium.
- 3.1.3 The circuit switcher shall utilize SF₆ gas at a single pressure in a closed system per pole. Each pole shall be factory sealed and provide a 0.05% leakage rate from -40°C to +40°C.

NOTE: A closed gas system is preferred. If contractor is bidding a non-closed gas system, the requirements of section 5.12 must be met.
- 3.1.4 The circuit switcher shall comply with OSHA 1910.95 requirements for acceptable noise level.
- 3.1.5 The circuit switcher shall have vertically mounted interrupters.
- 3.1.6 The circuit switcher shall be designed, rated and tested for 180° out-of-phase switching.
- 3.1.7 The trip operating mechanism shall be a spring only mechanism meeting the requirements of Section 3.2.3.
- 3.1.8 The circuit switcher shall be provided with or without a side-break integral switch as specified on the purchase order.

3.2 Operating Mechanism

The operating mechanism shall conform to the provisions of ANSI/IEEE C37.12, Section 5.9 and shall be:

- 3.2.1 Electrically and mechanically trip free.
- 3.2.2 Equipped with an external position indicator.
- 3.2.3 Furnished with primary and secondary trip coils; each coil shall be designed with separate electrical, mechanical and magnetic circuits. Coil shall be capable of independent replacement.
- 3.2.4 Capable of at least one (1) complete close-open operation without replenishing the store of energy when starting at normal operating pressure. Subsequent close-open operations may be delayed up to a maximum of 45 seconds. A universal motor may be utilized to provide the subsequent close-open operations. The universal motor, if used, shall be rated 120 V AC and 125 V DC with an automatic transfer device. Primary feed for the universal motor shall be 120 V AC. The close-open sequence shall, as a minimum, be the following:

O - CO - CO
0 sec 45 sec

The operating limits of the universal motor shall be as follows:

DC Voltage Range: 70-140 V DC
Starting Current: 40 A maximum for approximately 0.3 sec.
Running Current: 15 A maximum

4 PERFORMANCE REQUIREMENTS

The circuit switcher shall conform to all ratings and capabilities as defined and listed in the latest ANSI/IEEE C37.04, C37.06 and other applicable standards, and as follows:

4.1 Rated Values

Maximum Voltage, kV, rms	145		
Nominal Voltage, kV, rms	138		
Frequency, Hz	60		
Continuous Current Rating, Amps, rms	1200		
Short Circuit Interrupting Rating at Maximum Voltage, Amps, rms	25,000	or	40,000
Interrupting time, Cycles	3		
Short-Time Withstand Current Rating, Amps, rms	40,000		
Short-Time Withstand Current Rating, Amps peak, rms	104,000		
Short-Time Withstand Current Duration, seconds	0.5		
Close and latch, Amps, rms	130,000	or	104,000
Low Frequency Withstand, Dry 1 minute, kV, rms	335		
Low Frequency Withstand, Wet 10 seconds, kV, rms	275		
Full wave Impulse (BIL), kV, crest	650		

4.2 Auxiliary Voltages

Tripping Control and Indication	125 V DC, range 70-140 V DC
Close Control and Indication	125 V DC, range 70-140 V DC
Alarms	125 V DC, range 70-140 V DC
Heaters	120 V AC, single phase
Electrical receptacle	120 V AC, single phase
Motor	120 V AC/120 V DC

5 MATERIAL REQUIREMENTS

5.1 Construction

- 5.1.1 The circuit switcher shall be constructed to permit access to all parts for inspection, maintenance, and adjustments.
- 5.1.2 The circuit switcher shall be designed to prevent pumping.
- 5.1.3 All SF₆ pressure vessels shall conform to the requirements of one of the following:
 - A. ASME Unified Pressure Vessel Code including inspection and code stamp.
 - B. CAN/CSA-C50052-99.
- 5.1.4 Ground pads shall be provided that are capable of carrying fault current equal to rated short circuit current at 44° C for three (3) seconds. The circuit switcher shall be furnished with two (2) grounding pads located on the leg supports. The pads shall have a standard two (2) hole NEMA configuration.
- 5.1.5 All nuts, bolts, and washers used on the circuit switcher shall be non-rust stainless steel or AE engineer approved equivalent and shall be in standard non-metric units. All wire fasteners, ties, and holders shall be non-rust stainless steel or Austin Energy engineer approved equivalent. Plastic wire ties and holders are not acceptable for use.

- 5.1.6 The circuit switcher, including the base and control cabinet doors, shall be designed such that, after installation, there will be no permanent deformation caused by shipping or handling.
- 5.1.7 All pressurized components shall comply with the provisions of ANSI/IEEE C37.04.
- 5.1.8 Operating systems for the circuit switcher shall include the devices listed in Table 1 of ANSI/IEEE C37.12 and shall perform as indicated.
- 5.1.9 Each circuit switcher assembly shall be provided with lifting lugs or provisions for lifting with slings. The circuit switcher shall be mounted on a base and columns of sufficient strength and rigidity to withstand any distortion and misalignment during operation.
- 5.1.10 All wiring external to the control cabinets shall be run in liquid-tight flexible metal conduit or Austin Energy engineer approved equivalent. All conduit and conduit fittings shall comply with the provisions of NEC Article 300 and be UL approved for outdoor installation. Conduit shall be installed to minimize the potential for moisture entry and be routed to minimize exposure to climbing.
- 5.1.11 The circuit switcher shall be provided with all wiring, hoses, and piping required for pole-to-pole and pole-to-control cabinet connections as well as means for supporting or carrying these connections between phases.
- 5.1.12 The circuit switcher assembly complete with control cabinet shall be mounted on a common base with a two-column support design. The base and columns shall be rigid enough not to distort or misalign during operation.
- 5.1.13 The phase spacing on the circuit switcher shall be not less than 102-inches or not greater than 120-inches.
- 5.1.14 The circuit switcher column spacing shall be 126-inches from centerline of the anchor bolt hole pattern on one column to centerline of the anchor bolt hole pattern on other column.
- 5.1.15 The circuit switcher line and load terminals shall be a NEMA 4 hole 4-inch pad configuration.
- 5.1.16 The depth of a circuit switcher with an integral disconnect shall be less than 90 inches. The depth of the circuit switcher shall be measured from the front of any part of the circuit switcher to the back of any part of the integral disconnect.
- 5.1.17 The anchor bolt hole pattern shall consist of four (4) holes arranged in a square pattern. The pattern shall be as specified in the purchase order, either:
 - A. 1 ½ -inch holes to accommodate 1 ¼ -inch anchor bolts with 18-inch separation on each side of the square.
 - B. 2 ¾ -inch holes to accommodate 2 ¼ -inch anchor bolts with 22-inch separation on each side of the square.
- 5.1.18 The base height shall be as required so that the termination height of the lower pad of the vertically mounted interrupter is not less than 156-inches or greater than 240-inches.
- 5.1.19 The circuit switcher shall be capable of withstanding the terminal mechanical loading requirements outlined in the table below. The terminal loading shall include the weight of connected bus conductors, ice and wind loading, expansion loads, and moment forces. Bus connections will be expansion-type.

TERMINAL MECHANICAL LOADING			
	DIRECTION OF LOADING	MAXIMUM CONTINUOUS (LBS)	PERMISSIBLE PEAK (LBS)
UPPER TERMINALS	IN-LINE WITH TERMINALS	100	300
	PERPENDICULAR TO TERMINALS (HORIZONTAL)	100	150
	PERPENDICULAR TO TERMINALS (VERTICAL)	300	300
LOWER TERMINALS	IN-LINE WITH TERMINALS	225	600
	PERPENDICULAR TO TERMINALS (HORIZONTAL)	225	300
	PERPENDICULAR TO TERMINALS (VERTICAL)	300	300

5.1.20 The base and columns shall be constructed of at least 36 kpsi steel conforming to ASTM A36/A36M and shall be hot dip galvanized after fabrication in accordance with ASTM A123/A123M.

5.1.21 The circuit switcher Contractor shall furnish equipment-mounting hardware for connection to the steel structures. All steel mounting hardware shall be hot dip galvanized according to ASTM A153/A153M. The Contractor shall assemble any hardware, such as angles, required to mount the circuit switcher. Austin Energy will not accept hardware that requires field welding.

5.2 Integral Disconnect

5.2.1 A side-break integral disconnect switch shall be supplied when specified by the purchase order.

5.2.2 The disconnect switch shall be integral with the interrupters.

5.2.3 The disconnect blades shall be of the high-pressure type, self-aligning and self-wiping, and designed to ensure effective contact and low contact resistance. Contact pressure shall cause no scoring or abrasion of the contacts. The disconnect-blade contacts shall be silver-to-silver. Silver inserts, or silver strips, if used, shall be silver-brazed to contact supports. The shape and materials used for the disconnect-blade contacts shall be such that there will be no noticeable galling of the contact metals after the circuit-switcher has been subjected to a mechanical-operations test consisting of 5000 open and close operations.

- 5.2.4 The integral disconnect shall be capable of opening and closing without hesitations under $\frac{3}{4}$ -inch ice formation.
- 5.2.5 The operator for models incorporating an integral disconnect shall include the following features:
- A. Manual charging handle, for opening disconnects after interrupters have been manually tripped open – in the event control voltage has been lost.
 - B. Decoupling mechanism that allows decoupling and locking of disconnect-blade power train in open position, permitting operational checkout of the interrupters, the stored-energy operating mechanism, and the relaying equipment without closing the high-voltage circuit.
 - C. Eight (4 “a” and 4 “b”) individually adjustable auxiliary-switch contacts which follow the disconnect-blade power train and operator when coupled, and the operator only when decoupled.
 - D. The design of the disconnect operating mechanism shall be such that the blades are positively toggled in the fully closed position.

5.3 Bushings

- 5.3.1 All bushings shall be manufactured in accordance with the provisions of ANSI/IEEE C37.04 and ANSI/IEEE C37.09.
- 5.3.2 The Contractor shall supply bushings which shall be ANSI 70 light gray.
- 5.3.3 The bushing terminals shall comply with the provisions of ANSI/IEEE C37.04 and have a four (4) hole NEMA pad mill surfaced on both sides.

5.4 Accessories

The circuit switcher shall be provided with the following accessories:

- 5.4.1 An operation’s counter visible from outside the control cabinet without opening the control cabinet.
- 5.4.2 An auxiliary switch with a minimum of 10 spare stages (5 "a" contacts and 5 "b" contacts) wired to an Austin Energy accessible terminal board. If circuit switcher poles are not mechanically linked, auxiliary switches shall be provided for each phase.
- 5.4.3 Push buttons to trip and close the circuit switcher locally. Local red and green indication lights shall be provided in the control cabinet. When the red light is lit, the circuit switcher shall be closed. When the green light is on the circuit switcher shall be open.
- 5.4.4 One (1) twelve-point 125 V DC SEEKIRK Annunciator, Type B1003 S43 with one (1) output alarm contact per point, shall be mounted and wired in the control cabinet with Austin Energy access to the output alarms. The point modules shall be plug-in type (not soldered) and shall be permanently labeled to indicate each alarm function.

As a minimum, the following alarms shall be provided:

- A. Loss of DC Close Voltage
- B. Loss of DC Trip#1 Voltage
- C. Loss of DC Trip#2 Voltage

- D. Loss of DC Motor Voltage
- E. Loss of AC Heater Voltage (Adjustable delay up to 5 minutes)

Auxiliary relays required to provide these alarm functions shall be mounted on the load side of the circuit switcher. Seal-in features of the annunciator modules shall be disabled. A separate DC failure alarm monitoring the annunciator DC supply shall be wired to a terminal block for Austin Energy use, not wired to the annunciator.

- 5.4.5 All indicating devices used to provide the alarms mentioned in Section 5.4.4 shall have their alarm and trip contacts wired to a terminal strip in the control cabinet. Connection of the indicating devices to the annunciator shall be from this terminal strip. Alarm contacts shall be brought to a terminal for Austin Energy use. All relay and alarm contacts shall have the following ratings:

- A. 250 V DC
- B. 5 Amp Continuous
- C. 1 Amp Break Resistive
- D. 0.3 Amp Break Inductive

5.5 Insulating Medium

The sulfur hexafluoride gas supplied for use in circuit switchers shall comply with the provisions of ANSI/ASTM D2472. Contractor shall provide Certified copies of the test reports demonstrating compliance.

5.6 Control Cabinet

- 5.6.1 All operating mechanism equipment, control equipment, Austin Energy connections, alarm circuits, potential circuits, and other circuits shall be housed in a single weatherproof cabinet. A window shall be supplied to allow viewing of the annunciator from outside the cabinet.
- 5.6.2 The circuit switcher shall be furnished with an uncluttered non-rust stainless steel or aluminum weatherproof NEMA 4 control cabinet. The control cabinet shall be accessible from ground level. The bottom of the cabinet shall be between 18 and 42 inches above the foot of the pedestal. Design of the control cabinet shall be such that overlapping metal surfaces are sealed to prevent corrosion.
- 5.6.3 Suitable ventilating holes shall be provided and located in the control cabinet and other enclosures to permit proper air circulation. The vents shall be durable, maintenance free, and designed to prevent entry of water and insects.
- 5.6.4 All cabinet and door hardware shall be non-rust stainless steel. The cabinet shall be provided with provisions for padlocking.
- 5.6.5 The control cabinet and doors shall be sufficiently rigid to prevent warping of the doors and to insure positive operation of the doors and latches. Doors shall be hinged and shall have heavy-duty type handle latches. The control cabinet doors shall be supplied with wind latches. If multiple doors are used in the control cabinet, the wind latches of the inner door shall attach to the outer door.
- 5.6.6 Open-cell foam rubber and RTV silicone rubber are not acceptable as gasket material for the purpose of weatherproofing.
- 5.6.7 The control cabinet shall accommodate an uncut, aluminum bottom entrance plate large enough to handle six (6)-two (2) inch rigid conduits on 4 ½ -inch centers. A clear path

shall be provided between the conduit entrance and all terminal boards. All knockouts intended for field installation of conduits on the control cabinet shall be sealed with weatherproof knockout seals. Snap on knockout seals are not acceptable.

5.6.8 The following electrical accessories shall be provided in the control cabinet:

- A. One (1) or more 240 Volt AC non-thermostatically controlled heaters with personnel protective barriers shall be mounted in the control cabinet. The heaters shall be operated at 120 Volt AC and rated at 240 Volt. The total power dissipated in the control cabinet shall be approximately equal to three (3) Watts per cubic foot of space contained therein. All heaters shall be supplied from high temperature wire.
- B. One (1) 120 V, 100 W equivalent, mechanically protected incandescent outdoor light equipped with a weatherproof fixture and weatherproof door-operated switch.
- C. One (1) 120 V, 20 Amp, outlet equipped with a Ground Fault Interrupting Device (GFCI) accessible from the outside of the control cabinet.

Lights and heaters shall be supplied according to the above requirements in all junction boxes and/or other Austin Energy accessible work enclosures.

5.7 Control Wiring

- 5.7.1 All control wiring shall be wired to #10-32 barrier type terminal strips properly sized to handle the loads (General Electric Type EB-25 or Austin Energy engineer approved equivalent). Terminal boards for control wiring shall be solid molded blocks, rated 600 Volts and a minimum of 30 Amperes per terminal and able to accommodate wire sizes up to and including #10 AWG wire size. A white marking strip shall be furnished, marked, and attached so that terminal points can be identified.
- 5.7.2 One (1) spare eight (8) point terminal board shall be provided in the control cabinet for Austin Energy use.
- 5.7.3 The use of “plug-in” terminal boards is prohibited on Austin Energy connection points.
- 5.7.4 All wire terminals and exposed conducting parts shall be provided with barriers to prevent accidental contact and personnel injury.
- 5.7.5 All circuit switcher auxiliary wiring shall be a minimum of No. 12 AWG copper wire, 600 V insulation, NEC THW rated.
- 5.7.6 All wiring shall be flame resistant, oil resistant, heat resistant, and moisture resistant. All wiring shall be complete and performed in a professional, workmanlike manner and bundled or contained.
- 5.7.7 Splices will not be allowed in factory wiring. However, terminal blocks are allowed for point-to-point connection.
- 5.7.8 All wiring between accessories/devices external to the control cabinet shall be provided by the Contractor and installed in conduit with weatherproof fittings.
- 5.7.9 The auxiliary wiring shall be permanently identified at both ends and routed to the control cabinet in liquidtight flexible metal conduit and fittings. The Austin Energy engineer shall approve the method of permanently tagging the conductor ends. Wire ends shall be permanently fitted with compression type ring lugs before attaching securely to terminal studs.

- 5.7.10 The Contractor shall design the layout of the electrical wiring in the control cabinet to segregate the Contractor's wiring from Austin Energy's wiring. Terminal boards shall be wired with one side reserved for the Contractor and one side reserved for Austin Energy. Factory wiring shall not be terminated on the side of the terminal boards reserved for Austin Energy use.
- 5.7.11 All electrical control components shall be clearly and permanently identified with reference designation numbers and/or letters on or near them. These reference designations shall match the wiring and schematic diagrams.

5.8 Auxiliary and Control Power

- 5.8.1 Austin Energy will provide the 125 V DC, 2-wire and 120/240 V AC, 1 phase, 3-wire power sources necessary to operate the control circuits.
- 5.8.2 The alarm circuits and other DC control equipment shall operate from 125 V DC.
- 5.8.3 Single-phase 120/240 V AC and 125 V DC loads shall be supplied from molded-case circuit breakers properly sized for the loads. Molded case circuit breakers shall be dual-rated at 240 V AC/250 V DC. Molded case circuit breakers are to be used exclusively. **Knife switches and fuses are not allowed.** All molded circuit breakers shall have an interrupting rating of 10 kA.

The control cabinet shall be equipped with molded case circuit breakers with non-exposed terminals for the following functions:

- A. DC main power
 - B. AC main power
 - C. DC control power for primary trip circuit
 - D. DC control power for secondary trip circuit
 - E. DC control power for closing circuit
 - F. AC auxiliary power for 120 V, 20 Amp, GFCI outlet
 - G. AC power for heaters
- 5.8.4 An AC failure relay and alarm shall be provided for the single-phase 120/240 V AC circuits. The contacts shall be wired to terminal blocks and to the annunciator.
 - 5.8.5 DC failure relays and alarms shall be provided for each 125 V DC circuit. The alarm shall have an adjustable time delay of up to 5 minutes. The contacts shall be wired to terminal blocks for Austin Energy use and to the annunciator. The annunciator DC failure alarm shall monitor the annunciator power supply, and shall be wired to an Austin Energy accessible terminal point for SCADA alarm use.

5.9 Circuit Switcher Interrupting Duty

The Contractor shall provide interrupting duty data for contact maintenance and contact life curve for the circuit switcher.

5.10 Nameplate Requirements

- 5.10.1 The Contractor shall supply all nameplates as specified in the ANSI/IEEE C37.04 and IEEE C37.016. All nameplates shall be made from non-rust stainless steel, shall be 6-inch x 6-inch minimum, and shall be permanently attached to the exterior of the control cabinet door. The information contained on the nameplates shall be inscribed and painted

black. All the information shall be in English and in standard non-metric units of measure.

5.10.2 The circuit switcher shall be provided with an additional nameplate mounted on the control cabinet door that includes the following information:

- A. City of Austin Purchase Order (P. O.) Number
- B. Contractor Name
- C. Circuit Switcher Type
- D. Serial Number
- E. Voltage Rating (nominal and maximum)
- F. Continuous Rating
- G. Interrupting Rating
- H. Close and Latch Current Rating
- I. 3-Second Withstand Rating
- J. Interrupting Time
- K. Basic Impulse Insulation Level (BIL)
- L. Total weight of SF₆ gas

5.10.3 The following minimum information shall be provided on the operating mechanism nameplate:

- A. Operating Mechanism Type
- B. Operating Mechanism Serial Number
- C. AC Control Voltage
- D. DC Control Voltage
- E. Normal SF₆ pressure and temperature
- F. Low SF₆ alarm/lockout points

5.11 Material

5.11.1 All materials used in the circuit switcher shall be subject by the Contractor to rigid quality assurance and control standards. The Contractor shall have complete traceability on all materials from receiving until final installation in the circuit switcher. Material tracking and inspection reports shall be made available to the Austin Energy inspector upon request.

5.11.2 The Contractor shall have conducted an initial vendor inspection and qualifying audit with ongoing spot checks on all materials used in the circuit switcher. Vendor inspection and audit reports shall be made available to the Austin Energy inspector upon request. Materials found by the Austin Energy inspector to have been improperly qualified by the Contractor shall, as a general rule, be unacceptable for use in the circuit switcher. The Contractor shall make arrangements satisfactory to Austin Energy, up to and including the replacement of the non-qualified material.

5.11.3 Any items on the circuit switcher that are painted shall meet the following requirements.

- A. The finish coat shall be ANSI No. 70 light gray.
- B. The total finish on non-weather exposed surfaces shall be at least three (3) mils in thickness.
- C. The Contractor shall provide a skid resistant finish on the top of the circuit switcher.
- D. All primer and paint shall be lead free.

- E. The Contractor shall provide a separate non-prorated warranty on the finish for a five (5) year period. The warranty shall cover rust, rust bleed-through, flakes, paint fading, and paint chipping. The Contractor is responsible for paint touch-up during and immediately after the installation is complete. The Contractor shall supply two (2) spray cans of touchup paint for each circuit switcher.

5.12 Requirements of a non-closed gas system.

- 5.12.1 The circuit switcher shall be provided with low pressure alarms and low pressure lockout relays as per the following requirements:

- A. For a slow leak the first stage shall alarm.
- B. For loss of pressure at or below the Contractor's minimum operating pressure the circuit switcher shall alarm and lock in the present position.

- 5.12.2 The circuit switcher shall be supplied with Dilo type DN8 connectors for filling and evacuating the circuit switcher of SF₆ gas.

The SF₆ gas shall be provided in a refillable cylinder. The maximum dew point of the gas shall be -65° C.

If the circuit switcher has a common gas system, all three (3) poles shall be part of the same gas system and each pole shall be capable of being filled or evacuated independently without loss of SF₆ gas.

All SF₆ gas piping shall be constructed of stainless steel tubing or Austin Energy engineer approved equivalent, with the number of joints minimized. All joints except for the fill/evacuation points shall be welded. The SF₆ gas piping shall be selected with consultation from the Austin Energy engineer.

The Contractor shall provide a manual cutoff valve on the SF₆ gas piping leading to the gas density monitor, so that it can be removed from the circuit switcher without loss of SF₆ gas. The valve shall be selected with consultation from the Austin Energy engineer.

- 5.12.3 A Solon brand temperature compensated pressure switch with normally open contacts to provide an alarm in the event of gas pressure loss with contacts wired to a common terminal board in the control cabinet

- 5.12.4 The following alarms shall be added to the annunciator described in paragraph 5.4.4:

- A. Low SF₆ gas alarm
- B. Low SF₆ gas pressure - lockout

6

TEST REQUIREMENTS

Austin Energy reserves the right to visit the manufacturing facility and to observe the circuit switcher while undergoing construction and testing. The Contractor may not charge Austin Energy for its right to visit the facility during construction and testing. Austin Energy shall be notified at least three weeks (3) prior to the implementation of the required tests. If three (3) weeks notice is not given before the start of testing, the Austin Energy reserves the right to have the Contractor, at its sole expense, delay the testing until Austin Energy inspector(s) assigned to this purchase are available. Furthermore, if the Austin Energy inspector(s) arrives on site and the circuit switcher is not ready for testing within eight (8) hours, the Austin Energy reserves the right to postpone the testing for up to three (3) weeks, and the Contractor shall reimburse Austin Energy for any travel and labor costs incurred by Austin Energy due to Contractor delays.

Delays resulting from Austin Energy exercising its rights as per the above paragraph shall not relieve the Contractor from meeting the required delivery dates or excuse it from penalties related to same. Each circuit switcher shall be fully assembled and charged with SF₆ gas prior to testing and shall remain assembled until all testing is complete. Fully assembled includes mounting on support columns.

6.1 The circuit switcher in a given purchase order shall be tested in accordance with the latest ANSI/IEEE C37.09 and IEEE C37.016 standards.

6.2 The SF₆ gas shall be tested in accordance with the provisions of ANSI/ASTM D2472. Contractor shall provide documentation guaranteeing that the SF₆ meets or exceeds these provisions.

6.3 Control and Power Wiring Tests

Low frequency withstand voltage tests shall be performed on all control and secondary wiring. All low voltage wiring, including control and indication wiring shall be given full functional tests.

6.4 Quality control and assurance tests results shall be made available to the Austin Energy inspector upon request.

6.5 Reports

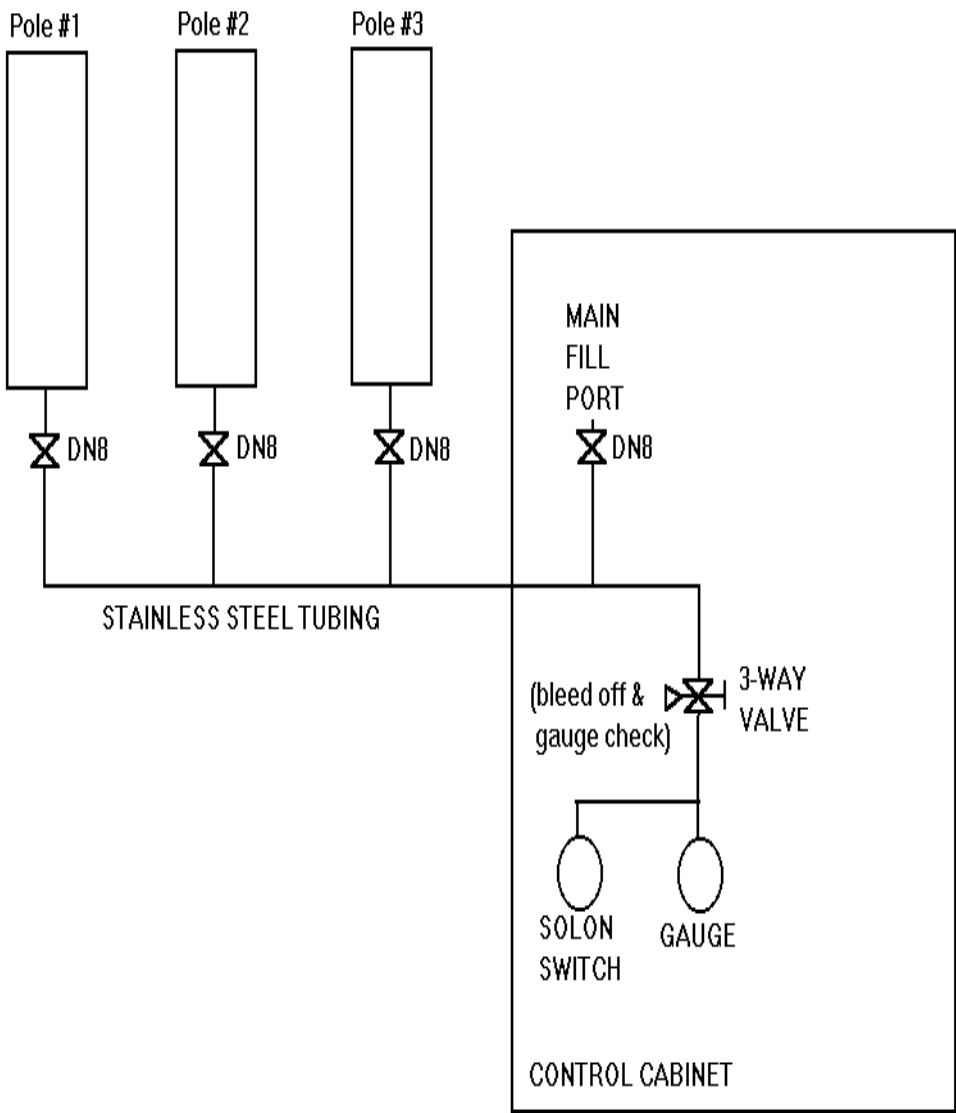
The Contractor shall present evidence of quality control testing and proof that the circuit switcher has passed all required tests. All reports shall be in English and in standard non-metric units of measure.

6.5.1 One (1) set of the certified test reports shall be provided. These reports shall be submitted to Austin Energy within one (1) week after the shipment of the circuit switcher. The test reports shall be included in the instruction manual.

6.5.2 The Contractor shall email the SF₆ gas test reports immediately upon request from the appropriate Austin Energy personnel. The Contractor shall not ship the SF₆ gas until Austin Energy has reviewed the test report and given written approval to release the SF₆ gas for shipment. All reports shall be in English and in standard non-metric units of measure.

The Contractor shall furnish one (1) complete set of certified test reports for the SF₆ gas insulating medium within one (1) week after shipment of the gas. All reports shall be in English and in standard non-metric units of measure. The SF₆ test reports shall be included in the operation and maintenance manual.

SF6 GAS PIPING SYSTEM



SF6 GAS PIPING SYSTEM

**CITY OF AUSTIN
PURCHASING OFFICE
SCOPE OF WORK SOLICITATION: IFB 1100 CSZ1006REBID
CIRCUIT SWITCHERS**

1. Purpose

The City of Austin, DBA Austin Energy seeks qualified Contractors to supply circuit switchers for Austin Energy substations from qualified manufacturers and/or distributors. Circuit switchers are used in substations to connect and disconnect transmission lines or other components to and from the electrical system, providing protection to Austin Energy's large power transformers and capacitor banks.

2. Background

Austin Energy is the nation's eighth largest publicly owned electric utility and a department of the City of Austin. Their mission is to safely deliver clean, affordable, reliable energy and excellent customer service. The utility provides electricity to more than 450,000 customers and a population of more than a million in the City of Austin, several neighboring cities, unincorporated areas of Travis County, and a portion of Williamson County. Austin Energy operates within the Electric Reliability Council of Texas statewide market and its operations are funded entirely through energy sales and services. Austin Energy further supports the City of Austin and its other departments through an annual transfer into the general fund of more than \$100 million. Austin Energy is recognized for achieving some of the highest performance standards in the industry. These standards include aggressive renewable and reliability goals and demonstrated efforts to promote new clean energy technologies and a sustainable environment.

3. Term of Contract

This Contract shall remain in effect for a term of 60 (sixty) months, or the City terminates the contract.

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:

Title	Name	Phone Number	Email Address
City Contract Manager	Martha Vela de Casillas	(512) 505-7027	Martha.VeladeCasillas@austinenergy.com
City Contract Monitor	Joaquin Arevalo	(512) 505-7097	joaquin.arevalo@austinenergy.com
City Contract Administrator, Procurement Specialist	DeJuan Brown	(512) 322-6472	Dejuan.Brown@austintexas.gov
Delivery Contact	Johnny Martinez	(512) 505-7280	johnny.martinez2@austinenergy.com
Delivery Contact	Anthony Fisher	(512) 505-3929	anthony.fisher@austinenergy.com

**CITY OF AUSTIN
PURCHASING OFFICE
SCOPE OF WORK SOLICITATION: IFB 1100 CSZ1006REBID
CIRCUIT SWITCHERS**

5. Specific Invoice Requirements

The City's preference is to have invoices emailed to aeinventoryaccounting@austinenergy.com. For questions regarding your invoice/payment please contact the City Contract Manager.

6. Requirements

The following specification shall be complied within the design, production, testing, delivery, inspection, and installation of the Circuit Switchers.

6.1 Circuit Switcher Specification:

Circuit Switcher, 145kV, Vertical, Outdoor SF6 in accordance with City of Austin Electric Utility Department Purchase Specification E-1496.

6.2 Service Advisory

The Contractor shall provide copy of service advisories to Austin Energy at the following address:

	City of Austin
Department	Austin Energy
Attn:	<ul style="list-style-type: none">▪ T&S Construction & Maintenance Superintendent▪ Equipment & Materials Engineering Supervisor
Address	2526 Kramer Lane Bldg. "E"
City, State, Zip Code	Austin, Texas 78758

7. Drawing Requirements

7.1 Contractor shall submit approval drawings of the ordered circuit switcher(s) within four (4) weeks of receipt the Austin Energy purchase order and the manufacturer's shop order number. The Contractor shall furnish for approval one (1) complete set of digital approval drawing files for each different type of equipment supplied on an individual order. All the information shall be in English and in standard non-metric units of measure.

7.2 Each drawing shall include the Austin Energy purchase order number and the manufacturer's shop order number. All the information shall be in English and in standard non-metric units of measure. All electronic drawings shall be supplied in PDF Format.

7.3 The Contractor shall furnish engineering drawings that are sufficient for design and construction and shall include the following information:

1. Outline drawings of the equipment.
2. Control and alarm schematics.
3. Nameplate drawings.
4. Wiring diagrams showing all internal control wiring and locations for external connections.

7.4 Austin Energy will review and return the approval drawings to the Contractor within ten (10) working days after the receipt of approval drawings. The Contractor shall not start construction of the circuit switcher(s) until Austin Energy has approved the drawings.

**CITY OF AUSTIN
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7.5 Contractor shall provide Certified for Construction Drawings one (1) month prior to the ship date of the equipment. The Contractor shall furnish one (1) complete set of digital drawing files and submit to the City Contract Manager. These drawings shall be clearly stamped "CERTIFIED FOR CONSTRUCTION" with the current date shown on the stamp.

7.6 Contractor shall provide As-Built Drawings no later than two (2) weeks after the ship date of the equipment. The Contractor shall furnish one (1) complete set of as-built drawings as a digital files. These drawings shall be clearly stamped "AS-BUILT" with the current date shown on the stamp by the manufacturer.

8. Shipping

8.1 The Contractor shall be responsible for shipping circuit switchers such that they withstand, without damage, all forces encountered during truck, water, or rail shipment. When shipping by rail, the manufacturer shall use special cars designed to provide maximum protection from shock. Rail delivery will not be available directly to sites.

8.2 Austin Energy will verify Final Delivery address upon completion of factory acceptance test one week prior to shipping. Contractor shall offload, assemble, and complete factory recommended testing of the circuit switchers.

9. Delivery Requirements

9.1 Delivery destination will be verified by the Contract Manager or authorized representative with each purchase order. The Contractor shall notify Contract Manager seven (7) working days prior to scheduled ship date. Austin Energy reserves the right to change the final destination within five (5) working days prior to required delivery date at no additional cost to Austin Energy.

9.2 Delivery shall be made to the following location unless otherwise specified by Austin Energy in the order:

	City of Austin – Austin Energy
Facility Name:	Decker Creek Power Station
Address:	8003 Decker Ln, Austin, TX 78724
Days/Hours of Operation:	Monday-Thursday 8:00AM to 3:00PM

9.3 The Contractor shall contact the Delivery Contacts in Section 4, Designation of Key Personnel, for Delivery at least 48 (forty-eight) hours prior to delivery to schedule delivery and again 24 (twenty-four) hours prior to delivery to confirm.

9.4 The Contractor shall pack all parts for shipment so that they will not be damaged and can be stored outside for a reasonable period of time.

9.5 Delivery locations do not have loading docks. Unloading will be done with either a crane or an outdoor forklift by Austin Energy. Contractor shall post unloading instructions on the equipment.

9.6 Contractor shall deliver equipment complete, fully assembled, and ready to energize.

9.7 The Contractor shall comply with all City of Austin and Austin Energy spill prevention, control, and containment regulations and guidelines.

10 Instruction Manual Requirements

10.1 Contractor shall provide instruction manuals that include installation, operating, and maintenance

**CITY OF AUSTIN
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CIRCUIT SWITCHERS**

books for each component or subassembly of the unit supplied. The particular model supplied shall be clearly noted on documents that apply to more than one type or model. A spare parts list detailing the manufacturer, catalog numbers, price, and ordering information shall also be supplied. A complete set of "AS-BUILT" drawings shall be included in this manual. This material shall be provided in an 8 ½ inch x 11 inch format. All information shall be in English and in standard non-metric units of measure

- 10.1.2 Contractor shall provide one (1) paper instruction manual printed on 8 ½ inch x 11 inch paper and in weatherproof packaging with each unit shipped inside of the unit control box.
- 10.1.3 Contractor shall provide the following no later than two (2) weeks after the ship date of every unit shipped in a single PO: One (1) instruction manual in a digital format on a CD for each different type of equipment supplied on an individual order.
- 10.1.4 One (1) paper instruction manual printed on 8 ½ inch x 11 inch paper and bound in a heavy duty three ring binder for each unit shipped. The manual shall be used for office reference. All drawing and instruction manuals, except the ones shipped with the equipment, shall be sent to the following:

City of Austin – Austin Energy
Attention Equipment & Materials Engineering Supervisor
2526 Kramer Lane, Building E
Austin, TX 78758

11 Spare Parts

- 11.1 The Contractor shall maintain a complete and ready inventory of spare parts for a five (5) year warranty period.