



Amendment No. 3
of
Contract No. 5600 NA180000063
for
Travel and Expense Management System
between
Apptricity Corporation
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be January 10, 2019 through January 9, 2020 at \$25,000. There are 3 options remaining.
- 2.0 The city hereby amends this Contract by adding \$6,000 for Professional Reporting Licensing Fees.

\$1,500 for Option 1
\$1,500 for Option 2
\$1,500 for Option 3
\$1,500 for Option 4

- 3.0 The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Initial Term: 01/10/2018 – 01/09/2019	\$50,000	\$50,000
Amendment No. 1: Invoice Address Change	\$0.00	\$50,000
Amendment No. 2: Statement of Work Modification	\$0.00	\$50,000
Amendment No. 3: Option 1 01/10/2019 – 01/09/2020	\$31,000	\$81,000

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

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

Signature: Wayne Sparks

Date: January 4, 2019

Printed Name: WAYNE SPARKS, C.F.O.
Authorized Representative
Apptricity Corporation
220 E. Las Colinas Blvd., Suite 400
Irving, TX 75039

Signature: Elisa Folco

Date: 01/04/2019

Elisa Folco
Procurement Specialist IV
City of Austin
Purchasing Office

Apptricity

City of Austin January 3, 2019

SaaS - Apptricity Expense Management Software

Software Licenses (Recurring Fee)	Unit Cost	Quantity	Total
Invoice Management			
Apptricity Professional Reporting Licenses (if selected)	\$ 1,500.00	1	\$1,500
Maintenance Fee (INCLUDED with a SaaS deployment)		1	Included
Total Software Cost			\$1,500
Data Center Hosting -			
FedRamp SaaS DataCenter Hosted		0	\$0
Total Training Cost			Included
Apptricity Professional Reporting Class			
Up to number of licenses purchased		1	Included
Total Implementation Cost			Included
Total Year 1 Cost: includes implementation/integration fee			\$1,500
Annual Fee for each follow-on year:			\$1,500

Customer will reimburse for onsite training pursuant to standard Apptricity travel and expense guidelines. Apptricity will get approval prior to travel.

Customer will be in its own single tenant environment which includes a Production Server and Database.

Apptricity will provide a separate instance for a reporting server in a FedRamp Data Center for \$250/Month if needed.



Amendment No. 2
to
Contract No. NA 180000063
for
Travel and Expense Management System
between
Apptricity Corporation
and the
City of Austin, Texas

- 1.0 The above referenced contract is hereby deleting Section 0300IT Standard Purchase Terms & Conditions, Schedule C, Statement of Work – Project Plan, title Baseline Integration (page 30 of the contract), and replacing it with the following:

Baseline Integration

Apptricity will install and schedule its standard system interfaces to import data into or extract from data from the Apptricity System based upon City's job scheduling requirements. After Apptricity grants City read/write access to the secure FTP site, City will be responsible for timely posting its data to the site prior to job scheduling and retrieving its data after job scheduling. Apptricity seeks to leverage as many existing formats as possible. Standard batch interfaces include the following, prices are estimated:

Inbound:

- Credit card transaction data - \$2,500.
- Baseline system setup and configuration - \$4,000.
- Chart of accounts – one-time load of accounting data (included).
- Payment confirmation – GL and AP integration - \$5,000.

Outbound:

- Integration with ERP (CGI Advantage) \$9,200 - implement a custom batch job that produces XML files in the "GAXT" format. Each XML file will contain data related to a single employee's advance or reimbursement. The format of the file will match the format specified in the attached.
- Approved payments – included.

If a corporate credit card interface is required, City will be responsible for contacting its credit card provider to make arrangements for Apptricity to receive the respective transactions. Apptricity will support the standard process of the card provider to post the transaction data to Apptricity's FTP site.

Apptricity utilizes PGP as its standard software for data encryption and may include the use of PGP as a component of the Initial Setup cost. If City also utilizes PGP for data encryption, City will be responsible for providing its public key. If another data encryption software solution is required, City will be subject to additional time and material services and the respective encryption software licensing costs.

- 2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 01/10/2018 – 01/09/2019	\$50,000.00	\$50,000.00
Amendment No. 1: Invoice Address Change	\$0.00	\$50,000.00

Revised 8/4/2014


Amendment No. 2: Statement of Work Modifications	\$0.00	\$50,000.00
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- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

9.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

 09/11/2018

Printed Name: WAYNE SPARKS, CFO
Authorized Representative

Apptricity Corporation
220. E. Las Colinas Blvd, Suite 400
Irving, TX 75039

Signature & Date:

 9/11/2018

Elsa Folco, Procurement Specialist IV
City of Austin Purchasing Office



Amendment No. 1
to
Contract No. NA180000063
for
Travel and Expense Management System
between
Apptricity Corporation
and the
City of Austin

1.0 The above referenced contract is hereby amended to change the invoice address to the following:

	City of Austin
Department	Controller's Office
Mailing Address	PO Box 2920, Austin, TX 78768
Email Address	<u>Controllers.Office@austintexas.gov</u>

2.0 Effective date of this change is January 29, 2018.

3.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 01/10/2018 – 01/09/2019	\$50,000.00	\$50,000.00
Amendment No. 1: Invoice Address Change	\$50,000.00	\$50,000.00

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

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

6.0 All other terms and conditions remain the same.

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

Sign/Date: Wayne Sparks 01/29/2018

Sign/Date: [Signature]

Printed Name: WAYNE SPARKS
Authorized Representative

Sai Xoomsai Purcell
Senior Buyer Specialist

Apptricity Corporation
5605 N. MacArthur Blvd.
Irving, TX 75038

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

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)
AND
Apptricity Corporation (“Contractor”)
FOR
Travel and Expense Management System
MA 5600 NA180000063**

The City accepts the Contractor’s Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Apptricity Corporation having offices at Irving, TX 75038 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number PAX0143.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 The City’s Solicitation, Request for Proposal (RFP), PAX0143 including all documents incorporated by reference
- 1.1.3 Apptricity Corporation’s Offer, dated 10/12/2017, including subsequent clarifications

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

- 1.2.1 This Contract
- 1.2.2 The City’s Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 Section 0300IT, Information Technology Standard Purchase Terms and Conditions
- 1.2.4 Contractor’s Offer as referenced in Section 1.1.3, including subsequent clarifications.
- 1.2.5 Apptricity Corporation’s SaaS Subscription License Agreement and Commercial Services Agreement, Schedule A – Licensing, Copyright and Proprietary Provisions, Schedule B - Statement of Work – Pricing, Terms and Conditions, Schedule C – Statement of Work – Project Plan, and Schedule E – Maintenance and Support.

1.3 Term of Contract. The Contract will be in effect for an initial term of twelve (12) months and may be extended thereafter for up to four (4) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee. See the Term of Contract provision in Section 0400 for additional Contract requirements.

1.4 Compensation. The Contractor shall be paid a total Not-to-Exceed amount of \$50,000.00 for the initial Contract term and \$25,000.00 for each extension option.

1.5 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order

1.6 **Clarifications.**

1.6.1 City's implementation team will include project manager, expense subject matter expert(s) (as needed), integration specialist(s) (as needed), and IT staff. The bulk of the time would be on the upfront definition of both functional and integration requirements.

City Project Manager will work with the Apptricity team on the day to day details of the project. Scheduling meetings, facilitating conversations and responses to questions, keeping track of the progress of customer tasks and deliverables. This is typically a 25% FTE.

An assigned City's Functional subject matter expert will work with Apptricity counterpart to define any configuration requirements needed. This includes, but not limited to page layouts, business rules, and workflow. Once the requirements are defined, they would be involved in the weekly status meeting as well as user acceptance testing at the end of a sprint. The testing would involve the verification of the requirements delivered in the sprint as well as basic regression testing of the system. The expectation would be that these individuals would be heavily involved in the initial requirements definition (50%) for the first week or so and then again at the end of each sprint for user acceptance testing(UAT).

On the integration side, Apptricity would be defining the requirements of the ins and outs of the system. This would include a series of batch jobs to provide or consume data with the Apptricity Expense system (HR, Chart of Accounts, Payments, etc.). Depending on the integration requirements, Apptricity could be using an existing customer format, and existing Apptricity format, of developing a new format. Based on this, the customer integration specialist would be required to enable or develop programs to meet their side of the integration. They would also be responsible of customer integration testing. This typically consumes about 50 % of an FTE for the first few weeks.

City IT staff will work with Apptricity IT to develop the strategy and timing of the integration process. This is generally setting up the SFTP process and scheduling the integration batch jobs. This is typically a minimal impact on IT resources.

1.6.2 Professional services fees are based on Apptricity GSA rate at \$112.00 / Hour.

1.6.3 Implementation fee, professional services in the amount of not to exceed \$24,000.00 has been included.

1.6.4 The proposed system includes 50Gb of Data – On average this is on average 7 years of data/images available online. Additional storage will be in the increments of 50Gb. The cost for an additional 50Gb is \$200.00 (this cost includes daily backups of data).

1.6.5 Apptricity will provides customer annually with 1 back up data file and image file as part of the standard contract.

1.6.6 The City can extract data daily if necessary with Apptricity sql adhoc query tool. Apptricity will provide the City the permission to use this feature.

- 1.6.7 The City can purchase the quarterly backups of data and image file for \$1,000 annually, or the City can request training for this task at Apptricity administration class. Apptricity can additionally setup a backup job to move data nightly, weekly, monthly to a City data warehouse as well.
- 1.6.8 Travel fee are included as part of the implementation fee. Apptricity believe there will be 4 trips which would be a total of \$2,000.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

APPTRICITY CORPORATION

WAYNE SPARKS

Printed Name of Authorized Person



Signature

C.F.O.

Title:

JANUARY 9, 2018

Date:

CITY OF AUSTIN

Sai Xoomsai Purcell

Printed Name of Authorized Person



Signature

Procurement Specialist IV

Title:

1/10/18

Date:

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract and any related Statement of Work.
3. **DATA LOCATION**: The Service Provider shall provide its Services to the City and its end users solely from data centers in the U.S. Storage of City Data at rest shall be located solely in data centers in the U.S. The Service Provider shall not allow its personnel or contractors to store City Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access City data remotely only as required to provide technical support. The service provider shall provide technical user support on a normal business hours basis (08:30 to 17:30 Central Standard Time), Monday through Friday except U.S. Federal holidays unless otherwise prohibited in this contract.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

10. WORKFORCE

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property.
 - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
 - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.
- D. ***Subcontractor Disclosure:*** *The Service Provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any application development and/or operations.*
- E. **Background Checks:** The Service Provider shall conduct criminal background checks and not utilize any staff, including Subcontractors, to fulfill the obligations of the Contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Service Provider shall promote and maintain an awareness of the importance of securing the City's information among the service provider's employees and agents.
- F. **Non-disclosure and Separation of Duties:** The Service Provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of City data to that which is absolutely necessary to perform job duties.
- G. **Right to Remove Individuals:** The City shall have the right at any time to require that the Service Provider remove from interaction with City any Service Provider representative who the City believes is detrimental to its working relationship with the Service Provider. The City shall provide the Service Provider with notice of its determination, and the reasons it requests the removal. If the City signifies that a potential security violation exists with respect to the request, the Service Provider shall immediately remove such individual. The Service Provider shall not assign the person to any aspect of the contract or future work orders without the City's consent.

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

12. INVOICES:

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and Deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
 - i. delivery of defective or non-conforming Deliverables by the Contractor;
 - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
 - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
 - iv. damage resulting directly from the Contractors negligent or willful acts to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
 - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
 - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

15. **FINAL PAYMENT AND CLOSE-OUT:**

A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

B. The making and acceptance of final payment will constitute:

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

16. **IMPORT AND EXPORT OF DATA:** The City shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for the City to import or export data to/from other service providers.

17. **AUDITS and RECORDS:**

A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

B. Records Retention:

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

- i. Except as otherwise provided in this Section 17.B or in this Agreement, Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

City specific data is owned by the City but Contractor is specifically granted access to such data as required to support the contract. Other Records, excluding Materials (defined hereafter), in support of the contract are co-owned by City and Contractor as Contractor has to maintain such Records in support of its own business activities. Materials, being more fully defined as any documents provided by Contractor and associated with Contractors Software Application or its Services related thereto, including but not limited to, product descriptions, marketing materials and user manuals in printed or digital form remain the property of Contractor and, upon any termination must be either returned to Contractor by City or certified as having been destroyed by City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City. **Upon termination of the contract the City may request a copy of its data within sixty calendar days of such termination and Contractor will provide a copy of same. Following the expiration of the sixty day period Contractor is under no obligation to retain such data.** The Contractor agrees to comply with § 2-11-15 of the City Code regarding ownership of city records.

- ii. Except with respect to City data as set forth above in Section 17(B)(i), The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.
- D. **Access to Security Logs and Reports:** The service provider shall provide reports to the City in a format as specified in the SLA (Schedule E) agreed to by both the service provider and the City. Reports shall include latency statistics, user access, user access IP address, user access history and, upon request, security logs for all City files related to this contract.
- E. **Data Center Audit:** The service provider shall ensure an independent audit of its data centers is performed at least annually and will provide a redacted version of the audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of this third-party audit.

18. SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

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- i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
 - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
 - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
 - C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
 - D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.
19. **WARRANTY - PERFORMANCE**: Provider represents and warrants that: (a) Subscription Services provided under any SaaS Subscription Schedule and Non-subscription Services provide under a Statement of Work shall be provided and performed by qualified personnel in a professional, workmanlike manner, consistent with the prevailing standards of the industry; (b) it shall use industry best practices to fulfill its obligations under each SaaS Subscription Schedule and Statement of Work; and (c) any deliverables provided by Provider shall operate in conformance with the terms of this Master Software as a Service Agreement and the applicable SaaS Subscription Schedules and Statements of Work.
20. **WARRANTY – AUTHORITY**: Provider warrants that it has all authority necessary to provide for City's access and use of the Subscription Services and the Non-subscription Services for the purposes set forth in this Master Software as a Service Agreement, in any SaaS Subscription Schedule and in any Statement of Work. Provider further represents and warrants that sale, licensing or use of any of the Subscription Services and of the Non-subscription Services furnished under this Agreement does not and shall not infringe, misappropriate or otherwise violate any Third Party's intellectual property rights.
21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
- A. Recycled Deliverables shall be clearly identified as such.
 - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
 - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the

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Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

- D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
- E. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
- F. **WARRANTY – SOFTWARE:** Unless otherwise expressly provided in this Master Software as a Service Agreement, a SaaS Subscription Schedule or Statement of Work, Provider for itself and for and on behalf of its service providers, licensors, employees and agents warrants that the Contractor's System provided will perform in all material respects with specifications and the functions described in the Contractor's Materials under normal use and circumstances and the Subscription Services shall work with future Desktop Specifications, as well as future releases of web browsers, and shall have both forward and backward functionality. If the Contractor's System, or any component thereof, fails to operate in accordance with this thirty (30) day warranty, Contractor will use commercially reasonable efforts to repair, or in the alternative, replace any component of the Contractor's System that contains an error, defect or deviation from the specifications as demonstrated to Contractor. City's sole remedy against Contractor under this Limited Software Warranty shall be to request repair or replacement of the component of the Contractor System that contains an error, defect or deviation from the specifications and, if such actions are not taken within a reasonable time by Contractor and the error, defect or deviation is not corrected, to terminate the Agreement; provided, that in such event Contractor shall return to City any unearned fees paid by City.

Subject to provisions of this Section 21, Contractor shall be liable for any damages that City may suffer arising out of use of, or inability to use, the Subscription Services and Non-subscription Services provided under this Agreement. Without limitation, Contractor's indemnification obligation under this section includes any claim, damage, loss or expense arising from or in connection with any act by an agent, contractor, subcontractor, consultant, or employee of Contractor that results in, or is intended by such agent, contractor, subcontractor, consultant, or employee to result in, harmful or otherwise unauthorized access into any of City's systems, data, City's Data, or City's technology

Maintenance and Customer Support Services. Upon notification by City of an apparent error with the Contractor's System, Contractor will promptly investigate the issue. Design or programming errors in the Contractor's System (except for errors caused by changes to configuration by City or use other than as described in the Contractor Materials by City) that prevent the Contractor's System from substantially complying with the functionality as set out in the Contractor Materials delivered with the Contractor's System and that adversely affect the use, function or performance of the Contractor System will be attributed to Contractor. Contractor shall perform maintenance and support services as set forth in Schedule E attached hereto and incorporated herein.

Software Updates/Upgrades. Contractor shall make available to City at zero cost all updates and upgrades to the Contractor's System commercially released by Contractor during the Statement of Work. Updates consist of new release of Contractor's System providing functional enhancements and error corrections. Upgrades consist of a new release with a higher Contractor version number such as from Version 2.0 to Version 3.0. All such updates and upgrades will be provided to City as soon as practical, in Contractor's sole discretion, and shall be subject to the terms and conditions of this License Agreement. In consideration of Contractor furnishing updates and upgrades, City agrees that Contractor alone shall own all rights, title and interest, including all related intellectual property rights, in and to any suggestions, recommendations, and other information ("Submissions") relating to the Contractor System that may be provided by City. Contractor may use such Submissions, as it deems appropriate in its sole discretion.

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DISCLAIMER. CONTRACTOR'S LIMITED WARRANTY IS VOID TO THE EXTENT FAILURE OF THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE HAS RESULTED FROM ANY MODIFICATION OF THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE BY ANY PARTY OTHER THAN CONTRACTOR OR THROUGH ACCIDENT, ABUSE OR MISAPPLICATION.

NO OTHER WARRANTIES. EXCEPT AS STATED OTHERWISE HEREIN, THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES, APPLICATION SERVICE, AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND "WITH ALL FAULTS" AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR, CONTRACTOR CORPORATION AND THEIR RESPECTIVE LICENSORS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED REPRESENTATIONS, CONDITIONS OF DURABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES, APPLICATION SERVICE AND PROFESSIONAL SERVICES. CONTRACTOR, CONTRACTOR CORPORATION AND THEIR RESPECTIVE LICENSORS DO NOT REPRESENT OR WARRANT THAT: (I) THE USE OF THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE WILL BE SECURE, UNINTERRUPTED, ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE OR SYSTEM, (II) THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE WILL MEET CITY'S REQUIREMENTS OR EXPECTATIONS, (III) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (IV) ERRORS OR DEFECTS WILL BE CORRECTED, OR (V) THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE DOES NOT INFRINGE, DIRECTLY OR INDIRECTLY, ON ANY NON-U.S. OR UNREGISTERED DOMESTIC PATENT, TRADEMARK, OR COPYRIGHT, OR ANY OTHER INTELLECTUAL PROPERTY RIGHT.

LIMITATION ON DAMAGES. EXCEPT FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN, IF FOR ANY REASON EITHER PARTY BECOMES LIABLE TO THE OTHER FOR DIRECT OR ANY OTHER DAMAGES FOR ANY CAUSE WHATSOEVER, IN CONTRACT OR TORT OR FOR STATUTORY FORMS OF ACTION, IN CONNECTION WITH THIS AGREEMENT, THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES, SOFTWARE AS A SERVICE OR PROFESSIONAL SERVICES, THE AGGREGATE LIABILITY OF SUCH PARTY FOR ALL DAMAGES, INJURIES AND LIABILITY INCURRED BY THE OTHER IN CONNECTION WITH THIS AGREEMENT, THE CONTRACTOR SYSTEM, CONTRACTOR PRODUCT MODULES, SOFTWARE AS A SERVICE AND PROFESSIONAL SERVICES, SHALL BE LIMITED TO THE TOTAL AMOUNT ACTUALLY PAID BY CITY DURING THE TWELVE (12) MONTH PERIOD TO CONTRACTOR FOR THE RESPECTIVE CONTRACTOR PRODUCT MODULES OR APPLICATION SERVICE PRECEDING THE EVENT WHICH GAVE RISE TO THE CLAIM FOR DAMAGES.

NO LIABILITY FOR CONSEQUENTIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CITY, CONTRACTOR, CONTRACTOR CORPORATION OR THEIR RESPECTIVE LICENSORS BE LIABLE FOR ANY EXEMPLARY, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR OTHER SPECIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, EVEN IF SUCH PARTY IS OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

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- B. Unless otherwise specified in the Contract, the warranty period shall be one hundred eighty days (180) from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
- C. If the Contractor is unable or unwilling to perform its professional 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.
- D. **WARRANTY – AGAINST UNDISCLOSED ILICIT CODE**: Provider warrants that, unless authorized in writing by City, any software program or any other part or portion of the Subscription Services or Non-subscription Services developed by Provider, passed through to City from Third Parties under this Agreement or provided to City by Provider for use by Provider or City shall:
 - A. Not contain any hidden file;
 - B. Not replicate, transmit or activate itself without control of a human operating the computing equipment on which it resides, except with respect to database backups or other system generated data protection activities;
 - C. Except with respect to database backups or other system generated data protection activities, not alter, damage or erase any data or computer programs without control of a human operating the computing equipment on which it resides;
 - D. Except as required for data security and or pursuant to Federal or other legal requirement, not contain any key, node lock, time-out or other function, whether implemented by electronic, mechanical or other means, that restricts or may restrict use or access to any software programs, Subscription Services or Non-subscription Services developed or data created under this Agreement, based on residency on a specific equipment configuration, frequency of duration of use or other limiting criteria;
 - E. Not contain any virus, malicious, illicit or similar unrequested code, whether known or unknown to Provider; and
 - F. Not use electronic self-help, including but not limited to preventing electronically City's further or continued use of and/or access to the Subscription Services, No-subscription Services or any software or other portion thereof.
 - G. Notwithstanding any provision in this Agreement to the contrary, if any Subscription Service or Non-subscription Service has any of the foregoing attributes (collectively "Illicit Code"), Provider shall be in default of this Agreement, and no cure period shall apply unless approved by the City. At the request of and at no cost to City, Provider shall remove any such Illicit Code from the licensed software as promptly as possible.
 - H. To protect City from damages that may be caused intentionally or unintentionally by the introduction of Illicit Code into City's computer systems, no software may be installed, executed or copied onto City's equipment without an express warranty to City that Illicit Code does not exist. Such warranty shall be set forth on an exhibit attached to and made a part of this Agreement.
 - I. Provider agrees that in the event of any dispute with City regarding an alleged breach of this Agreement, Provider shall not use any type of electronic means to prevent or interfere with City's use of any portion of the Subscription Services and Non-subscription Services. Provider understands that a breach of this provision could foreseeably cause substantial harm to City and to numerous Third Parties having business relationships with City.

23. DATA

- A. **Data Ownership:** The City will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access City user accounts or City data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the City's written request.

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- B. **Data Protection:** Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of City information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of City information and comply with the following conditions:
- i. The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.
 - ii. All data obtained by the service provider in the performance of this contract shall become and remain property of the City.
 - iii. All personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data. Any stipulation of responsibilities will identify specific roles and responsibilities and shall be included in the service level agreement (SLA), or otherwise made a part of this contract.
 - iv. Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit. The City shall identify data it deems as non-public data to the service provider. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.
 - v. At no time shall any data or processes – that either belong to or are intended for the use of a City or its officers, agents or employees – be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the City.
 - vi. The service provider shall not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- C. **Compliance with Accessibility Standards:** The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.
- D. **Security:** The service provider shall disclose its non-proprietary security processes and technical limitations to the City such that adequate protection and flexibility can be attained between the City and the service provider. For example: virus checking and port sniffing – the City and the service provider shall understand each other's roles and responsibilities.
- E. **Security in Compliance with Chapter 521 of the Texas Business and Commerce Code:** Service provider shall comply with all requirements under Chapter 521 of the Texas Business and Commerce Code, including but not limited to being responsible for a program that protects against the unlawful use or disclosure of personal information collected or maintained in the regular course of business. The program shall include policies and procedures for the implementation of administrative, technical, and physical safeguards, and shall also address appropriate corrective action for events of any security breach and proper methods of destroying records containing sensitive personal information.
- F. **Security Incident or Data Breach Notification:** The service provider shall inform the City of any security incident or data breach.
- i. **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the City should be handled on an urgent as-needed basis, as part of service provider

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communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

- ii. **Security Incident Reporting Requirements:** The service provider shall report a security incident to the appropriate City identified contact immediately as defined in the SLA.
- iii. **Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any City content that is subject to applicable data breach notification law, the service provider shall (1) promptly notify the appropriate City identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

G. **Breach Responsibilities:** This section only applies when a data breach occurs with respect to personal data within the possession or control of service provider.

- i. The service provider, unless stipulated otherwise, shall immediately notify the appropriate City identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.
- ii. The service provider, unless stipulated otherwise, shall promptly notify the appropriate City identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a data breach. The service provider shall (1) cooperate with the City as reasonably requested by the City to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- iii. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) a credit monitoring service required by state (or federal) law; (4) establishing a website or a toll-free number and call center for affected individuals required by state law – all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$201 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

H. **Business Continuity and Disaster Recovery:** The service provider shall provide a business continuity and disaster recovery plan upon request and ensure that the City's recovery time objective (RTO) of XXX hours/days is met. (XXX shall be negotiated by both parties.)

- 24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
- 26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

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27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity and subject to this contract's limitation of liability, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. Any Prohibited Uses (see Schedule A), CCI violations or in the event of City's non-payment of amounts not subject to a good faith dispute will be deemed a material breach of this Agreement and the Contractor shall have the right to terminate for cause.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **TERMINATION AND SUSPENSION OF SERVICE:**
- A. In the event of a termination of the contract, the service provider shall implement an orderly return of City data in a CSV or another mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of City data.
- B. During any period of service suspension, the service provider shall not take any action to intentionally erase any City data.
- C. In the event of termination of any services or agreement in its entirety, the service provider shall not take any action to intentionally erase any City data for a period of:
- 10 days after the effective date of termination, if the termination is in accordance with the contract period
 - 30 days after the effective date of termination, if the termination is for convenience
 - 60 days after the effective date of termination, if the termination is for cause
- After such period, the service provider shall have no obligation to maintain or provide any City data and shall thereafter, unless legally prohibited, delete all City data in its systems or otherwise in its possession or under its control.
- D. The City shall be entitled to any post-termination assistance generally made available with respect to the services unless a unique data retrieval arrangement has been established as part of the SLA. Any such post-termination assistance that is not generally made available with respect to the services or is outside the scope of a unique data retrieval arrangement that has been established as part of the SLA may be provided by the Contractor at its then current rates on a time and materials basis

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E. The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the City. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the City.

30. **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.

31. **DELAYS:**

- a. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- b. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.
- c. **Change Control and Advance Notice:** The service provider shall give advance notice (to be determined at the contract time and included in the SLA) to the City of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

32. **INDEMNITY:**

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
 - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
 - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
- ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE**

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PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. SUBJECT TO THE LIMITATIONS NOTED IN SECTION 21 ABOVE, NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

33. **INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised March 2013).

A. General Requirements.

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

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- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions

34. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

35. **NOTICES:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.

Notification of Legal Requests: The service provider shall contact the City upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the City's data under this contract, or which in any way might reasonably require access to the data of the City. The service provider shall not respond to subpoenas, service of process and other legal requests related to the City without first notifying the City, unless prohibited by law from providing such notice.

36. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

37. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City

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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 claim made against the City that any part of the Contractor System developed by Contractor and used for any purpose permitted and authorized by this Agreement, to the extent not in combination with any other software, system, technology, or method, infringes the rights on any United States registered patent, trademark, or copyright, provided City does the following:

- a. notifies Contractor in writing promptly upon becoming aware of the action or claim in no event less than ten (10) days prior to the due date for any response;
- b. provides Contractor such information and assistance as is reasonable under the circumstances; and
- c. agree that Contractor solely controls the defense and/or settlement thereof.

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.

THIS INDEMNITY DOES NOT EXTEND TO ANY ACTION OR CLAIM TO THE EXTENT BASED UPON ANY

INFRINGEMENT OR ALLEGED INFRINGEMENT DUE TO THE COMBINATION OF THE CONTRACTOR SYSTEM WITH NON-CONTRACTOR PRODUCTS, SOFTWARE OR OTHER ELEMENTS EXCEPT FOR ELEMENTS NECESSARY TO USE OR ENJOY THE BENEFITS OF THE CONTRACTOR SYSTEM, NOR TO ANY PART OF THE CONTRACTOR SYSTEM MODIFIED TO SPECIFICATIONS OR DESIGNS PROVIDED BY THE CITY. SHOULD THE CONTRACTOR SYSTEM BECOME, OR IN CONTRACTOR'S SOLE OPINION BE LIKELY TO BECOME, SUBJECT TO A CLAIM, CONTRACTOR MAY AT ITS SOLE DISCRETION AND NO COST TO CITY: (i) PROCURE THE RIGHT TO CONTINUE USING THE CONTRACTOR SYSTEM; (ii) REPLACE OR MODIFY THE CONTRACTOR SYSTEM TO MAKE IT NON-INFRINGEMENT WITH SUBSTANTIALLY SIMILAR FUNCTIONALITY; OR (iii) ACCEPT RETURN OF THE CONTRACTOR SYSTEM AND TERMINATE THIS AGREEMENT.

38. **CONFIDENTIALITY:** In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

Contractor considers the terms and conditions of this Agreement, and any information of one party provided to another party, including, without limitation, any proprietary and confidential information regarding the discloser's business and financial affairs (including but not limited to current and future products and offerings, marketing strategies, business methods, pricing, competitive information, customer lists, technology and product development strategies and initiatives, and financial results) as well as hardware and software designs and code, documentation, manufacturing and testing processes and practices, data, files or other information in printed or electronic form or via oral presentations during meetings, telephone or video conferences or other means of transmittal to be Contractor Confidential Information ("CCI"). Furthermore,

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CCI shall include any information pertaining to the Contractor System, the business or product information or plans of Contractor and Contractor Corporation, of Contractor and Contractor Corporation's customers, or of Contractor and Contractor Corporation's licensors acquired by City during the course of Contractor's performance under this Agreement, in tangible and/or intangible form and whether or not marked or indicated as "confidential" or "proprietary". In the event City receives a request from any third party for disclosure of any CCI City shall furnish prompt written notice of such request to the Contractor so that the Contractor may seek a protective order or other appropriate remedy and/or waive compliance with the provisions hereof. Moreover, if the City is ordered or reasonably expects to be ordered by a court of competent jurisdiction or a duly authorized regulatory agency to disclose the Contractor's CCI, then prior to such disclosure the City shall, if permitted, inform the Contractor of such order or its reasonable expectation that such order will issue, and the City shall provide the Contractor with all available information and assistance that the disclosing party may request (at no expense to the City) in contesting such order. If a protective order or other remedy is not obtained and the Contractor has not waived in writing compliance with the provisions hereof, the City will furnish only that portion of the CCI which is legally required and will exercise reasonable best efforts to obtain assurances that confidential treatment will be accorded such CCI. These obligations shall not apply to CCI when and to the extent that it is or becomes (i) part of the public domain through no fault of the receiving party or anyone under the City's direct control, (ii) is in the City's possession without restrictions of confidentiality prior to receipt from the Contractor, as evidenced by credible documentation, or (iii) independently developed by the City without any reference or access to Contractor's CCI.

39. **LICENSES AND COPYRIGHT PROVISIONS:** See Schedule A.
40. **PUBLICATIONS:** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.
41. **ADVERTISING:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law. City consent will be deemed granted within ten (10) business days of request for same by Contractor unless City advises Contractor otherwise.
42. **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.
43. **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.
44. **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.

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45. **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.
46. **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 provided however, that a party may, upon written notice to the other party (but without any obligation to obtain the consent of the other parties), assign this Agreement to any Affiliate or any entity that succeeds (by purchase, merger, operation of law or otherwise) to all or substantially all of the capital stock, assets or business of the party, provided such entity agrees in writing to assume and be bound by all of the obligations of such party under this Agreement.
47. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
48. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
49. **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.
50. **DISPUTE RESOLUTION**:
- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail

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to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

51. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.
52. **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.
53. **HOLIDAYS:** The following holidays are observed by the City:

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

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

54. **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.
55. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

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

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General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

56. EQUAL OPPORTUNITY

- A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

57. 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/whatsnew/elf_info_form1295.htm

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

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
 - ii. "Cost of components" means -
 - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
 - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
 - iii. "Domestic end product" means-
 - (1) An unmanufactured end product mined or produced in the United States; or

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- (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
- v. "Foreign end product" means an end product other than a domestic end product.
- vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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**Schedule A
LICENSING, COPYRIGHT AND PROPRIETARY PROVISIONS**

A) Licenses:

- A.1 License Grant. Subject to the terms and conditions of this Contract, Apptricity Corporation (Contractor) grants to City, and City accepts from Apptricity Corporation, a limited, restricted, revocable, non-transferable, and non-exclusive right to use Apptricity Product Module(s).
- A.2 Installation. Licensee will be provided the Application Service through the Internet.
- A.3 Server License. INTENTIONALLY OMITTED.
- A.4 Transaction License. Transactions, equal to the number of Transactions per year set out in a Statement of Work that are processed by an Apptricity Product Module(s). "Transaction" means any expense report submission (time & attendance, schedule or commission) or delivery confirmation input manually or electronically into the Apptricity System for processing
- A.5 User License. Users, equal to the number of User Licenses set out in Statement of Work, who may utilize the software on a computer or workstation capable of assessing or otherwise utilizing a licensed Server. Users must choose a personal, non-transferable password. User accounts may not be "shared" or used by more than one individual. A User License may be transferred to an alternative User only if a previous User has been deactivated by an administrator.
- A.6 Facility License. Facilities, equal to the number of Facility Licenses set out in a Statement of Work, may utilize an Apptricity Product Module(s).
- A.7 Apptricity Client License. Apptricity Client users, equal to the number of Apptricity Client Licenses set out in Statement of Work, may utilize the Apptricity Product Module(s), and mobile data synchronization capabilities on the device which synchronizes with a licensed Server.
- A.8 License Quantity Upgrade. City may increase the number of licenses authorized hereunder by paying to Apptricity the respective Application Service fees for such Transactions, Users, Facilities and Apptricity Clients as set forth in a Statement of Work.
- A.9 Apptricity Product Module. City may only obtain a license for Apptricity Product Module(s) from Apptricity Corporation. City shall have no intellectual property rights or other ownership rights in or to any Apptricity Product Module and is prohibited from any assignment (except as set forth in the Contract) or resale thereof.
- A.10 Customization. City has no right to create, modify, enhance or otherwise alter an Apptricity Product Module (or any part or parameter thereof) other than look-and-feel, User and system administration using integrated Apptricity tools.
- A.11 Permitted Uses. City may:
 - (a) Store, manipulate, analyze, reformat, print, and display the content only for City's use. City is responsible for any and all activities that occur under its account. City shall notify Apptricity promptly of any unauthorized use of its password or account or any other breach of security that is known or suspected by City. Neither Apptricity nor Apptricity Corporation shall be responsible for any unauthorized access to, or alteration of, City transmissions or data, any material, information or data sent or received, any Transactions entered into through the Application Service, or any failure by City to abide by this Agreement; and
 - (b) Make a reasonable number of copies of the user documentation accompanying the Apptricity System up to the number of Users licensed by City, if applicable, and provided that City reproduces the Apptricity copyright notice in the original in such copies.
- A.12 Prohibited Uses. City may not:
 - (a) Reverse engineer, decompile, disassemble, translate, reproduce, modify, or make derivative works of all or any part of the Apptricity System, or grant any other person or entity the right to do so except to the extent laws expressly prohibit such restriction;
 - (b) Backup or make archival copies of the Apptricity System for any purpose;
 - (c) Except as otherwise set forth herein, sell, transfer, distribute, sublicense, lease or rent the Apptricity System to any third party;
 - (d) Create any frames, mirrors or machine-to-machine links to the Application Service or any content contained thereon accessible from any non-Licensee server or device; or

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- (e) Use the Apptricity System as a business process outsourcer, which includes the provision of services to third parties for outsourced business operations, transactions, functions or processes, for a non-Licensee.
- A.13 **Termination/Reduction in Service Level.** This Agreement shall automatically renew as set forth in Schedule A unless any party requests termination or reduction in service level by notifying the other party in writing at least ninety (90) calendar days in advance of the termination date of the then current term. This Agreement commences upon contract execution and is non-cancelable during the Initial Term (as defined in Statement of Work) unless it terminated for cause by any party as set forth below.
- A.14 **Termination Procedure.** In the event of the termination of this Agreement for any reason, all monies due and not subject to a good faith dispute between the parties shall become due and payable upon the effective date of termination, City's right to use the Apptricity Product Modules and Application Service immediately ceases, and neither Apptricity nor Apptricity Corporation shall have any obligation, except as stated herein. City must return to Apptricity or destroy all copies of Apptricity Materials. Further, City shall purge the Apptricity System, Apptricity Materials and Confidential Information, including backups in any media form, and certify such destruction in writing. Apptricity will subsequently make available a file of City's data stored by Apptricity (if any) within sixty (60) calendar days of termination if City so requests.
- B) Copyright:** The Apptricity System is licensed not sold. Title and copyrights in and to the Apptricity System, and accompanying printed, embedded, or on-line materials or documentation, and any copies made as permitted herein, are owned by Apptricity Corporation or its licensor and are protected by United States copyright laws and international treaty provisions.
- C) Proprietary:**
 - C.1 **No Implied Transfer.** Nothing in this Agreement shall be construed, explicitly or implicitly, as transferring or conveying to a party ownership in any intellectual property now or hereafter owned by or controlled by Apptricity, Apptricity Corporation, or any of their respective licensors. This Agreement contemplates a license of the Apptricity System and Application Service, not a sale. City will not have any ownership rights in the Apptricity System and Application Service.
 - C.2 **Apptricity's Intellectual Property Rights.** City hereby acknowledges and agrees that Apptricity Corporation and its licensors retain all Intellectual Property Rights in or related to the Apptricity System and Application Service, including, without limitation, all improvements thereto. City hereby assigns to Apptricity Corporation all Intellectual Property Rights (defined below) it may now or hereafter possess in or related to the Apptricity System and Application Service and all improvements thereto, and City agrees to (i) execute all documents and take all actions that may be necessary to confirm such rights; and (ii) retain all Apptricity Marks (defined below), legends, and patent and copyright notices on any CCI or other information related to the Apptricity System and Application Service delivered to City by Apptricity. Furthermore, City covenants and agrees to assist and cooperate with Apptricity Corporation in the registration and protection of its Intellectual Property Rights. "Intellectual Property Rights" means all forms of intellectual property rights and protections in any country or other jurisdiction of the world including, without limitation, all right, title and interest in all associated (a) issued patents and all filed or pending applications for patents, including any continuations, continuations in part, reissues, reexaminations, substitutions, and extensions thereof, in any country or other jurisdiction in the world; (b) trade secrets and all trade secret rights, rights in Confidential Information (as defined in Section 4.4) or proprietary information, and any similar rights arising under the laws of any country or other jurisdiction; (c) copyrights, mask works, and other literary property or author's rights, whether or not protected by copyright registration or as a mask work; and (d) any Marks. "Marks" means any trademarks, logos, trade names, service marks, and commercial symbols applied to the Apptricity System and otherwise used by Apptricity in the marketing of its products.
 - C.3 **Marks, Copyrights, Patents and Trade Secrets.** All of the Marks applied to Apptricity System developed and/or licensed by Apptricity Corporation and otherwise used by Apptricity in the marketing of its products, all copyrights of material used in connection with the Apptricity System, and all patents, if any,

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covering Apptricity System, are the exclusive property of Apptricity Corporation. The structure, organization, and code (source and object) of Apptricity System are valuable trade secrets and the exclusive property of Apptricity Corporation. Additionally, Apptricity Materials except for marketing materials, shall be considered CCI and proprietary trade secrets, unless they are otherwise excluded in this Contract.

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Schedule B

Statement of Work - Pricing, Terms & Conditions

SaaS Subscription License, Apptricity Hardware

Apptricity Product Module(s)	Annual Application Service	Transaction Fee
Apptricity Portal	N/A	Included
Apptricity Expense Management	Minimum of 5,500 transactions per year (fixed quarterly payment based on 1,375 transactions)	\$3.00 per Transaction ¹

¹ For Transaction-based licenses, Licensee may purchase additional Transactions over the base amount in increments of two hundred fifty (250) Transactions per year for a licensing cost of seven hundred fifty dollars (\$750) per Transaction increment, billed in arrears based on increased utilization. Transactions may not be transferred on an allocation basis among separate installed instances.

Application Service Fees

The Annual Application Service fee is subject to a minimum number of Annual Transactions.

Annual Application Service fee estimate (based upon 5,500 Transactions):	\$16,500
Annual Apptricity Reporting – Professional (Option declined at inception)	\$5,000
Professional Services, estimated using GSA rate of \$112/hour (includes estimated travel cost of \$2,000)	\$24,000
Training shall consist of the following one class each:	Included
Expense Administration Training, up to 4 trainees in a single class.	
Expense End User Training, up to 8 trainees in a single class.	
City shall pay any travel and expense cost for trainer if conducted off-site.	

Professional Services baseline deliverables include the following:

- ❖ Install solution as an Application Service on a Licensor-owned shared server;
- ❖ Implement baseline configuration (see Schedule C);
- ❖ Implement baseline integration (see Schedule C); and
- ❖ Implement standard reports.

Unless a separate statement of work has been negotiated and executed by the parties, Professional Services for all post-implementation application configurations, customizations and interfaces are provided on a time and material basis at the rate of two hundred eight-seven dollars and fifty cents (\$287.50) per hour for project management/application lead and two hundred thirty-seven dollars and fifty cents (\$237.50) per hour for subject matter expertise, application development and application system analysis, plus travel and expenses. Foreign Exchange Conversion may be provided at two thousand four hundred dollars (\$2,400) per reimbursement currency per year. Foreign Language Translation may be provided at two thousand five hundred dollars (\$2,500) per language per year per Apptricity Product Module. Apptricity Reporting – Professional which facilitates ad hoc reporting and business intelligence may be provided per Server instance or per User per year. Licensee shall be responsible for any special data encryption costs, including third-party encryption software, borne by Apptricity as applicable.

Licensee is provided data storage for up to fifty (50) GB of disk storage space at no additional charge. If the amount of disk storage required exceeds this limit, Licensee will be charged annually for each fifty (50) GB increment of additional storage and backup at \$200. Apptricity will use reasonable efforts to notify Licensee when storage reaches approximately ninety percent (90%) of the current maximum. Apptricity will provide 1 back up data file and image file. Additional quarterly backups of data and image files may be purchased by the City for \$1,000 annually or, alternatively the City may, upon request, receive training for this task at an Apptricity administration class. Apptricity reserves the right to establish or modify general practices and limits concerning use of the Application

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Service, including without limitation the maximum number of days that content will be retained by the Application Service and the maximum disk space that will be allotted on Apptricity's Servers on Licensee's behalf.

Terms of Service

The term of this agreement is one (1) year (the "Initial Term") following the Application go live date. City has the option to extend this agreement for successive one year periods following the Initial Term (the "Option Periods"). At the expiration of the Option Periods Apptricity has the right, but not the obligation, to increase pricing consistent with the increase in US-CPI all Urban Consumers for each annual period subsequent to the expiration of the Options Periods in the event City elects to exercise renewal options thereafter for each one year option period.

Standard Support and Upgrades

Standard support is provided during 8:30 AM to 5:30 PM central standard time. During the Application Service term, Apptricity will provide upgrades to core platform technologies, database, application server and web server as new versions are released. If Licensee's solution operates in an independent environment and is subject to premium annual support and maintenance, Licensee may run one staging environment for new updates and upgrades review and assessment of its production version.

Payment Schedule

Upon contract signing, City will be invoiced four thousand one hundred twenty-five dollars (\$4,125) in advance of Application Service initiation to cover the first contract quarter's Application Service Fee commencing on the Application go-live date, Foreign Exchange Conversion and Foreign Language Translation (*if applicable*), due net 30. At the end of each subsequent contract quarter during the term of the agreement (other than at the annual anniversary of the go live date), City will be invoiced four thousand one hundred twenty-five dollars (\$4,125). Thereafter, at the end of each contract year determined based on the Application go live date, City will be invoiced four thousand one hundred twenty-five dollars (\$4,125), plus any accrued (not paid) overage, and Foreign Exchange Conversion and Foreign Language Translation (*if applicable*) due net 30. All such Application Service Fee invoices will be net of any Service Level Adjustments as detailed in Schedule E of the agreement. All Professional Services fees are due net 30 days from later of invoice date or date of deliverable.

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**Schedule C
*Statement of Work - Project Plan***

Baseline Configuration

Apptricity will install and configure its baseline Apptricity Product Module(s) in a SaaS environment for City, which includes administration of reference data, page configuration and business process rules.

Reference Data

Reference data for the application will be setup via the application's built-in administrative functions. Data may include company codes, vendors (payees), categories (accounts), and payment methods.

Page Configuration

Look-and-feel page configuration may include adding, removing or re-labeling fields and establishing required input fields via the application's built-in customization tools.

Business Process Rules

Basic business process rules may be configured via the application's built-in rule generation engine; however, more complex rules would be billed at Apptricity's standard time and materials professional services rate.

Baseline Integration

Apptricity will install and schedule its standard system interfaces to import data into or extract data from the Apptricity System based upon City's job scheduling requirements. After Apptricity grants City read/write access to the Apptricity secure FTP site, City will be responsible for timely posting its data to the site prior to job scheduling and retrieving its data after job scheduling. Apptricity seeks to leverage as many existing formats as possible. Standard batch interfaces include the following, prices are as estimated:

Inbound:

- Credit card transaction data - \$2,500;
- Integration with ERP (CGI Advantage) - \$5,000 Inbound and Outbound data transfer);
- Users and approval hierarchy information – HR Integration \$2,500;
- SAML single sign on - \$5,000;
- Baseline system set up and configuration - \$4,000;
- Chart of accounts - included;
- Travel booking data - included;
- Vendor master - included; and
- Payment confirmation – GL and A/P integration - \$5,000.

Outbound:

- Approved payments - included.

If a corporate credit card interface is required, City will be responsible for contacting its credit card provider to make arrangements for Apptricity to receive the respective transactions. Apptricity will support the standard process of the card provider to post the transaction data to Apptricity's FTP site.

Apptricity utilizes PGP as its standard software for data encryption and may include the use of PGP as a component of the Initial Setup cost. If City also utilizes PGP for data encryption, City will be responsible for providing its public key. If another data encryption software solution is required, City will be subject to additional time and material services and the respective encryption software licensing costs.

Customer-specific Customization

Professional Services for all post-implementation application configurations, customizations and interfaces are provided on a time and material basis at the rate of two hundred eight-seven dollars and fifty cents (\$287.50) per hour for project

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management/application lead and two hundred thirty-seven dollars and fifty cents (\$237.50) per hour for subject matter expertise, application development and application system analysis, plus travel and expenses.

Documentation

Apptricity shall provide standard user and administrator documentation.

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**Schedule E
Maintenance and Support**

After a solution has been deployed into production, Apptricity Customer Support Service (CSS) will provide prompt response to trouble reports. CSS will cooperate closely with City or City designated representative to troubleshoot issues affecting system performance or operation. CSS support is available by phone or email during the hours 08:30 to 17:30 Central Standard Time, Monday through Friday except U.S. Federal holidays. City may elect to obtain Premium Support (24x7) for an incremental Transaction and/or User fee. City will also be able to contact CSS after hours in case of an emergency. The figure below depicts the CSS process for responding to phone inquiries and emails.

By Phone	By Email
City contacts CSS at 214.596.0601	City emails CSS at support@apptricity.com
CSS consultant establishes nature of the issue	Include the following in the email: <ul style="list-style-type: none"> • City requester, phone number, and email address • Product and version number • Full customer environment • Query or steps to reproduce the issue
Call is directed to the appropriate technical resource	Issue is logged, prioritized, and escalated to the appropriate resource.
Priority is assigned depending on classification of the issue	CSS notifies requester of issue tracking number within one (1) hour of logging issue.
Requester is given tracking number for the issue	If issue is not resolved within the period defined in the escalation (severity) scale. CSS will periodically inform requester of resolution status.

CSS tracks and resolves issues and enhancement requests using the escalation (severity) scale as depicted in the below figure.

Severity	Definition	Expected Response Times
Urgent	City experiences a system failure, affecting business or customer base. Critical business impact with no alternative available.	Response from CSS within two (2) working hours of logging issue. Update requester daily or as otherwise explicitly agreed between the parties. CSS will provide an acceptable workaround within eight (8) working hours so long as City provides Apptricity with remote access.
High	System degradation causing critical business impact, yet work may continue. Alternative or bypass available.	Response from CSS within four (4) working hours. Update requester daily or as otherwise explicitly agreed between the parties. CSS will provide an acceptable workaround within forty (40) working hours so long as City provides Apptricity with remote access.
Normal	Product functionality queries and problems. Not critical, deferred maintenance acceptable, circumvention possible with no operational impact.	Response from CSS within eight (8) working hours. Update requester as necessary or as otherwise explicitly agreed between the parties.

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Low	Cosmetic enhancement request. Defect logged.	Response from CSS within two (2) working days. Logged in appropriate development database and considered for future release.
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Service Level Agreement:

Service Level Agreements ("SLA's") with respect to CSS tracking and resolving issues and enhancement requests are based upon the escalation (severity) scale as set forth in Schedule E of the SaaS Subscription Agreement. Compliance with the following SLA's will be reported for each ninety-day period (an "SLA Reporting Period") by Apptricity using calendar quarters based on United States Central Standard Time. Should the "go-live" not fall on the first day of a calendar quarter the first such SLA Reporting Period will represent the date beginning on the "go-live" date and ending on the first full calendar quarter completed following such "go-live" date. The results (an "SLA Report") of an SLA Reporting Period will be due to Licensee on or before the thirtieth day following the end of the SLA Reporting Period and will be deemed accepted by Licensee if no objection made within fifteen (15) days of receipt. If not accepted, Licensee and Apptricity will work collaboratively in an expeditious manner to resolve any discrepancies noted in the SLA Report. SLA's will be measured only to the extent that a severity matter is within the reasonable control of Licensor. For example, a network outage at Licensees operating location impeding access to the Apptricity System will not be considered an outage. A Fee Adjustment will apply for each SLA reporting period with any amounts of such adjustment to be remitted to Licensee within fifteen (15) days of Licensees acceptance of the SLA Report by Licensee. The Fee Adjustment represents the Fee Adjustment % times the fees invoiced to the Licensee for the SLA Reporting Period.

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Table 1 - Customer Support Services SLA

Severity	Service Level Agreement	SLA Measure and Fee Adjustment %
Urgent	<p>#1a): Response from CSS within two (2) working hours of logging issue. Update requester daily or as otherwise explicitly agreed between the parties.</p> <p>#1b): CSS will provide an acceptable workaround within eight (8) working hours so long as Licensee provides Appticity with remote access</p>	<p>The SLA Measure is determined by one (1) minus the failure rate; such failure rate determined based on aggregate number of issue tickets not meeting the SLA measure for the SLA Reporting Period divided by the aggregate number of issue tickets during the SLA Reporting Period. SLA Measure will be separately determined for each of #1a and #1b.</p> <p>SLA Measure - $\geq 96\%$ Fee Adjustment 0%. SLA Measure - $\geq 92.5\%$ and $< 96\%$ Fee Adjustment of 1% SLA Measure - $< 92.5\%$ Fee Adjustment of 1.5%</p>
High	<p>#2a): Response from CSS within four (4) working hours. Update requester daily or as otherwise explicitly agreed between the parties.</p> <p>#2b): CSS will provide an acceptable workaround within forty (40) working hours so long as Licensee provides Appticity with remote access</p>	<p>The SLA Measure is determined by one (1) minus the failure rate; such failure rate determined based on aggregate number of issue tickets not meeting the SLA measure for the SLA Reporting Period divided by the aggregate number of issue tickets during the SLA Reporting Period. SLA Measure will be separately determined for each of #2a and #2b.</p> <p>SLA Measure - $\geq 96\%$ Fee Adjustment 0%. SLA Measure - $\geq 92.5\%$ and $< 96\%$ Fee Adjustment of 1% SLA Measure - $< 92.5\%$ Fee Adjustment of 1.5%</p>
Normal	<p>#3: Response from CSS within eight (8) working hours. Update requester as necessary or as otherwise explicitly agreed between the parties.</p>	<p>The SLA Measure is determined by one (1) minus the failure rate; such failure rate determined based on aggregate number of issue tickets not meeting the SLA measure for the SLA Reporting Period divided by the aggregate number of issue tickets during the SLA Reporting Period.</p> <p>SLA Measure - $\geq 96\%$ Fee Adjustment 0%. SLA Measure - $\geq 92.5\%$ and $< 96\%$ Fee Adjustment of 1% SLA Measure - $< 92.5\%$ Fee Adjustment of 1.5%</p>
Low	<p>#4: Response from CSS within two (2) working days. Logged in appropriate development database and considered for future release.</p>	<p>The SLA Measure is determined by one (1) minus the failure rate; such failure rate determined based on aggregate number of issue tickets not meeting the SLA measure for the SLA Reporting Period divided by the aggregate number of issue tickets during the SLA Reporting Period.</p> <p>SLA Measure - $\geq 96\%$ Fee Adjustment 0%.</p>

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Severity	Service Level Agreement	SLA Measure and Fee Adjustment %
		SLA Measure - >= 92.5% and <96% Fee Adjustment of 1% SLA Measure - <92.5% Fee Adjustment of 1.5%

Customer Service Metrics

Apptricity uses a number of metrics to evaluate the quality of our customer service. These metrics include the time to resolution of issues, number of outstanding issues, issues requiring rework, and others. In addition, we conduct periodic customer service surveys to solicit feedback on our work and highlight any quality issues or other deficiencies that need attention.

We are proud to say that the quality of support provided by our CSS staff is a key factor in our customers adding additional Apptricity's applications when expanding their business automation.

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CSS logs customer issues using the below stages:

Stage	Support Area	Responsibility
0	City	Provide relevant information at point of logging call, log call with CSS via telephone or email. Ensure CSS is aware of availability of contacts and operating environment. Assign priority with CSS at point of logging call. Understand support processes, initial schedule, and escalation procedures.
1	City (1 st line support)	Take calls and emails from end-user, confirm status and assign issue-tracking number in accordance with the appropriate logging process. Gather relevant information and assign priority. Carry out analysis/diagnosis of log. Communicate progress, resolution and management of logs. Escalate to second-line support as appropriate. Confirm escalation priority.
2	CSS (2 nd line support)	Communicate progress, resolution and management of logs. Triage resolution efforts with CSSFE and CSSDE staff.
3	CSS Field Engineer (CSSFE)	Communicate progress and resolution for all tracked items under their review. Provide analysis and technical updates to customer.
4	CSS Development Engineer (CSSDE)	Communicate progress and resolution status to CSS first-line support for further communication to customer.

City's Responsibilities

- City shall provide required technical and application support services to their respective personnel and shall work through CSS for issues that the City is unable to resolve.
- City shall provide support for all non-Apptricity supported products.

Apptricity Responsibilities

- Apptricity shall attempt to identify, reproduce and, where available, validate defect on an in-house test environment.
- Apptricity shall provide workarounds and/or software fixes, within the service level guidelines above, for additional City testing and installation.
- Apptricity shall provide City with service releases and associated documentation.
- Apptricity shall manage the software defect process.

General

Apptricity uses a number of metrics to evaluate the quality of its service. These metrics include the time to resolution of issues, number of outstanding issues, issues requiring rework, and others. In addition, Apptricity conducts periodic customer service surveys to solicit feedback on our work and to highlight any quality issues or other deficiencies it must address.

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PURCHASING OFFICE SUPPLEMENTAL IT CLOUD
PURCHASE PROVISIONS**

The following sections are hereby included:

The following changes are made to Section 0100, Standard Purchase Definitions: A.

Add the following definitions:

“Affiliate” means, including but not limited to, (i) City’s parent subsidiaries, partnerships, joint ventures, franchisees, assigns, business partners, contractors, subcontractors and consultants, controlling, controlled by or under common control of City as they may change from time to time and (ii) Users, as they may change from time to time.

“Amendment” means any written document executed by both Parties that modifies the terms of this Master Software as a Service Agreement, including referenced attachments.

“Authorized Persons” means the service provider’s employees, contractors, subcontractors or other agents who need to access the City’s personal data to enable the service provider to perform the services required.

“Change Order Request” means the written document provided by Client to Provider requesting changes to Provider’s obligations under this Agreement.

“Change Order Response” means the written document provided to Client by Provider in response to Client’s Change Order Request.

“City” means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

“City Data” means all data created, received, or in any way originating with the City, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the City, whether such data or output is stored on the City’s hardware, the service provider’s hardware or exists in any system owned, maintained or otherwise controlled by the City or by the service provider.

“City Identified Contact” means the person or persons designated in writing by the City to receive security incident or breach notification.

“Confidential Information” means all written or oral information, disclosed by either Party to the other, related to the operation 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.

“Data Breach” means the unauthorized access by a non-authorized person/s that results in the use, disclosure or theft of a City’s unencrypted personal data.

“FACTA” means the Fair and Accurate Credit Transaction Act.

“Illicit Code” has the meaning set forth in 0300IT Paragraph 22.

“Personally Identifiable Health Information” means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual;

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PURCHASE PROVISIONS**

or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.¹

“Non-Public Data” means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the City because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

“Non-subscription Services” means the services provided to Client by Provider under this Agreement 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 Client by Provider under this Agreement, together with all documentation provided by or otherwise required of Provider for any of the consulting, implementation, customization or other services it provides.

“Personal Data” means data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver’s license, passport), financial account information, including account number, credit or debit card numbers, or protected health information (PHI) relating to a person.

“Provider Information” means all techniques, algorithms and methods or rights thereto owned by or licensed to Provider during the term of this Agreement and employed by Providers in connection with the Subscription Services and the Non-subscription Services Provided to Client.

“Provider Software” means software that was developed or licensed to Provider independent of this Agreement and which Provider utilizes to provide the Subscription Services or the Non-subscription Services.

“Security Incident” means the potentially unauthorized access by non-authorized persons to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a City’s unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

“Service Level Agreement” (SLA) means a written agreement between both the City and the service provider that is subject to the terms and conditions in this document that unless otherwise agreed to 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.

“Service Levels” means the performance specifications for work performed by Provider under a SaaS Subscription Schedule or Statement of Work.

“Software-as-a-Service” (SaaS) means the capability provided to the City to use the provider’s applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer 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.²

“SaaS Software Application” and **“SaaS Software”** mean the computer software listed on a SaaS Subscription Schedule to which Provider has granted Client access and use as part of the Subscription. This includes any customization, other derivative works, upgrades, releases, fixes, patches, etc. related to the software that Provider develops or deploys during the term of this Agreement, together with all documentation provided by or otherwise required of Provider for any of the software, customization, other derivative works, upgrades, releases, fixes, patches, etc.

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SUPPLEMENTAL PURCHASE PROVISIONS**

“SaaS Subscription Schedule” means the document, executed by both Parties that sets out the Parties’ rights and obligations with respect to Client’s access to and use of the SaaS Software Application.

“Statement/Scope of Work” means a written statement in a solicitation document or contract that describes the City’s service needs and expectations

“Subscription Services” means Client’s access to and use of and Provider’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.

“Third Party” means any natural person or legal entity other than Provider and Client.

“Transition Date” means the date upon which it is established to Client’s satisfaction that the SaaS Software Application is stable enough to support Client’s production processing.

“User” means Client’s employees, agents, consultants, outsourcing companies, contractors and others who are authorized by Client 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 Client.

“User Information” means all information directly or indirectly obtained from Users accessing the SaaS Software Applications where such information is obtained by Provider or by any of its employees, representatives, agents or any Third Parties having contractual privity with Provider or who are under Provider’s supervision or control.

“Work Product” means, except for the Provider Information, all deliverable and other materials, products or modifications developed or prepared for Client by Provider under this Agreement, 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 Provider under or in support of the performance of its obligations under this Agreement, including manuals, training materials and documentation, but excluding the Provider Software.

**CITY OF AUSTIN
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SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by 10/09/2017, 9:00 am, local time to sai.xoomsai@austintexas.gov.

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

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

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

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

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

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
 - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Form WC420304, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
 - (1) The policy shall contain the following provisions:
 - (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - (b) Contractor/Subcontracted Work.
 - (c) Products/Completed Operations Liability for the duration of the warranty period.
 - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

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SUPPLEMENTAL PURCHASE PROVISIONS**

- (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
 - iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
 - iv. **Professional Liability/Technology Errors and Omissions Insurance:** The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract. If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.
 - v. **Cyber Liability Insurance:** coverage of not less than \$2,000,000 each claim and \$4,000,000 annual aggregate providing coverage for damages and claims expenses, including notification expenses, arising from (1) breach of network security, (2) alteration, corruption, destruction or deletion of information stored or processed on a computer system, (3) invasion of privacy, including identity theft and unauthorized transmission or publication of personal information, (4) unauthorized access and use of computer systems, including hackers (5) the transmission of malicious code, and (6) website content, including claims of libel, slander, trade libel, defamation, infringement of copyright, trademark and trade dress and invasion of privacy.
- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

3. TERM OF CONTRACT:

- A. The Contract shall be in effect for an initial term of 12 months and may be extended thereafter for up to four additional 12-month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.

4. INVOICES and PAYMENT: (reference paragraphs 12 and 13 in Section 0300IT)

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

Invoices shall be mailed to the below address:

	City of Austin
Department	Financial Services Department
Attn:	Accounts Payable
Address	P.O. Box 1088
City, State Zip Code	Austin, TX 78767

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

5. **LIVING WAGES:**

The City's Living Wage Program, Rule R161-17.14, is located at:

<http://www.austintexas.gov/edims/document.cfm?id=277854>

- A. The minimum wage required for all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$14.00 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$14.00 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's assigned Contract Manager with the first invoice, individual Employee Certifications for all Contractor Employees (and all tiers of Subcontracting) directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the contract. The Employee Certification form is available on-line at https://www.austintexas.gov/financeonline/vendor_connection/index.cfm.
- E. Contractor shall submit employee certifications for Contractor Employees (and all tiers of Subcontracting) annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee

**CITY OF AUSTIN
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Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the contract and/or to report any employee changes as they occur.

- F. The Department's assigned Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records required in paragraph C above to verify compliance with this provision.

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

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If an Offeror has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Offeror is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: <http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

7. MONTHLY SUBCONTRACT AWARDS AND EXPENDITURES REPORT: (reference paragraph 18 in Section 0300IT) (applicable when an MBE/WBE Compliance Plan is required)

- A. The Contractor must submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager specified herein and to the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Mail the Purchasing Office Copy of the report to the following address:

City of Austin
Purchasing Office
Attn: Contract Compliance Manager
P. O. Box 1088
Austin, Texas 78767

8. INTERLOCAL PURCHASING AGREEMENTS: (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental

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agencies through an interlocal cooperative agreement.

10. **OWNERSHIP AND USE OF DELIVERABLES:** The City shall own all rights, titles, and interests throughout the world in and to the Deliverables.
- A. **Patents:** As to any patentable subject matter contained in the Deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. **Copyrights:** As to any Deliverable containing copyrighted subject matter, the Contractor agrees that upon their creation, such Deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such Deliverables, provided however, that nothing in this Paragraph 36 shall negate the City's sole or joint ownership of any such Deliverables arising by virtue of the City's sole or joint authorship of such Deliverables. Should by operation of law, such Deliverables not be considered work made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of Austin) all worldwide right, title, and interest in and to such Deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such Deliverables to the City or at such other time as the City may request.
- C. **Additional Assignments:** The Contractor further agrees to, and if applicable, cause each of its employees to execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns, and nominees, the sole and exclusive right, title, and interest in and to the Deliverables, The Contractor's obligations to execute acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 36 A., B., and C. shall continue after the termination of this Contract with respect to such Deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the Deliverables, but should arise to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph above.
11. **CONTRACT MANAGER:** The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Richard Scheel, Deputy Controller, Finance Department-Controllers

512-974-2531, Richard.Scheel@austintexas.gov

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



CITY OF AUSTIN, TEXAS
Purchasing Office
REQUEST FOR PROPOSAL (RFP)
OFFER SHEET

SOLICITATION NO: PAX0143

DATE ISSUED: 09/25/2017

COMMODITY/SERVICE DESCRIPTION: TRAVEL AND
EXPENSE MANAGEMENT SYSTEM

REQUISITION NO.: 17082300736

COMMODITY CODE: 92045

PRE-PROPOSAL CONFERENCE TIME AND DATE:
10/03/2017, 9:30 am, local time

LOCATION: 124 W. 8th Street, Austin, TX 78701, Tara
Conference Room (2nd Floor)

CONFERENCE NO: 512-974-9300

PARTICIPANT CODE: 521387

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

Sai Xoomsai Purcell
Procurement Specialist IV
Phone: (512) 974-3058
E-Mail: sai.xoomsai@austintexas.gov

Elisa Folco
Procurement Specialist IV
Phone: (512) 974-1421
E-Mail: elisa.folco@austintexas.gov

PROPOSAL DUE PRIOR TO: 10/19/2017, 2:00 pm, local time
PROPOSAL OPENING TIME AND DATE: 10/19/2017, 3:00 pm,
local time

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

LIVE SOLICITATION OPENING ONLINE: For RFP's, only the
names of respondents will be read aloud

For information on how to attend the Solicitation Closing online,
please select this link:

<http://www.austintexas.gov/department/bid-opening-webinars>

**When submitting a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired,
as shown below:**

Address for US Mail (Only)	Address for FedEx, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # PAX0143	Purchasing Office-Response Enclosed for Solicitation # PAX0143
P.O. Box 1088	124 W 8 th Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

NOTE: Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer arriving on time. See Section 0200 for additional solicitation instructions.

All Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.

*****SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT*****

This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300 IT	STANDARD PURCHASE TERMS AND CONDITIONS	18
0400	SUPPLEMENTAL PURCHASE PROVISIONS	9
0500	SCOPE OF WORK	4
0600	PROPOSAL PREPARATION INSTRUCTIONS & EVALUATION FACTORS	6
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return if applicable	3
Appendix A	Travel Expense Claim	1
Appendix B	Travel Claim Form	1
Appendix C	Travel Advance Authorization Form	1
Appendix D	Travel Policy and Procedure	23
Appendix E	System and Functional Requirements	5
Attachment A	Price Proposal Form	1
Attachment B	Exceptions Form	3

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

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

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

INTERESTED PARTIES DISCLOSURE

**CITY OF AUSTIN
SCOPE OF WORK/SPECIFICATIONS
FOR
TRAVEL AND EXPENSE MANAGEMENT SYSTEM**

1.0 PURPOSE

The City of Austin hereinafter referred to as the "City", seeks proposals in response to this Request for Proposal (RFP) from qualified Vendors to provide Travel and Expense Management System. The system shall be web based (Software as a Service, SaaS) solution, automated solution to enter, audit, approve, pay and report travel and expense information. The system shall support entire travel management life cycle to including pre-trip approval, booking, expense reporting, and reimbursement

2.0 OBJECTIVES

The objectives of this procurement are to:

1. Identify and select a travel and expense management system that best supports the travel processes of the City.
2. Determine a feasible implementation strategy and schedule.
3. Ascertain the necessary service(s) required to support training, implementation, and ongoing maintenance.

3.0 CURRENT ENVIRONMENT

The City follows manual travel planning, booking, receipt reconciliation, calculation of reimbursement, and audit processes. Prior to travel, a Travel Authorization (TA – Appendix A) Form should be completed. Travel data is collected through a process on a mandatory spreadsheet known as the Travel Claim Form (TCF - Appendix B) and through a second form only required where there is a travel advance known as the Travel Advance Authorization (TAA - Appendix C). The City's Travel Policy must be adhered to and is included as Appendix D for informational purposes

4.0 PROPOSER ELIGIBILITY

Proposer shall have a minimum of two (2) years' turnkey experience in delivering and maintaining Travel and Expense Management System. Qualifications shall be fully met before the proposal has been submitted in order for response to be evaluated.

5.0 POINT OF CONTACT

1. Provide a Single Point of Contact (SPOC) for the entire duration of the project. The SPOC will be available by cell phone and email per the mutually agreed upon Service Level Agreement. The SPOC assigned to this contract shall have full decision-making authority under this contract.

6.0 SYSTEM REQUIREMENT:

1. Automated Spend Controls
 - a. A travel and expense program shall be able to flag errors if the traveler exceed spend authorization. The City spend rates are based on the General Services Administration (GSA) Travel Per Diem Rates.
 - b. The GSA rate updates shall be part of the vendor's normal patch/update process.
 - c. System shall allow for rules based settings that include maximum caps and time period controls, such as hotel caps and per diem for various meals depending on travel time.

CITY OF AUSTIN
SCOPE OF WORK/SPECIFICATIONS
FOR
TRAVEL AND EXPENSE MANAGEMENT SYSTEM

2. Travel Authorization and Booking

- a. System shall include the option for the traveler to secure travel pricing and development of a TA/TCF/TAA using travel information populated from within the application.
- b. System shall provide information on a travel program that includes the ability to create full itineraries that include reservation and confirmation of hotels and airlines. This should also include but not limited to:
 - i. Include outside sources
 - ii. Conference hotel bookings
 - iii. Flight status alerts
 - iv. Alternate flights
 - v. Airfare changes
 - vi. Rental car search and booking

3. Automated Approval Workflow

- a. System shall include an automated workflow approval process. This process shall include but is not limited to:
 - i. Initial end user input
 - ii. Administrative review
 - iii. Supervisor or manager review
 - iv. Department director or designee review
 - v. Executive review
 - vi. Finance review
 - vii. Return to end user

This list should be a basic workflow approval process and vary depending on final setup. The system shall allow for designated alternates for approving person. This should include notification that approval is being routed to the alternate person in the absence of the primary approver. This should also include the ability to have multiple approvers for one Department or Division with the capabilities for all approvers to be notified or only a single approver to be notified.

- b. System should provide logs of errors and messages encountered by users so the City may pinpoint areas of weakness in the Travel Policy and better educate travelers in problem areas of the claims process.
- c. System shall allow multiple workflow paths to exist based on client controlled customizable criteria.

4. Credit Card Integration

- a. System should have the capabilities to allow credit card integration on an individual basis primary cardholder would be able to authorized selected individuals to use a designated Department or Division credit card.

5. Administrative Configuration

- a. System shall allow different levels of administration. This would include but not limited to:
 - i. Overall program administrators
 - ii. Department or Division administrators
 - iii. Special group administrator
 - iv. Systems must allow program administrator, at a minimum, to configure:
 - 1. Screen setup
 - 2. City expense policies and rules, including by time period such as our fiscal year.
 - 3. Workflow routing setup

**CITY OF AUSTIN
SCOPE OF WORK/SPECIFICATIONS
FOR
TRAVEL AND EXPENSE MANAGEMENT SYSTEM**

6. Access to underlying data:

- a. System shall provide access to underlying travel data via an acceptable digital bulk delivery method.
- b. System shall provide sufficient metadata on bulk download to tie supporting document images to specific City travel document forms and line items.

7. Accounting codes and Financial Systems

- a. The City currently uses CGI Advantage Financials. Preference will be given to a system that demonstrates previous integration with this financial system.
- b. System should allow travel expenses to be allocated across multiple accounting lines.

8. Mobile Access

- a. System shall be able to initiate, document, workflow and approve travel and expense documents from mobile devices and in real time.
- b. Mobile system shall support upload of receipts and supporting travel documentation from a mobile device.

9. Travel Advance

- a. System shall allow for the consideration that employees may request a funds advance on travel.
- b. System shall accommodate rules on which items are allowable for travel advances as well as minimum/maximum dollars allowed for a travel advance.
- c. System shall track, workflow, and provide reporting on approved TAA.
- d. TAA information should migrate to the final TCF without manual reentry of information contained within the TAA.
- e. Travel claim should apply travel policy rules against the TAA funds and limit the appropriate expense category.
 - i. Example: If a TAA was granted for the per diem meals expense, the System should limit and not reimburse meals expense/per diem from the TCF.

10. User Friendly

- a. System shall be user friendly and allow for self-service access with minimum assistance.
- b. System shall include integrated help manuals and menus.
- c. System should include an online dashboard that allows administrators and end users access is a plus.
- d. System should have a capability to alert travelers to the specific section of the Travel Policy in the event a charge is refused by automated system limitations.

11. Policies

**CITY OF AUSTIN
SCOPE OF WORK/SPECIFICATIONS
FOR
TRAVEL AND EXPENSE MANAGEMENT SYSTEM**

- a. Systems shall support automated enforcement of expense and payment policies.
 - i. Example: If an employee's travel begins before 11:00 am and extends past 1:00 pm then they are authorized lunch per diem.
 - ii. Example: If an employee chooses to park in airport garage parking at \$15 per day and the travel policy limits to \$7, system will automatically limit to \$7.

12. Training

- a. System provider must include training for select City personnel who will be designated trainers.
- b. Digitally delivered training should be available for end users.

13. Auditing Service

- a. The program should incorporate rules and configuration for auditing of travel documents subsequent to final submission.

6.0 TRANSITION/CONTRACT CLOSE-OUT

The Contractor shall provide transition/contract-close out services for no less than ninety (90) days prior to contract expiration to its successor at no additional charge to the City. The Contractor shall provide; the successor phase-in training and shall cooperate and provide assistance as needed in order to effect an orderly and efficient transition.

**CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: PAX0143**

1. STATEMENT RESPONSE FORMAT

Submit one original paper copy and an electronic copy of the original response in PDF on six (6) separate flash drives. The original response shall contain ink signatures and shall be typed on standard 8 ½" X 11" paper, double-sided, and have consecutively numbered pages.

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

TAB 1 – CITY OF AUSTIN PURCHASING DOCUMENTS - Complete and submit the following documents:

1. **Signed Offer Sheet**
2. **Attachment B - Purchasing Exceptions Form**
 - i. Note: Respondent shall clearly indicate each exception taken, provide alternative language, and justify the alternative language. The Respondent (s) that is awarded the contract will be required to sign the contract with the provisions accepted; any exceptions may be negotiated or may result in the City of Austin (City) deeming the offer non-responsive. Failure to accept or provide the exception information under **Attachment B, Purchasing Exceptions**, may result in the City deeming the offer non-responsive. The City reserves the right to reject a Response containing exceptions, additions, qualifications, or conditions not called for in the Solicitation.
3. Section 0605 Local Business Presence Identification Form
4. Section 0815 Living Wages Contractor Certification
5. Section 0835 Non-Resident Bidder Provisions Form
6. Section 0900 Minority and Women-Owned Business Enterprise (MBE/WBE) Compliance Plan Package

TAB 2 – CONTACT PERSONAL - AUTHORIZED NEGOTIATOR:

1. Include name, address, and telephone number of person in your organization authorized to negotiate Contract terms and render binding decisions on contract matters.
2. Include contact person(s), mailing address, e-mail address, telephone number and fax number for individuals authorized to answer technical, price and/or contract questions.

TAB 3 - BUSINESS ORGANIZATION and FIRM PRIOR EXPERIENCE

1. Provide domestic office locations, identifying which location will be assigned to support this project.
2. How many years has your firm been in business?

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SOLICITATION NUMBER: PAX0143**

3. List and describe all criminal proceedings or hearings concerning business related offenses in which your firm, its principals, officers, predecessor organization(s), or wholly owned subsidiaries were defendants.
4. Has your firm ever failed to complete any work awarded to you? If so, where and why?
5. Has your firm ever been terminated from a contract? If so, where and why?
6. Has your business ever done business using another corporation/company name?

TAB 4 –PERSONAL PRIOR EXPERIENCE & REFERENCES:

1. **Project Manager/Account Manager:** Provide a narrative with the following information:
 - The month and year that the employee began working for your organization
 - Resume including employee work history.
2. **Client References:** provide three (3) customer reference for which the Respondent is currently providing service(s). References should include work completed for services similar to those listed in Section 0500 - Scope of Work and Appendix E System and Functional Requirement. The project description should demonstrate your firm's experience in delivering these services and include the following specifics: (1) provide an overview of the project, (2) describe the projects' challenges and how your firm resolved them; (3) describe techniques used so that downtime was minimized during implementation; (4) describe the impacts and results of the project.

All client reference information must be supported and verified. Reference contacts must be notified and agree to the City reference check. Reference contacts named should be the owner's project manager or persons familiar with the project/contract who can respond to questions concerning the type, level, and quality of services delivered. The City may solicit from previous clients, or any available sources, relevant information concerning Respondent's record of performance.

At minimum, all references provided should include the following information:

- Client Company Name
- Contact name –project manager or other person willing to respond to questions about project specifics and the services provided
- Contact address
- Contact telephone number
- Contact e-mail
- Respondent's Role (Prime or Subcontractor)
- List names, roles and responsibilities of key personnel assigned to the project
- Project budget
- Brief Description of major project components
- Project start date and project completion/projected date

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SOLICITATION NUMBER: PAX0143**

TAB 5 – APPENDIX E SYSTEM AND FUNCTIONAL REQUIREMENTS

1. Requirements are listed in Appendix E. The vendor will indicate whether the product meets the requirement and, if appropriate, provide a short description of the applicable feature. Additionally, the vendor will indicate if the product can be modified to meet the requirement through code-level customization and provide a cost estimate for modification.

TAB 6 – CONCEPT AND SOLUTION:

1. Work Plan

1. Provide a narrative that clearly describes the Respondent's overall approach to providing the services described in Section 0500 - Scope of Work including: (1) approach to management and coordination of teams; (2) approach to stakeholder involvement and information gathering; (3) approach to delivering requested services.
2. Provide implementation plan (**including timeline with details of hours**) along with customer and technical support throughout implementation, until complete.
 - Provide estimated length of an implementation
 - Provide training documentation

2. System Requirement (Section 0500, Scope of Work, item 5.0)

1. Define in detail your understanding of the requirements presented in Section 0500, Scope of Work, item 4.0. Provide all details as required in Section 0500 – Scope of Work and any additional information you deem necessary to evaluate your proposal.
 - Automated Spend Controls
 - Travel Authorization and Booking
 - Automated Approval Workflow
 - Credit Card Integration
 - Administrative Configuration
 - Access to Underlying Data
 - Accounting Codes and Financial Systems
 - Mobile Access
 - Travel Advance
 - User Friendly
 - Policy
 - Training
 - Auditing Service

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PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: PAX0143**

2. Provide a copy of the release schedule for planned enhancements and new functions to be delivered during the next two years. What typically is the ratio of problem resolutions to enhancements in new releases?
3. Provide your understanding of PCI/DSS Compliance requirement (Scope of Work, Section 4, Credit Card Integration)
4. Transition/Contract Close-Out – clearly describe your firm process of contract transition/close-out including phase-in training for the contractor successor.

TAB 7 - PRICE PROPOSAL (Attachment A – Price Proposal Form):

Proposer shall submit the completed price proposal spreadsheet provided in the **Attachment A – Price Proposal Form**.

Information described in the following subsections is required from each Proposer. A firm fixed price or not-to-exceed Contract is contemplated, with progress payments as mutually determined after contract award to be appropriate.

Travel expenses. All travel lodging expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/100120>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

2. SUPPLEMENTAL TERMS

- 2.1 Local Business Presence:** The City seeks opportunities for businesses in the Austin Corporate City Limits to participate on City contracts. A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation. Points will be awarded through a combination of the Offeror's Local Business Presence and/or the Local Business Presence of

**CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: PAX0143**

their subcontractors. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of work as reflected in the Offeror's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. Specify if and by which definition the Offeror or Subcontractor(s) have a local business presence.

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

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

3. **RESPONSE PREPARATION COSTS:** All costs directly or indirectly related to preparation of a response to the RFP or any oral presentation required to supplement and/or clarify a response which may be required by the City shall be the sole responsibility of the Respondent.

4. **EVALUATION FACTORS AND AWARD**

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

4.2 **Evaluation Factors (Maximum 100 points):**

1. **Business Organization, Firm/Personal Prior Experience and References (TAB 3, 4)**

Maximum 10 points

2. **Responses to Appendix E – System And Functional Requirement (Tab 5)**

Maximum 20 points

3. **Concept and Solutions (TAB 6)**

- Work Plan – **Maximum 10 points**
 - Project Timeline
 - Implementation Plan
- System Requirement (Section 0500, Scope of Work, item 5.0) -

**CITY OF AUSTIN
PURCHASING OFFICE
PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS
SOLICITATION NUMBER: PAX0143**

Maximum 30 points

4. Attachment A Price Proposal Form (TAB 7)

Maximum 20 points

5. Local Business Presence

Maximum 10 points

Team's Local Business Presence	Points Awarded
Local business presence of 90% to 100%	10
Local business presence of 75% to 89%	8
Local business presence of 50% to 74%	6
Local business presence of 25% to 49%	4
Local presence of between 1 and 24%	2
No local presence	0

6. System Demonstration and Clarification Session (Interview), Optional

System demonstration and clarification session may be conducted at the discretion of the City. The City will score proposals based on the items listed above. The City may select a "short list" of Proposers based on those scores. Short listed Proposers may be invited for system demonstration and clarification session with the City. The City reserves the right to negotiate the actual contract scope of work and cost after submission and to rescore based on interviews.

Section 0605: Local Business Presence Identification

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.

NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR: Apptricity Corporation **NOTE:** Apptricity does not have a local (within City of Austin city limits) presence, however, we are a business located and headquartered in the State of Texas.

Name of Local Firm	N/A	
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	<input checked="checked" type="radio"/> No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	<input checked="checked" type="radio"/> No

SUBCONTRACTOR(S):

Name of Local Firm	N/A	
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

SUBCONTRACTOR(S):

Name of Local Firm	N/A	
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

City of Austin, Texas
Section 0800
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas
Equal Employment/Fair Housing Office

To: City of Austin, Texas,

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

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

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

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

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

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

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

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of

this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

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

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

Sanctions:

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

Term:

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

Dated this 16th day of October, 2017

CONTRACTOR

Apptricity Corporation

Authorized
Signature



Title

President & CEO

Section 0815: Living Wages Contractor Certification

Company Name Apptricity Corporation

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees of the Prime Contractor and all tiers of subcontracting directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.50 per hour.

- (1) The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.50 per hour:

Employee Name	Employer	Prime or Sub	Your Normal Rate	Employee Job Title
	All employees assigned to this project will be full-time Apptricity employees and all are compensated at a rate greater than \$13.50 per hour.			

- (2) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.50 per hour.
(3) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each affected employee the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision or fraudulent statements made on this certification may result in termination of this Contract for Cause, subject the firm to possible suspension or debarment, or result in legal action.

I hereby certify that all the listed employees of the Contractor who are directly assigned to this contract are paid a minimum Living Wage equal to or greater than \$13.50 per hour.

Timothy D. Garcia
President and CEO, Apptricity Corporation



DATE: 10/12/17

Section 0835: Non-Resident Bidder Provisions

Company Name Appticity Corporation

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

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

Answer: 1. Appticity is a Resident Bidder with headquarters in Irving, Texas

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
(2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

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

Answer: _____ Which State: _____

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

Answer: _____

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form**

SOLICITATION NUMBER: PAX0143
SOLICITATION TITLE: Travel and Expense management System

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 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	Apptricity Corporation		
City Vendor ID Code			
Physical Address	5605 N. MacArthur Blvd., Suite 900		
City, State Zip	Irving, TX 75038		
Phone Number	214.596.0601	Email Address	tgarcia@apptricity.com
Is the Offeror City of Austin M/WBE certified?	<input checked="" 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.

Timothy D. Garcia, President and CEO

Name and Title of Authorized Representative (Print or Type)

Signature/Date



16 Oct 2017



**ADDENDUM
CITY OF AUSTIN, TEXAS**

Solicitation: PAX0143

Addendum No: 1

Date of Addendum: 09/28/2017

This addendum is to incorporate the following changes, questions, and answers to the above referenced solicitation:

1. Appendix E, System and Functional Requirements has been revised to include the following:

"Place a "Y" in the response code column if the proposed solution can meet the system requirement"

2. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: _____

Sai Xoomsai Purcell
Sai Xoomsai Purcell, Senior Buyer Specialist
Purchasing Office, 512-974-3058

09/28/2017

Date

ACKNOWLEDGED BY:

Dan Howcroft
Name *PROPOSAL WRITER*

Dan Howcroft
Authorized Signature

10/16/2017
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
CITY OF AUSTIN, TEXAS**

Solicitation: PAX0143

Addendum No: 2

Date of Addendum: 10/04/2017

This addendum is to incorporate the following changes, questions, and answers to the above referenced solicitation:

1. Q) When is the contract award date? Does the City has any specific preferred date for project start and completion?
A) Council authorized negotiation and execution of the project is tentatively scheduled for January 2018. Per Section 0600, Tab 6 Concept and Solution, 1.2, Vendor shall provide implementation plan to include timeline from project implementation to completion.
2. Q) Was Per-Offer meeting mandatory?
A) No. It was not.
3. Q) Is solicitation open for companies outside USA (Like India or Canada)?
A) Yes, but the recommended firm must be available to attend the meeting in person on as needed basis and Per Section 0300IT, item 3, Data Location, the service provider shall provide its services to the City and its end users solely from data center in the U.S.
4. Q) Can vendor submit the proposals via email?
A) No. Vendor must submit sealed Offer to the following address (page 1 of the solicitation package)

Address for US Mail (Only)	Address for FedEx, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # PAX0143	Purchasing Office-Response Enclosed for Solicitation # PAX0143
P.O. Box 1088	124 W 8 th Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

5. Q) During evaluation, is there any system/product demonstration and clarification session? If yes, what will be an estimated date?
A) System demonstration and clarification session may be conducted at the discretion of the City. The City may select a "short list" of Proposers based on vendor scores. Tentative dates for system demonstration and clarification are scheduled for some time in November, 2017.
6. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: _____

Sai Xoomsai Purcell, Senior Buyer Specialist
Purchasing Office, 512-974-3058

10/04/2017

Date

ACKNOWLEDGED BY:

DAN HOWCROFT,
Name PROPOSAL WRITER

Don Howcroft
Authorized Signature

10/16/2017
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
CITY OF AUSTIN, TEXAS**

Solicitation: PAX0143

Addendum No: 3

Date of Addendum: 10/09/2017

This addendum is to incorporate the following changes, questions, and answers to the above referenced solicitation:

1. A REVISED Appendix E – System and Functional Requirements has been published to replace the prior Appendix E – System and Functional Requirements.
2. Q) With reference to **"Response Code"** in **"Appendix-A"**, Does City prefer only ready-to-use Software with minor customization? Or it also prefers complete Custom developed application service?
A) The City prefers a previously deployed ready to use software where customization is an option inside the tool rather than something that happens to the System itself. The City understands integration with our ERP will necessarily be a customization of the tool, and the remainder of the system should be an out of the box configuration.
3. Q) Is there any estimated budget for this project?
A) The City will not release this information at this time.
4. Q) How many end-users expected to use this application?
A) The City will not base pricing on total end users, this is a transactional system. The City is requesting pricing based on booked travel per year. The City will not accept a named or numerical user limitation. That being said, the City has approximately 13-15 thousand employees and approximately 5000-6000 instances of booked travel per year.
5. Q) Would the City need database on the City own cloud?
A) No. The City will require access to the underlying data and imaged supporting documentation that sensibly relates necessary information in such a way that the City may easily recreate a booked travel document from the data and supporting documentation.
6. (Q) The pricing sheet indicates that the City has 5,500 travel vouchers per year. These travel vouchers are expense report transactions, is that correct?
(A) Yes, these are travel and mileage related expense report transactions
7. (Q) Regarding Appendix E – System and Functional Requirements, could the City provide additional information or example of what the City is expecting?
(A) Please refer to the REVISED Appendix E published on 10/09/2017.
8. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: _____

10/09/2017

Sai Xoomsai Purcell, Senior Buyer Specialist
Purchasing Office, 512-974-3058

Date

ACKNOWLEDGED BY:

Dan Howcroft,
Name PROPOSAL WRITER

Dan Howcroft
Authorized Signature

10/16/2017
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
CITY OF AUSTIN, TEXAS**

Solicitation: PAX0143

Addendum No: 4


Date of Addendum: 10/10/2017

This addendum is to incorporate the following changes, questions, and answers to the above referenced solicitation:

1. Changes:

A REVISED Appendix E – System and Functional Requirements has been deleted in its entirety due to numbering error. The correction has been made and a **REVISED – 2** - Appendix E – System and Functional Requirements is now included in the solicitation package.

2. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: 
Sai Xoomsai Purcell, Senior Buyer Specialist
Purchasing Office, 512-974-3058

10/10/2017

Date

ACKNOWLEDGED BY:

DAN HOWCROFT
Name PROPOSAL WRITER


Authorized Signature

10/16/2017
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.

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Sai Purcell/512-974-3058	PM Name/Phone	Richard Scheel, 4-2531
Sponsor/User Dept.	Financial Services	Sponsor Name/Phone	N/A
Solicitation No	RFP PAX0143	Project Name	Travel and Expense Management System
Contract Amount	\$80,000	Ad Date (if applicable)	09/25/17
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> IFB – IDIQ <input checked="" type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
Provide Project Description**			
The City seeks Travel and Expense Management System. The system will be web based (Software as a Service, SaaS) solution, automated solution to enter, audit, approve, pay and report travel and expense information. The system will support entire travel management life cycle to including pre-trip approval, booking, expense reporting, and reimbursement			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
N/A			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
92045 - 100%			
Sai Xoomsai Purcell		512-974-3058	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY			
Date Received	9/8/2017	Date Assigned to BDC	9/8/2017
In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	

GOAL DETERMINATION REQUEST FORM

<input type="checkbox"/> Exempt from MBE/WBE Procurement Program	<input checked="" type="checkbox"/> No Goals
--	--

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

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

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

There are 28 MBE/WBE Firms in the selected commodity.

Subcontracting Opportunities Identified

None - this solicitation is for a web based travel expense management software

Laura Moreno

SMBR Staff



Signature/ Date

9/19/17

SMBR Director or Designee



Date

9/21/17

Returned to/ Date: