



Procurement and Contracting Division

**REQUEST FOR PROPOSALS  
FOR: Transit Fleet Maintenance**

**RFP #: 156-24-BM-RFP**

**PRE-PROPOSAL MEETING DATE: Tuesday,  
August 6, 2024**

**PRE-PROPOSAL MEETING TIME: 10:00 A.M. CT**

**RFP CLOSING DATE: Friday, September 6, 2024**

**RFP CLOSING TIME: 3:00 P.M. CT**

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## **CALENDAR OF EVENTS**

RFP Advertisement Dates:	Saturday, July 20, 2024 & Saturday, July 27, 2024
Pre-Proposal Meeting:	Tuesday, August 6, 2024 @ 10:00 AM CST
Questions Deadline:	Tuesday, August 13, 2024 @ 5:00 PM CST
Proposal Due:	Friday, September 6, 2024 @ 3:00 PM CST
Evaluation Period:	14-20 Days

Please direct to Bonfire to find links for pre-proposal meeting and opening of proposals meeting.

# **INTRODUCTION AND BACKGROUND**

The City of Brownsville is seeking proposals from qualified and strategic Firms to provide a comprehensive plan of Transit Fleet Maintenance Services for the City of Brownsville's BMetro Department. The purpose of this RFP is to procure the services of an experienced, reliable, and efficient Contractor who will assume responsibility for all B-Metro fleet preventive maintenance and repair operations, acquire the current B-Metro usable parts inventory and manage the inventory for B-Metro fleet maintenance and repair, and perform other functions routinely associated with the safe and efficient maintenance of the fleet.

## **1. Proposal Instructions**

**Interested firms must submit online proposals through <https://brownsvilletx.bonfirehub.com/>.**

Once submitted, the bids become the property of the City.

The City of Brownsville reserves the right to review, accept or reject any or all proposals received through this process. Information contained within the original proposal should be the complete offering to the City. In fairness to all proposers, no late additions or verbal additions to the original proposal will be accepted after the submission deadline. If additional information is needed from proposers, the City will initiate that request. If interviews or conferences are necessary, the City will make those arrangements as necessary. The City of Brownsville also reserves the right and option to waive any and all informalities if in its best interest.

Any costs involved in the preparation of the proposals are the sole responsibility of the proposer. The City will not be responsible for any costs associated with the preparation, submission or meetings involved with the presentation of the proposal.

Sealed bids/proposals will be received by the City of Brownsville at the following link: [City of Brownsville \(bonfirehub.com\)](https://brownsvilletx.bonfirehub.com/)

Copies of the bid documents consisting of detailed specifications, general requirements or other information may be obtained at [City of Brownsville \(bonfirehub.com\)](https://brownsvilletx.bonfirehub.com/). Interested bidders/proposers are invited to attend the bid/proposal opening virtually on the dates specified. Presence is not mandatory.

### **1.1. Point of Contact**

For all information regarding the required services, the contents of the proposal, the selection or any other requirements, please contact Ms. Denise Trevino, Buyer or Mr. Damian Espinoza, Procurement and Contract Manager via writing through <https://brownsvilletx.bonfirehub.com/>

### **1.2. Unauthorized Communication**

Any oral communications are considered unofficial and non-binding with regard to this RFP. After the release of this solicitation, Proposer(s) are prohibited from contacting or communicating with any City officer, employee, or representative regarding this RFP other than (i) the point of contact designated herein. No officer, employee, agent, or representative of the Proposer(s) shall, directly or indirectly through others, have any contact or discussion, oral or written, with any members of the City Commission; members of the RFP evaluation, interview, or selection panels; City staff or City's consultants, or seek to influence any City Commission Member, RFP evaluator, City staff, or City's consultants regarding any matters pertaining to this solicitation, except as expressly provided herein. IF A REPRESENTATIVE OF ANY PROPOSER VIOLATES THE FOREGOING PROHIBITION BY CONTACTING ANY OF THE ABOVE-LISTED PARTIES WITH WHOM CONTACT IS NOT AUTHORIZED, SUCH CONTACT MAY RESULT IN THE PROPOSER BEING DISQUALIFIED FROM THE RFP PROCESS.

## **2. Deliverables and Proposal Submission requirements**

Interested firms must submit their proposal via the City's Bonfire website. The proposal must be received by the Procurement and Contracting Division by **September 6, 2024 at 3:00 PM.**

When submitting electronically through City's portal, scan and upload the following list of documents with your proposal. Each of the items listed below must be uploaded as a separate attachment, labeled with the heading indicated below:

- 2.1. **HISTORY AND BACKGROUND EXECUTIVE SUMMARY.** The summary shall highlight key points and strengths of the proposal, including unique problems perceived by respondent and proposed solutions to include measurable performance goals for the scope performed.
- 2.2. **GENERAL INFORMATION FORM.** Use the General Information form found in Bonfire as Attachment A.
- 2.3. **MAINTENANCE PLAN**
- 2.4. **PERFORMANCE AND INCENTIVE STANDARDS**
- 2.5. **PREVENTIVE MAINTENANCE**
- 2.6. **REPAIRS**
- 2.7. **WORK CALENDAR**
- 2.8. **PARTS**
- 2.9. **REPORTING**
- 2.10. **FLEET MANAGEMENT SOFTWARE**
- 2.11. **VALUE-ADDED SERVICE**
- 2.12. **MANAGEMENT AND PERSONNEL**

- 2.13. **SAFETY PROGRAM**
- 2.14. **TRANSITION PLAN**
- 2.15. **COSTING METHODOLOGY**
- 2.16. **ADJUSTMENT TO APPROVED BUDGET**
- 2.17. **ALL CITY FORMS.** Complete and submit all city forms, found in Bonfire as Attachments B to H. (1295 and all other forms listed on Bonfire (i.e., disclosure of interest form, award of contract form, statement of non-collusion, among others.). You may also download a copy of the 1295 form at: <https://www.ethics.state.tx.us/filinginfo/1295>.
- 2.18. Addenda Acknowledgement (if any addenda is issued)

### **3. Preparation of Proposal**

1. Proposer is expected to examine this Request For Proposals (RFP) carefully, understand the terms and conditions for providing the pertinent services, and respond completely. Failure to do so may result in disqualification. Verbal questions and explanations are not permitted. Each proposer shall submit proposals containing all information required by the RFP. Failure to respond to all portions of this RFP may result in the proposer's response being deemed non-responsive. Proposals must be signed by an officer or principal of the proposer; however, they may be signed by an agent if accompanied by written evidence of authority.
2. Should firms interested in submitting a proposal have questions regarding the required services, the contents of the proposal, the selection or any other requirements, these questions should be directed, in writing only, via <https://brownsvilletx.bonfirehub.com/>.
3. Proposals may be withdrawn prior to the above scheduled time set for closing of the proposals. Any proposal received after the date and hour specified will be rejected and returned unopened to the proposer.
4. The Procurement Contracting Division reserves the right to postpone the date and time for opening proposals through an addendum.

### **4. Submission of Request for Clarification or Changes**

All requests for clarifications must be received in writing, no later than August 15, 2024 at 5:00 P.M. CT, by the City of Brownsville at [City of Brownsville \(bonfirehub.com\)](https://www.bonfirehub.com/).

Any questions regarding this RFP will be handled as promptly and as directly as possible. If a question requires only clarification of instructions or specifications, it will be handled verbally. If any question results in a change or addition to the RFP, the changes or additions will be forwarded to all registered firms as quickly as possible by addendum.

Participating proposers are expressly instructed that the Procurement and Contracting Division is the only authorized source of information concerning the solicitation. Contact with unauthorized staff of the City of Brownsville or members of the selection or oversight committees while solicitation and evaluations are in process could result in immediate disqualification.

## **5. Evaluation Process & Award**

The City will conduct a comprehensive evaluation of all proposals received in response to this RFP. The City will establish an Evaluation Committee comprised of staff members to perform such evaluation. Each proposal received will be analyzed to determine overall responsiveness and qualifications under the RFP. Criteria to be evaluated, not necessarily in order of priority, may include the items listed in the evaluation criteria section. All proposals deemed non-responsive will be eliminated from further consideration. Final approval of a selected contractor or vendor is subject to the action of the City of Brownsville City Commission.

In selecting the best proposal for the tasks to be accomplished as defined in the Scope of Services, an Evaluation Committee shall evaluate all proposals submitted, and may elect to conduct oral interviews with one or more finalists unless the Evaluation Committee can make its selection based on the proposals submitted. Points for cost will be awarded based on each price relative to the lowest proposal. The City of Brownsville reserves the right to reject any and all proposals and to waive such formalities as do not affect or alter the result.

The Evaluation Committee shall evaluate all proposals based on the following criteria:

- History and Background (15 Points)**
- Needs Assessment (10 Points)**
- Maintenance Plan (20 Points)**
- Performance and Incentive Standards (20 Points)**
- Preventive Maintenance (10 Points)**
- Repairs (10 Points)**
- Work Calendar (5 Points)**
- Parts (5 Points)**
- Reporting (4 points)**
- Fleet Management Software (4 points)**
- Value-Added Service (4 points)**
- Management and Personnel (8 points)**
- Safety Program (4 points)**
- Transition Plan (4 points)**
- Costing Methodology (20 points)**
- Adjustment to Approved Budget (7 points)**

## **Total Points 150**

### **6. Oral Interviews**

Following the initial review and screening of all proposals, one or more firms may be invited to participate in an oral interview or presentation of their proposal. These interviews or presentations provide an opportunity for the City to ask additional questions and the respondent to clarify the proposal to ensure material understanding.

**However, the City reserves the right to recommend award of a contract without conducting interviews.**

Thereafter, staff will make a recommendation regarding an award of contract to the City Council, who will make the final decision.

This document outlines the prerequisites, selection process and documentation necessary to submit a proposal for the requested services. Please carefully read the entire package before submitting your proposal.

The contract will be negotiated with the respondent whose proposal is determined to be most advantageous to the City. The City reserves the right to reject any and all proposals and to waive any formality in proposals received, to accept or reject any or all of the items in the proposal, and to award the contract in whole or in part, if it is deemed in the best interest of the City. Proposals should be submitted initially on the most favorable terms, from both price and technical standpoints. The City further reserves the right to award a contract without discussion after proposals are received or to request written BEST AND FINAL OFFERS from respondents judged to be responsive to the minimum technical requirements.

### **7. Award of Proposal**

The contract will be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in this request for proposals (RFP).

### **8. Proposal Pricing**

All proposals should state that prices quoted in the proposal are firm proposal prices which are good for ninety (90) calendar days following the acknowledgement of proposals and are not subject to price adjustments.

### **9. Independent Contractor**

It is explicitly understood and agreed that the contractor or vendor, along with all designated personnel providing services under this proposal (hereinafter referred to as "the parties"), shall function as independent contractors. Each party is solely responsible for its respective acts or omissions. The City bears no responsibility in this regard. Furthermore, neither party possesses the authority to bind the other or represent to third parties that such authority exists. It is important to note that this RFP does not constitute the finalized contract.

Proposers shall designate and provide contact information for an individual to contact should any questions arise concerning a proposal. The proposers shall also state the name and title of individuals who will make final decisions regarding contractual commitments and have legal authority to execute the contract on the firm's behalf.

**10. City of Brownsville's Reservation of Rights and Criteria for Selection of Proposer in Request for Proposals (RFP) Process.**

IT IS UNDERSTOOD THAT the City of Brownsville reserves the right to accept or reject any and/or all RFP responses as it shall deem to be in the best interest of the City. Receipt of any proposal shall, under no circumstances, obligate the City to accept the highest commission proposal. The award of the contract shall be made to the responsible proposer whose submission is determined to be the best qualified/evaluated offer resulting from negotiation, taking into consideration the relative importance of commission and other evaluation factors set forth in the RFP.

**11. Late RFP replies**

Responses to the RFP received by the Procurement and Contracting Division after submission deadline will be returned unopened and will be considered void and unacceptable. The City of Brownsville is not responsible for lateness of mail, carrier, etc., and time/date stamp clock in the office shall be the official time of receipt.

**12. Altering Proposals**

Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

**13. Withdrawal of Proposal**

A proposal may not be withdrawn or cancelled by the proposer for a period of ninety (90) days following the submission deadline, and proposer so agrees upon submittal of the proposal.

**14. Receipt of Proposals**

Proposals will be received and publicly acknowledged at the location, date and time stated on Page 1. Proposers, their representatives and interested persons may be present. Proposals will be received and acknowledged, only so as to avoid disclosure of the contents to competing offers and kept secret during the negotiation/evaluation process.

**15. Single Proposal**

In the event a single proposal is received, the City will, at its option, conduct a price and/or cost analysis of the proposal and negotiate the award, or reject the proposal and readvertise. A price analysis would be performed

by comparing price quotations submitted on other current quotations, current price lists, or other established or competitive prices.

#### **16. Disqualification of Proposals**

More than one proposal under the same or different names from any one proposer will not be considered. Reasonable grounds for believing the proposer is interested in more than one proposal will cause the rejection of all proposals in which the proposer is interested. One or more or all proposals will be rejected if there is reason for believing that collusion exists among proposers or the City of Brownsville, or their officials, agents, or employees. A proposal will not be accepted from any proposer who is in arrears or is in default to the City upon any debt or contract, or who is a defaulter as surety or otherwise upon any obligation to the City or has failed to perform faithfully any previous contract with the City.

#### **17. Cancellation of Procurement**

The City of Brownsville reserves the right to cancel the procurement, at any time for any reason before the contract is fully executed and approved on behalf of the City.

#### **18. Availability of Funds**

This procurement is subject to the availability of funding. The City's obligation hereunder is contingent upon the availability of appropriated funds or grant funding from which payment for the contract purposes can be made. No legal liability on the part of the City for any payment shall arise until funds are made available to the contracting officer for the contract and until the contractor receives notice of such availability, to be confirmed in writing by the contracting officer. Any award of contract hereunder will be conditioned upon said availability of funds for the contract.

#### **19. Non-Appropriation Clause**

Notwithstanding any provisions of the contract, the parties agree that the services are payable by City from appropriations, grants, and monies from the General Fund and other sources. In the event sufficient appropriation, grants, and monies are not made available to City to pay the services for any fiscal year, the contract shall terminate without further obligation of the City. In such event, the City Manager of City shall certify to contractor that sufficient funds have not been made available to City to meet the obligations of the contract; such certification shall be conclusive upon parties.

#### **20. Protest Procedure**

Prospective bidders whose direct economic interest would be affected by the award of a contract or by failure to award a contract may file a protest. The purchaser (City of Brownsville) will consider all protests received in a timely manner regarding the award of a contract, whether submitted before or after an award. All protests are to be submitted in writing to: Mr. Damian Espinoza, Procurement and Contract Manager, City of Brownsville

Procurement Division, City Hall, 1001 E. Elizabeth St., First Floor, Suite 101 Brownsville, TX 78520. The protest must outline the specific portion of the specification or proposal procedure that was alleged to be violated. Protest submissions should be concise, logically arranged, and clearly state the grounds for protest. Protest must include the following information:

- A. Name, address, and telephone number of protestor,
- B. Identification of contract solicitation number,
- C. A detailed statement of the legal and factual grounds of the protest, including copies of relevant document(s), and
- D. A statement as to what relief is requested. Protest must be submitted to the City of Brownsville Procurement and Contracting Division in accordance with these procedures and time requirements and must be complete and contain all issues that the protestor believes relevant.

In the procedure outlined above, the Procurement and Contract Manager is considered to be the Contracting Officer.

#### 20.1. **Protest Before Opening**

Protests alleging restrictive specifications or improprieties which are apparent prior to the bid/proposal deadline or receipt of bids/proposal must be submitted in writing to the Contracting Officer at the address above and must be received at least seven (7) days prior to the bid/proposal opening. If the written protest is not received by the time specified in bid package an award may be made in the normal manner unless the Contracting Officer determines that remedial action is required. Oral protest not followed up by a written protest will be disregarded. The Contracting Officer may request additional information from the appealing party and information or responses from other bidder, which shall be submitted to the Contracting Officer not less than ten (10) days after the date of the City of Brownsville's request. So far as practicable, appeals will be decided based on the written appeal, information, and written responses submitted by the appealing party and other proposers. In failure of any party to timely respond to a request form information, it may be deemed by the purchaser that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such case, the protest will proceed and will not be delayed due to the lack of response. Upon receipt and review of written submissions and any independent evaluation deemed appropriate by the purchaser, the Contracting Officer shall either (a) render a decision, or (b) at the sole election of the Contracting Officer, conduct an informal hearing at which the interested parties will be afforded the opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, if one is held, the Contracting Officer will render a decision, which shall be final, and notify all interested parties thereof in writing but no later than ten (10) days from the date of the informal hearing.

#### 20.2. **Protest After Opening**

Protests against the making of an award by the purchaser must be submitted in writing to the Contracting Officer and received seven (7) days prior to the award by the City. Notice of the protest and the basis thereto will be given to all proposers. In addition, when a protest against the making of an award by the purchaser is received and it is determined to withhold the award pending disposition of the protest, the proposers whose proposals might become eligible for award shall be requested, before the expiration of the time for acceptance, to extend or to withdraw the proposal. Where a written protest against the making of an award is

received in the time period specified, award will not be made prior to seven (7) days after resolution of the protest unless the purchaser determines that:

- 20.2.1. The items to be purchased are urgently required,
- 20.2.2. Delivery or performance will be unduly delayed by failure to make an award promptly, or
- 20.2.3. Failure to make an award will otherwise cause undue harm to City of Brownsville or the Federal Government.

20.3. **Protest After Award**

In instances where the award has been made, the contractor shall be furnished with the notice of protest and the basis thereof. If the contractor has not executed the contract as of the date the protest is received by the City of Brownsville, the execution of the contract will not be made prior to seven (7) days after resolution of the protest unless the City of Brownsville determines that:

- 20.3.1. The items to be purchased are urgently required,
- 20.3.2. Delivery or performance will be unduly delayed by failure to make an award promptly, or
- 20.3.3. Failure to make an award will otherwise cause undue harm to the City of Brownsville or the Federal Government.

**21. Trade Secrets, Confidential Information and the Texas Public Information Act**

If you consider any portion of your proposal to be privileged or confidential by statute or judicial decision, including trade secrets and commercial or financial information, clearly identify those portions.

Proposals will be opened in a manner that avoids disclosure of the contents to competing offers and to keep the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for inspection.

The City of Brownsville will honor your negotiations of the trade secrets and confidential information and decline to release such information initially, but please note that the final determination of whether a particular portion of your proposal is in fact a trade secret or commercial or financial information that may be withheld from public inspection will be made by the Texas Attorney General or a court of competent jurisdiction. In the event a public information request is received for a portion of your proposal that you have marked as being confidential information, you will be notified of such request and you will be required to justify your legal position in writing to the Texas Attorney General pursuant to Section §552.305 of the Government Code. In the event that it is determined by opinion or order of the Texas Attorney General or a court of competent jurisdiction that the information is in fact not privileged and confidential under Section §552.110 of the Government Code and Section §252.049 of the Local Government code, then such information will be made available to the requested.

**22. Reservation of Rights**

The City reserves the right to:

- 22.1. Reject any and all proposals received,
- 22.2. Issue a subsequent RFP,
- 22.3. Cancel the entire RFP,
- 22.4. Remedy technical errors in the RFP process,
- 22.5. Negotiate with any, all or none of the respondents to the RFP,
- 22.6. Accept the written proposal as an offer,
- 22.7. Waive informalities and irregularities, and
- 22.8. Accept one or more proposals.

This RFP does not commit the City to enter into a contract, nor does it obligate it to pay any costs incurred in preparation and submission of proposals or in participation of a contract.

Proposer must remain in full compliance with Article 5, Administrative Provisions, Sub-Section 4, Qualifications of the City of Brownsville City Charter:

“The mayor, commissioners, and other officers and employees shall not hold any other public office of emolument and shall not be interested in the profits or emoluments of any contracts, job, work, or service for the municipality, or interested in the sale to the city of any supplies, equipment, material, or articles purchased.”

### **23. Miscellaneous**

Termination by the City – The City of Brownsville reserves the right of unilateral termination of the contract by providing a thirty (30) day written notice of such intent.

### **24. RESTRICTIONS ON LOBBYING ACTIVITY**

#### **24.1. Disclosures And Requirements For City Vendors/Contractors**

Lobbyists are often retained for the purpose of assisting vendor/contractor seeking to do business with the city. The standards of conduct applicable to city contractors or other vendor/contractor of lobbyists are discussed below.

#### **24.2. Prohibited Contacts During Contract Evaluation**

A vendor/contractor or a vendor's/contractor's agent is prohibited from lobbying activities with city officials, including elected officials, and employees regarding a proposed contract from the time a Request for Proposal (RFP), a Request for statements of Qualifications (RFQ-SOQ), a Bid Solicitation (IFB) or other solicitation has been released until the contract is posted as a City Commission agenda item. If contact is required, such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agents, including lobbyists, may lead to disqualification of the respondent's offer. There is a parallel no-contact provision for lobbyists and their agents.

#### **24.3. A Lobbyist or Vendor/Contractor May Not Place City Official Under Personal Obligation**

A Lobbyist or a Vendor/Contractor or any of their agents may not do any act or refrain from any act for the express purpose and intent of placing any city official under personal obligation to the Lobbyist or Vendor/Contractor.

24.4. **False Statements**

A lobbyist or the vendor/contractor or any of their agents/representatives cannot intentionally or knowingly make any false or misleading statement of fact to any city official, or cause a copy of a document with false information to be received by an official without notifying the official in writing of the truth. Likewise, a registrant who learns that a statement in a registration form or activity report during the previous 3 years is false must correct that statement within 30 days by written notification to the Office of the City Secretary.

24.5. **Use of False Identification**

A lobbyist or the vendor/contractor or any of their agents/representatives cannot communicate with a city official in the name of any fictitious person or in the name of any real person, without that person's consent.

24.6. **Improper Influence**

A lobbyist or the vendor/contractor or any of their agents/representatives cannot cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment for the purpose of later being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

24.7. **The City's Discretionary Contracts Disclosure Form**

When seeking a discretionary <sup>1[2]</sup> city contract, the contractor must submit a form disclosing:

- 24.7.1. the identity of all parties to the contract;
- 24.7.2. subcontractors;
- 24.7.3. partners, parent or subsidiary business entities of any party to the contract;
- 24.7.4. any lobbyist or public relations firm that has been employed for a purpose related to the contract.

The Vendor/Contractor must also disclose all political Contributions<sup>2[3]</sup> totaling more than \$100 made by the parties of the other individuals or entities listed on the form made directly to indirectly to:

- 24.7.5. Any current or former member of the City Commission, including the Mayor;
- 24.7.6. Any candidate for City Commission, including the Mayor;
- 24.7.7. Any political action committee (PAC) that contributes to City Commission elections.  
Indirect contributions include contributions made by and individual's spouse or by the officers, owners, attorneys, or registered lobbyist of the entity.

Indirect contributions do not include contributions by owners of a business entity who hold less than 5% of the fair market value or voting stock of the entity. If a publicly traded corporation seeks to contract with the city, it will not be required to list contributions made by its shareholders whose holdings are less than 5%.

24.8. **Chapter 176 of the Local Government Code**

Effective January 1, 2006, Chapter 176 of the Local Government Code requires all vendors or those who seek to contract for the sale or purchase of property, goods, or services with a local governmental entity to submit a

completed “conflict of interest questionnaire” with the Office of the City Secretary within seven (7) days after the person:

- 24.9. Begins contract discussions or negotiations; or
- 24.10. Submits an application, response to a request for proposal or bids, correspondence, or another writing related to a potential agreement with the local governmental entity.

The questionnaire requires the vendor/contractor or contract seeker to disclose business or employment relationships with Commissioners, Mayor, and the City Manager. The Texas Ethics Commission is responsible for drafting the questionnaire and a link to the form on the Texas Ethics Commission website is posted on the “Forms” page of the city’s ethics webpage. It is subject to change and anyone subject to the requirement should consult the TEC website to obtain the most up-to-date form.

Violation of Chapter 176 of the Local Government Code is a class C misdemeanor. Please consult your own legal counsel for questions about compliance.

24.11. **Political Contribution Prohibition**

Any person or company official acting as a legal signatory for a proposed “high-profile” city contract cannot make a political contribution to any Commissioner or candidate from the time a Request for Proposal (RFP), Request for Statements of Qualifications (RFQ-SOQ) or Invitation for Bids (IFB) is issued or from the time negotiations or discussions for a contract for which no competitive solicitation begins until thirty (30) days after the contract is awarded.

The designation of “high-profile”<sup>4</sup> is assigned in accordance with the City of Brownsville Purchasing Policy Manual.

- 1. City Official – the Mayor, members of the City Commission, City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judge of the City of Brownsville.
- 2. “Discretionary contract” means any contract other than those which by law must be awarded on a low or high qualified bid process. They do not include contracts subject to Section 252.022(a)(7) of the Texas Local Government Code or those contracts not involving an exercise of judgment or choice.
- 3. Political contributions include both campaign and officeholder contributions.
- 4. “High-Profile”- A designation of profile assessment, based on contract value, level of community interest, non-competitive acquisition, and contract complexity.

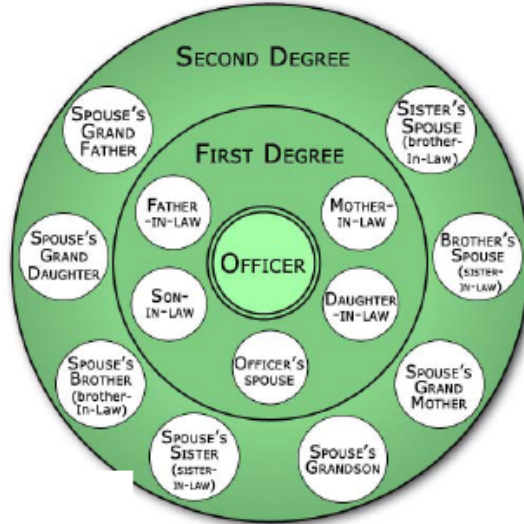
4. “High-Profile”- A designation of profile assessment, based on contract value, level of community interest, non-competitive acquisition, and contract complexity.

## NEPOTISM CHART

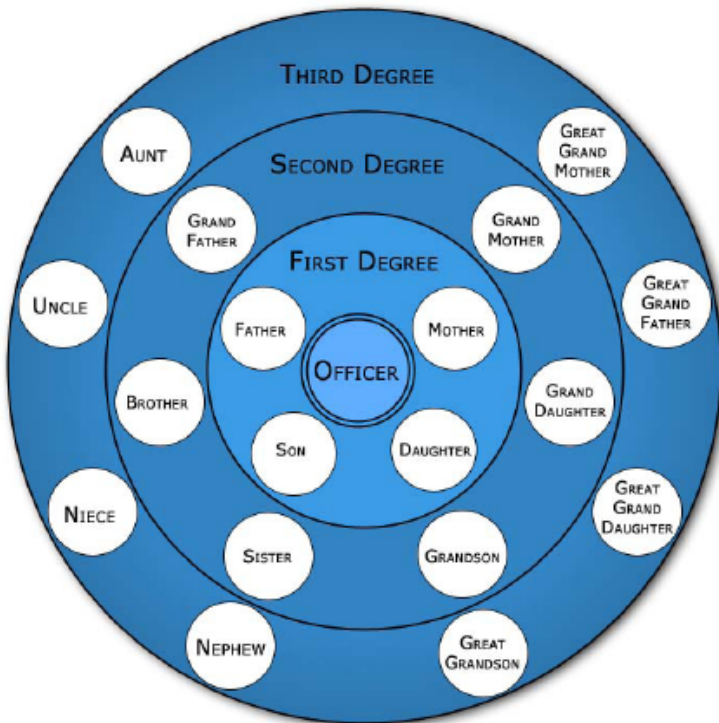
The chart below shows

- **Affinity Kinship** (relationship by marriage)
- **Consanguinity Kinship** (relationship by blood) for purposes of interpreting nepotism as defined in VTCA Government Code, Chapter 573, §§573.021 - .025

### AFFINITY KINSHIP Relationship by Marriage



### CONSANGUINITY KINSHIP Relationship by Blood



## **25. Insurance**

The contractor shall, at no expense to the City, instruct their insurance agent or carrier to furnish a certificate of insurance attesting to the issuance of policies affording coverage as required and listed in this section. Certificates required by the contract shall be submitted prior to award of the contract and should be forwarded to:

City of Brownsville  
Procurement and Contracting Division  
City Hall 1001 E. Elizabeth St., 1<sup>st</sup> Floor, Suite No. 101  
P. O. Box 911  
Brownsville, Texas 78520  
Attention: Mr. Damian Espinoza, Procurement and Contract Manager

The contractor shall furnish and keep in full force during the term of this contract the following insurance coverage:

1. Worker's Compensation Insurance  
Amount: Statutory
2. Comprehensive General Liability Insurance  
Amount: \$500,000 Each Occurrence  
\$1,000,000 General Aggregate
3. Comprehensive Automobile Liability Insurance (applicable to owned, non-owned and hired vehicles)  
Amount: \$500,000 Combined Single Limit

The premiums to be expended for all of the above enumerated policies of insurance shall be paid by the contractor. The policies of insurance, certificates of insurance and the insurance company(s) issuing such certificates or policies of insurance must be acceptable to the City.

All policies or certificates of insurance must be issued indicating that such policies or certificates are applicable to work being performed under a specific contract or to all work performed by the contractor for the City of Brownsville.

All of the aforementioned policies and certificates of insurance should be issued immediately after the contractor receives notification of award. It should be clearly understood that the contractor is not to commence any work until a written notice to proceed is received from the City. Policies and certificates of insurance must **clearly indicate that they will remain in force for a period of at least twelve (12) months from inception date.**

A minimum of thirty (30) days written notification must be given by an insurer of any alteration, material change or cancellation affecting any certificates or policies of insurance as required under the contract. The City of Brownsville is to be named as an additional insured.

Such required notification must be sent via registered or certified mail to the address indicated above.

## **Attachments**

**All attachments are on Bonfire as a separate document.**

Attachment A – Litigation Disclosure Form (Attached as a separate document)

Attachment B – Conflict of Interest Questionnaire (Attached as a separate document)

Attachment C – Disclosure of Interest Form (Attached as a separate document)

Attachment D – Non-Collusive Bidding Certification (Attached as a separate document)

Attachment E – Vendor References (Attached as a separate document)

Attachment F - TEXAS ETHICS COMMISSION CERTIFICATE OF INTERESTED PARTIES (FORM 1295) **(IF RESPONDENT IS SELECTED FOR AWARD)**

Attachment G – Certification Forms (Attached as a separate document)

Attachment H- FTA Clauses

## Contract Scope of Work

### A. Background

#### 1. Description of Brownsville Metro

The City of Brownsville – Brownsville Metro (B-Metro) operates fixed route and ADA paratransit services within the city limits of Brownsville, Texas. The fleet is composed of 45 vehicles, 36 of which are operated in revenue service.

Hours of operation for both fixed route and paratransit service are currently from 5:45 a.m. to 8:55 p.m. on weekdays and Saturdays. B-Metro carries approximately 5,000 passengers on a typical day. Fiscal year 2023 operating statistical information is as follows:

Measurement	Fixed Route	Paratransit
Operating Days	360	360
Total Hours	68,677	12,957
Revenue Hours	65,567	11,558
Non-Revenue Hours	3,110	1,399
Total Miles	870,154	156,096
Revenue Miles	817,021	138,494
Non-Revenue Miles	53,133	17,602
Total Passenger Trips	1,123,151	23,400
Total Routes	12	N/A
Revenue Vehicles Required at Morning Rollout	19	8
Revenue Vehicles Required at Peak Service	19	8
Revenue Vehicles Required for Training (1 week – Depending on Training Class)	1	1

The fleet will consist of the following:

	Qty	Make	Model	Year	Service	Size
	3	Gillig	Low Floor	2008	Fixed Route - Heavy Duty Diesel	35 ft.
	6	Gillig	Low Floor	2010	Fixed Route - Heavy Duty Diesel	35 ft.
	1	Gillig	Low Floor	2014	Fixed Route – Heavy Duty Diesel	35 ft.
	3	Gillig	Low Floor	2016	Fixed Route – Heavy Duty Diesel	35 ft.
	5	Gillig	Low Floor	2019	Fixed Route – Heavy Duty Electric/Diesel Hybrid	35 ft.

	1	Gillig	Low Floor	2021	Fixed Route – Heavy Duty Electric/Diesel Hybrid	35 ft.
	1	Gillig	Low Floor	2024	Fixed Route – Heavy Duty Electric/Diesel Hybrid	35 ft.
*	1	Ford	E450/Champion	2009	Fixed Route – Heavy Duty Cutaway Unleaded Gas	<30 ft.
	1	Ford	E450/StarCraft	2024	Fixed Route – Heavy Duty Cutaway Unleaded Gas	<30 ft.
*	2	Ford	Champion	2011	Paratransit – Light Duty Unleaded Gas	<24 ft.
	2	Chevrolet	Champion	2013	Paratransit – Light Duty Unleaded Gas	<24 ft.
	6	Chevrolet	Champion	2016	Paratransit – Light Duty Unleaded Gas	<24 ft.
	2	Ford	E450	2024	Paratransit – Light Duty Unleaded Gas	<24 ft.
**	2	Ford	E450	2024	Paratransit – Light Duty Unleaded Gas	<24 ft.
	3	Ford	Transit E-Van	2024	Paratransit/MicroMobility – Electric Van	N/A
*	2	Ford	12 Passenger Van	2006	Maintenance	N/A
*	1	Chevrolet	Service Truck	2009	Maintenance	NA
	1	Ford	F-250	2020	Maintenance	NA
	1	Chevrolet	Silverado 1500	2024	Maintenance	NA
	1	Chevrolet	Colorado	2024	Maintenance	NA
	2	Chevrolet	Malibu	2012	Operations	NA
	1	Chevrolet	Colorado	2024	Operations	N/A
**	2	Chevrolet	Trailblazer	2024	Administrative Support	N/A
	1	Ford	Explorer	2022	Administrative Support	NA

(A more detailed inventory is included in this RFP as Attachment A.)

\*Vehicles will be removed from service soon.

\*\* Vehicles have been ordered

## 2. Purpose & Goals

The purpose of this RFP is to procure the services of an experienced, reliable, and efficient Contractor who will assume responsibility for all B-Metro fleet preventive maintenance and repair operations, acquire the current B-Metro usable parts inventory

and manage the inventory for B-Metro fleet maintenance and repair, and perform other functions routinely associated with the safe and efficient maintenance of the fleet.

The Contractor will provide all necessary supervision, labor, parts, supplies and sub-contract work required to maintain the transit fleet in a state-of-repair and service consistent with generally-accepted industry fleet practices and as more specifically defined in this RFP. The Contractor will effectively manage the fleet assets of B-Metro and implement a life-cycle costing program for B-Metro fleet management.

The City of Brownsville's goals for this procurement are to:

- a. Improve transit vehicle availability and reliability.
- b. Improve overall transit fleet operating efficiencies, especially by reducing capital expenditure for fleet assets.
- c. Reduce overall transit fleet maintenance costs.
- d. Improve the role of the fleet maintenance function within the department through improved communication and professionalization of service delivery.
- e. Improve fleet capacity to respond to emergencies or other safety issues.
  
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- n. Improve transit vehicle availability and reliability.
- i. Improve overall transit fleet operating efficiencies, especially by reducing capital expenditure for fleet assets.
- o. Reduce overall transit fleet maintenance costs.
- p. Improve the role of the fleet maintenance function within the department through improved communication and professionalization of service delivery.
- q. Improve fleet capacity to respond to emergencies or other safety issues.

### 3. Evaluation Process

B-Metro intends to conduct a two-step procurement for its fleet maintenance services. Step one is evaluation of the written proposals submitted in response to this RFP by an evaluation committee chosen by City staff. (An evaluation score sheet is included here as Attachment B.) Step two is negotiation of the final contract with the respondent whose proposal is highest ranked.

B-Metro expects the final contract to be similar to and include all elements of this RFP. Respondents should submit proposals that cover all elements and include required documentation, and that provide as detailed a narrative as possible to enable reviewers to judge the respondent's capacity to deliver services consistent with the goals and purposes of this RFP. If requested by the evaluation committee, oral presentations by representatives of any or all of the respondents may be required.

### 4. Maintenance Facility & Equipment Use

#### a. Location of Maintenance Activities

Fleet maintenance activities will occur at the central maintenance garage located at the Colunga Bus Yard at 700 Jose Colunga Jr. St., Brownsville, Texas. This facility is owned by and will remain the property of the City of Brownsville.

#### b. Lease Provisions

B-Metro will lease to the Contractor the maintenance facility for a charge of \$1.00 per year. The Contractor shall not use the facility for work on vehicles or equipment not owned or leased by the City or B-Metro unless otherwise directed or permitted in writing by a duly authorized representative of City of B-Metro. The Contractor will perform, at its own cost, an environmental inspection of the facility prior to commencement of the contract. All results of the required environmental inspection will be reported to B-Metro when available.

B-Metro shall also provide, under the aforementioned yearly lease rate, B-Metro-owned equipment, service vehicles, tools, manuals, and furniture located in the vehicle maintenance garage and adjoining office space. All equipment added during the term of the Contract, and approved by B-Metro prior to acquisition, will become the property of B-Metro. The cost of special equipment purchased or leased, if approved and/or directed by B-Metro, shall not be

included in the cost target and will be billed to B-Metro with the monthly invoice. B-Metro may establish an amortization schedule for major equipment purchases whereby the Contractor will invoice only the scheduled amount monthly, if mutually agreed to by the Contractor.

The Contractor shall maintain equipment used by the Contractor during vehicle maintenance, such as compressors, lifts, service vehicles, etc. B-Metro shall be responsible for replacement of such equipment at the end of its useful life as necessary. Facility repair work is not included in the target cost. Additionally, the contractor shall perform and maintain all oil/grease collection (traps/separators, etc.) equipment and will maintain records for state and federal inspections/audits as required.

The facility and shop equipment provided to the Contractor for the term of the contract will be returned to City of Brownsville/B-Metro upon completion of the Contract in the same condition they were provided to the Contractor, except for normal wear and tear.

c. Inventory

Between the date of contract execution and the date the Contractor actually occupies the facility, a complete physical inventory of office and shop equipment will be taken by representatives of B-Metro and the Contractor. (A list of existing equipment is included as Attachment C.)

d. Utilities & Fuel

B-Metro will supply gas, water and electricity at no cost to the Contractor. The facility will include telephones on the City network.

B-Metro will fuel all vehicles and equipment.

e. Maintenance & Repairs of Facilities & Equipment

B-Metro will be responsible for repairs, maintenance, and/or renovations of the B-Metro maintenance facility. The Contractor will be responsible for informing B-Metro of degraded conditions and the need for replacement or renovations. The Contractor shall also be responsible for interior housekeeping, janitorial maintenance, and stocking supplies. These activities will be included in the target cost.

f. Safety & Security of Vehicles & Equipment

The Contractor may change the lock cylinders on any or all the maintenance facilities and equipment leased for the duration of the contract. The Contractor will provide duplicate keys to the City of Brownsville and B-Metro Administration.

The Contractor shall also provide for security of B-Metro vehicles and equipment while those are in the Contractor's possession for maintenance or repair. A loss prevention/security plan will be furnished for approval to the City's Safety & Risk Department prior to occupation of the facility.

## **B. Key Proposal Elements**

### **1. History & Background**

The respondent will submit a detailed description of its history, qualifications, and experience in administering and managing **transit fleet** maintenance contracts of comparable scope. The proposal must include a list of all current clients for whom the respondent provides transit fleet maintenance. At a minimum, the list should include the following information:

- Client name (i.e., city, county, local government, agency, etc.).
- a. Brief description of contract requirements.
- b. Period of performance.
- c. Whether contract was cancelled before adopted termination date.
- d. Renewal history.
- e. Total fleet size.
- f. Special requirements and contractual obligations.
- g. Special achievements of the Contractor's location personnel.
- h. Contact information for individual references.

Respondents should also include letters of recommendations from at least five (5) clients.

## **2. Needs Assessment**

Respondent will include a description of its understanding of the specific transit fleet maintenance issues facing the Brownsville Metro (B-Metro), the issues facing other transit agencies in the state and nationwide, and a general statement of the solutions the respondent plans to offer B-Betro.

## **3. Maintenance Plan**

The respondent will describe its approach to developing, implementing, and overseeing a maintenance plan to govern all maintenance activities. A synopsis of the plan must be included. The synopsis must include details on the time period necessary to develop and implement the plan, contents of the plan, duty and responsibility assignments, and all other relevant information. (References that contain information on possible elements of such a plan are contained in section C. of these specifications.)

## **4. Performance & Incentive Standards**

City of Brownsville/B-Metro requires that each respondent to this RFP submit minimum performance and cost standards for transit fleet maintenance. These standards must be accompanied by rationales and references to research and industry standards.

In addition, respondents are required to submit an incentive/liquidated damages methodology as part of their proposals. Goals above the minimum standards will trigger Contractor incentives. Similarly, failure to achieve minimum standards will trigger liquidated damages on the Contractor's part. B-Metro will review these standards and methodologies and may incorporate the selected respondent's language into the final contract after negotiation.

The standards, and procedures to measure those standards quantitatively, should consider the following:

- a. Vehicle repair downtime

The intent is to minimize downtime (the time during which a vehicle is being repaired and therefore not available for service) as much as possible so that vehicles may be available to provide revenue service for the maximum time possible. The respondent should describe the standard it will use to measure downtime. The contractor should also describe how it will measure standard repair time (including administrative, troubleshooting, and actual repair time) for various vehicle components and should describe the step-by-step process it will use to complete repairs. The contractor should also describe what role parts availability will have in relation to downtime.

b. Missed fixed route or paratransit trips due to maintenance issues.

The intent is to minimize the number of missed trips due to maintenance issues so that maximum service can be provided to customers. The respondent will describe the process through which it will ensure that no trips are missed due to maintenance issues.

c. Revenue vehicle roll-out availability

The intent is to have maximum vehicle availability for rollout at the start of the revenue service day, thereby ensuring that no trips are missed. The respondent will describe the process through which it will ensure that vehicles required for rollout will be available.

d. Revenue vehicle peak service availability

The intent is to maximize vehicle availability so that no trips are missed and service is provided to the maximum extent possible. The respondent will describe the process through which it will ensure that vehicles required for peak service will be available.

e. Revenue vehicle training availability

The intent is to maximize availability of vehicles to enable new drivers the opportunity to properly train on vehicles. The respondent will describe the process through which it will ensure that vehicles required for training will be available.

f. Quality of work

The intent is to ensure that repair work is performed at the highest quality. Quality is determined by adherence to an established validated procedure that produces accurate and repeatable results. The contractor should specify the procedure it proposes B-Metro use to measure the quality of its work.

g. Road call performance

The intent is to maximize miles between road calls. Any service interruption which requires a maintenance response is considered a road call. The respondent will describe the process through which it will ensure that vehicle mileage is maximized between road calls.

## **5. Preventive Maintenance**

A preventative maintenance (PM) program for all vehicles and equipment is the responsibility of the contractor. The PM program will be designed in accordance with recognized industry standard fleet management practices and will meet the terms and conditions necessary to comply with the original equipment manufacturer's (OEM) specifications, or other specific warranties and recommendations. All PM service will be based on mileage.

### PM Intervals

Medium/Heavy Duty Buses (+/- 500 miles) PM-B Inspection: 6,000 miles

PM-C Inspection: 24,000 miles

Paratransit Vehicles (+/- 500 miles)

PM-B Inspection: 5,000 miles

PM-C Inspection:

20,000 miles

Administration Vehicles (+/- 200 miles) PM-B Inspection:

2,000 miles PM-C Inspection:

12,000 miles

Support Vehicles (+/- 200 miles)

PM-B Inspection: 3,000 miles

PM-C Inspection:

12,000 miles

Miscellaneous Equipment (+/- 5 days) PM-B Inspection: 4 months

PM-C Inspection:

12 months

a. The PM-A is a visual inspection that will be performed before every PM-B or PM-C event. The PM-B includes the inspection, changing the engine oil and filter. The PM-C includes what is done on the PM-B service plus all manufacturer recommended services for the mileage interval.

b. A specific PMI and Servicing Worksheet should be supplied for all types of Vehicles and Equipment as listed above: Medium/Heavy Duty Buses, Paratransit Vehicles, Administration Vehicles, Support Vehicles and Miscellaneous Equipment.

c. Routine maintenance and repairs

The Contractor will perform repairs as required, will road test vehicles, and will correct deficiencies.

d. Yearly maintenance and inspections

The Contractor will inspect and test vehicles and equipment on an annual basis in accordance with Federal and State laws. Inspections and tests shall be performed by the Contractor in the B- METRO maintenance facility by properly authorized and trained mechanics.

The Contractor will also perform other statutory inspections and tests that may be required by Federal or State laws.

e. Non-vehicular equipment

The Contractor will maintain hourly miscellaneous equipment in compliance with OEM specifications or as necessary.

f. Fleet assessment

Within six (6) months after the starting date of the contract, the Contractor shall perform a PM on every piece of equipment in the transit fleet and correct or identify any deficient vehicles. Deficient vehicles are those identified as not meeting the fleet standard. Major component failures identified during this initial six-month period shall be considered non-target work, and, therefore, costs are not to be included in the Contractor's proposed fixed price. Thereafter, all repairs shall be within the target cost of the contract.

g. Scheduling

PM activities should interfere only minimally with B-Metro's normally required work schedule. Therefore, transit vehicle and equipment PMs should be scheduled at times mutually agreed upon by the Contractor and B-Metro. The Contractor shall develop and provide an automated PM schedule for B-Metro with sufficient lead time that B-Metro can give ten (10) working days notice to the vehicle users. PM schedule notification, referencing both the department and unit number, shall be provided in writing to the designated B-Metro representative. The Contractor will be responsible for all contact with B-Metro regarding vehicle PM scheduling. B-Metro and the vehicle and equipment operators will be responsible for keeping scheduled appointments for preventive maintenance. Respondents are asked to include in their Proposals policies regarding PM appointments missed by B-Metro and vehicle operators.

h. Performance

The timely performance of preventive maintenance is incumbent upon the Contractor for all fleet vehicles. It is incumbent upon the Contractor to schedule, notify and perform the scheduled preventive maintenance.

i. Annual Inspection

The Contractor shall inspect every piece of equipment in the transit fleet annually. Vehicles determined to be beyond their normal service life, as defined by FTA standards and agreed upon by B-METRO, will be transferred out of the target contract inventory, and at B-Metro's request will be repaired within the non-target category.

j. Leased Vehicles

The respondent should provide a plan for the acquisition of leased revenue vehicles if its performance falls below the threshold proposed by the respondent. The vehicles must adhere to specifications that are consistent with revenue vehicles B-Metro currently operates.

## **6. Repairs**

The Contractor shall submit a description of the program which it will follow to make specific repairs to vehicles and equipment that are identified through PM, by users, and by breakdown or malfunction. Repairs shall be made as required, limiting the nature and extent of repairs to those consistent with the age, mileage, and cost to repair criteria of good fleet maintenance, as defined in the respondent's proposal and with concurrence by B-Metro.

No repair work will be done unless accompanied first by a request by a B-Metro operator or other staff member via a work order. The respondent will furnish an example of such a work order with its proposal.

a. Repair limitations

Directed repairs estimated to exceed \$1,000.00 must be analyzed by the Contractor to determine the repair's cost effectiveness and must be specifically approved by B-Metro. When equipment

(major component) replacement appears to be more cost-effective than repair, such a recommendation shall be presented in writing by the Contractor to B-Metro.

b. Road calls

The Contractor shall provide emergency road service calls, including towing service, for transit vehicles in the B-Metro fleet. The Contractor shall have persons on call to quickly handle vehicle breakdowns. The Contractor shall tow any B-Metro-owned or leased vehicle requiring service, regardless of whether the cause is an authorized repair or another incident. Road calls shall not to exceed 60 Minutes to respond.

c. Quick fixes

The Contractor shall provide quick fixes for minor repairs of less than a one-hour duration when the vehicle operator chooses to wait for the service. Example quick fix repairs include fluid replenishing, windshield wiper service, and headlight replacement.

d. Warranty

The Contractor shall administer all warranties, both for vehicles and parts, associated with management of the fleet. Such work will be reimbursed directly to the Contractor by the equipment manufacturer and B-Metro will not be charged for such work. Payments and adjustments received by the Contractor for warranty work shall be credited to the B-Metro account.

If the Contractor fails to perform work under a specified warranty period for a component, or voids the warranty in any way, it will be responsible for the full cost of the repair and any future repairs associated with that component's warranty.

e. Re-work

The Contractor shall track and identify multiple repairs for the same deficiency on the same vehicle (re-work) and shall not include in the monthly statement costs for re-work occurring before the scheduled time after the original repair. Such re-work labor costs will be calculated and reimbursed to B-METRO.

The Contractor's guidelines for re-work shall be the lesser of:

- i. Engine overhaul - 6 months or 6,000 miles –
- ii. Brake overhaul (non-emergency vehicles) - 12 months or 6,000 miles
- iii. Tune up - 12 months or 6,000 miles
- iv. General Repair (excluding electronic components) - 12 months or 6,000 miles

1. **Engine overhaul:** This refers to a comprehensive maintenance procedure where the engine of a vehicle is disassembled, inspected, cleaned, and repaired as necessary. It typically involves replacing worn-out or damaged components

such as piston rings, bearings, valves, gaskets, and seals. Normally done with or by a machine shop; by engine specialist.

2. **Brake overhaul (non-emergency vehicles):** This involves a thorough inspection and replacement of brake components to ensure safe and reliable braking performance in vehicles that are not emergency vehicles. It includes replacing brake pads, brake shoes, brake rotors or drums, brake calipers or wheel cylinders, and sometimes brake fluid. The goal is to restore braking efficiency and safety.
3. **Tune up:** A tune-up is a maintenance service performed on a vehicle's engine to ensure it is operating efficiently and reliably. It typically includes inspecting and replacing spark plugs, ignition wires, fuel filters, and air filters. The purpose is to improve fuel economy, engine performance, and overall drivability.
4. **General Repair (excluding electronic components):** This category involves repairing various mechanical components of a vehicle, excluding electronic systems not originally installed by manufacturer; Farebox, CB Radio, Destination Signs, Annunciator, GPS Camera Systems, Etc. It includes tasks like replacing worn-out parts such as belts, hoses, water pumps, suspension components, steering components.

These minimum standards may be adjusted by the Contractor to reflect the B-Metro transit fleet composition. The criteria for any adjustments should be clearly stated in the Contractor's proposal to B-Metro.

f. Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs that cannot be performed economically or timely in-house. The Contractor shall be responsible for continued review of the need for specific outside repairs as opposed to performing in-house repairs. These outside repairs may include bodywork and painting, glass replacement, transmission sealing and repair, radiator work, and such other work that can be utilized at minimum cost to B-Metro. The Contractor's plan for outside repairs, describing how the subcontractor will be held to comparable performance standards as the Contractor, shall be stated in the proposal and included in the target cost with exceptions as noted in the document. The plan shall be periodically reviewed by B-Metro and the Contractor to ensure that the outside repair versus in-house repair decision remains justified. All responsibility (paperwork, invoicing, quality control, vehicle movement, vehicle security, etc.) shall be that of the Contractor.

Subcontractor invoices will be accepted solely by the Contractor.

The Contractor shall be responsible for requiring that all approved subcontractors have the same liability coverage as the Contractor.

g. Vehicle Preparation and Disposal

The Contractor shall prepare newly-acquired vehicles for service. Preparation shall include inspections during factory production and installation of any and all special equipment.

Transit vehicles to be sold by B-Metro shall be prepared for disposal by the Contractor. Preparation shall include removal of tags, decals and special equipment, and other paperwork. Respondents should describe in their proposals plans for assistance with vehicle and equipment preparation and disposal within target costs.

h. Accidents

The Contractor shall be responsible for processing accident repairs by obtaining appraisals, obtaining repair bids, acquiring transportation of vehicles to/from repair sites, overseeing repair quality and timeliness, and administering related activities, including the payment of invoices. The Contractor shall obtain at least three (3) competitive bids for each accident repair. Accident repairs shall not be included in the target cost.

## **7. Work Calendar**

The respondent will submit a work calendar showing proposed hours of operation for repair work and administrative work. At a minimum, the maintenance shop must be open and operating at every hour in which revenue service is provided by B-Metro and at times before and after that period to ensure high-quality maintenance.

## **8. Parts**

The respondent shall furnish a plan for maintaining all parts and supplies necessary to maintain and repair vehicles and equipment. Parts installed by the Contractor shall meet OEM specifications and shall be warranted accordingly. Parts installed on vehicles and equipment shall be identified by part number and cost on the work order for the appropriate assignment.

The Contractor will purchase and manage all of the existing maintenance parts inventory. Purchase of the parts inventory shall be made within the first thirty (30) days of the contract. A complete physical inventory will be taken by representatives of B-Metro and the Contractor at the beginning of the contract. Upon completion of the inventory, the Contractor will be totally responsible for parts accountability and security. The Contractor will assist B-Metro with disposal of the inactive, unusable, excess, and obsolete parts in the B-Metro stock. Respondents should describe obsolete and overstocked inventory disposal methodologies in their proposals to B-Metro. Once the contract is in effect, the Contractor shall utilize purchased inventory parts for the B-Metro fleet and the cost shall be at purchase prices without markup. Any new parts would be subject to Contractor's markup.

The Contractor shall maintain an adequate parts inventory as part of the Contractor's target costs. A management information system shall be used to monitor the parts inventory and track parts usage on the transit fleet. At a minimum, the electronic system shall be capable of generating a complete inventory by part number and part cost, and a usage rate history for each part normally stocked. Respondents shall describe their program for inventory control, ability to provide volume purchasing programs, and plans to utilize local vendors and suppliers, as appropriate, in their proposals to B-Metro.

B-Metro shall purchase, at cost from the Contractor, all of the active parts in inventory upon completion or termination of the Contract.

## **9. Reporting**

The following minimum requirements for reporting and record-keeping will be in effect for the term of the contract. Respondents are asked to submit, as part of their proposals to B-Metro, any additional reporting methodologies they would recommend enacting in the best interest of B- Metro and the management of the B-Metro fleet.

### **a. Records**

Upon prior notice by the Director and/or assign person, the Contractor shall provide access at all reasonable times to all electronic and hard data, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, and memoranda related to the Contractor's fleet maintenance services for B-Metro and shall provide cost verification for work.

### **b. Files**

The Contractor shall maintain a complete file of service manuals, service bulletins, training software, and other information needed to properly service and repair the B-Metro fleet. A hard copy history folder shall be maintained by the Contractor for each vehicle. This folder will contain, in chronological order, all work orders generated on the vehicle. The folder shall also contain the vehicle's make, model, year and serial number along with invoice information.

Information will be updated monthly by the Contractor. Vehicle history will be supplied to the Contractor by B-Metro, as available through existing records from the current contract.

All electronic data (stored in the Contractor's management software system) shall be owned by B-Metro and made available to the B-Metro authorized representatives at any time during the contract. The software shall be owned by the Contractor. Files may be transferred in the direction of the City's IT/EA department.

### **c. Weekly Report**

The Contractor shall generate a weekly report for delivery to B-Metro before noon each Monday. The weekly report shall be in memo format and shall include from the previous week's activity:

- i. A listing of vehicles not delivered for a scheduled PM.
- ii. Repair activity by unit number.
- iii. A status report on vehicles out of service for more than seven (7) days.
- iv. Number of work orders processed.
- v. A report concerning problems with maintenance and/or personnel.

### **d. Monthly Report**

The Contractor shall provide a consolidated monthly management report to be delivered to B- METRO on or before the 10th calendar day of the month following the reporting period. This report shall include assessments of all performance standards met or not met, for example (this list is not exhaustive):

- i. Maintenance costs for the month compared to target costs.
- ii. Failure/attainment in each performance area subject to reward/liquidated damages for that month and cumulative damages for that contract year.
- iii. Costs for accidents and other items not included in target costs.
- iv. Discovery or indication by the vehicle user in excess of normal wear and tear.
- v. Number of shop orders.
- vi. Number of road calls (routine/major).
- vii. Number of vehicle PMs scheduled/completed.
- viii. Downtime by category and in total.
- ix. Cumulative records of sub-contracted work.
- x. Total labor hours expended.
- xi. Total parts cost.
- xii. Problem/accident summary.

e. Annual Performance Report

The Contractor shall provide B-Metro with a written annual performance report which summarizes the year's activity within thirty (30) days following the end of the contract year. The annual performance report should include yearly data for those categories presented in the monthly reports, as well as any additional performance information the Contractor believes should be included. The Contractor should be prepared to present this report to the Brownsville City Commission during a regularly scheduled City Commission meeting. Respondents should include a copy of an example annual performance report in their proposals.

f. Invoices

At the start of the Contract, the Contractor will invoice B-Metro in an amount equal to 1/12th of the annual target price for the first month's target services. Following the first month of services, the Contractor will invoice B-Metro on the first day of each month in two parts: 1/12th the annual target price for the current month's target services, and a separate invoice delineating additional reimbursable items (including directed work, approved accident repairs, and other approved non-target work, emergencies, major component failures within the first six months) which were incurred by the Contractor in the previous month.

The Contractor shall prepare verification data of any items questioned for the amount claimed and provide complete cooperation during such investigation of any areas in the invoice subject to question. B-Metro will be responsible for paying the remainder of each month's invoice when individual invoice line-items are awaiting dispute resolution. Invoices shall include backup for all reimbursable items.

## **10. Fleet Management Software**

The respondent will include a detailed description of any hardware and software/programs it will use to manage maintenance activities. Such software must be a multi-user system with the ability to keep track of maintenance procedures, work orders, tasks, tools and parts, vehicle information and mileage, time/costs, and any other information necessary for measuring productivity. The respondent must describe the extent to which it is proficient in use of the software and what training elements, including refresher training, would be in place for it.

## **11. Value-Added Services**

### a. Emergencies

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations. Such service shall include adequate staffing to ensure continued vehicle operations at a level determined to be required by B-Metro. Costs incurred during emergency situations are not to be included in the cost target. Respondents are required to describe the invoicing procedure to be used for emergency services in their proposals to B- Metro. Respondents are encouraged to cite references regarding the Contractor's ability to respond during emergency situations.

### b. Purchases

Respondents should describe the method to be utilized to ensure full and complete compliance to the City of Brownsville purchasing policies and FTA regulations.

The Contractor shall assist B-Metro in preparing purchase specifications for additional or replacement vehicles and service equipment as needed. In addition, the Contractor shall assist B- Metro with inspections and assessments of used vehicles and equipment under consideration for purchase or lease. The Contractor shall identify and recommend other equipment that will reduce the cost of maintenance and/or improve the quality of vehicular services. The Contractor will also maintain an ongoing fleet replacement schedule, to be utilized in the B-METRO Capital Improvement Plan. This schedule will be prepared in conjunction with the City of Brownsville Purchasing Department, based on department needs.

### c. Directed Work

City of Brownsville, B-Metro or its designee may direct the Contractor to perform additional tasks (i.e., tasks not related to ongoing and normal operations) under this Contract. The Contractor shall perform such assignments in accordance with an agreed-upon schedule and level of effort. The cost of such assignments shall not be included in the cost target. Respondents are to include in their proposals the invoicing for such directed work.

d. Investigations

The Contractor shall support B-Metro with technical investigations related to the transit fleet. Such investigations may regard accidents, fire, or other issues of a technical nature.

e. Waste

The Contractor shall be responsible for and shall propose/retain vendors for the disposal of all trash and other wastes generated during the course of the Contract. The Contractor shall maintain records on all hazardous chemicals and other hazardous waste. The records shall contain the material's origin, use, transportation, and ultimate distribution and disposal. All disposals shall be in accordance with current City, State and Federal laws. The Contractor shall provide training and management for employees working with and handling hazardous materials, in accordance with laws and EPA regulations.

The Contractor will provide a written Hazard Communication Program. The Contractor shall hold City of Brownsville and Brownsville Metro (B-Metro) free of liability for all actions of the Contractor relating to waste disposal.

Respondents should include in their proposals to B-Metro a description of their qualifications to handle and identify waste streams generated as a part of normal transit fleet maintenance

## **12. Management & Personnel**

The respondent will submit a description of its management philosophy and approach to managing both human and material resources.

The respondent should also submit a description of staffing levels needed to support all contract services. The information should include the number of employees by type, proposed salaries, fringe benefits, job descriptions and certifications required of each position, procedures for

recruitment and selection of personnel, procedures for FTA-required testing and screenings, and other pertinent information.

a. General Manager

The Contractor will provide a qualified, experienced individual who will reside in the Brownsville area and serve as General Manager of fleet maintenance operations. Nominee(s) for General Manager shall be presented to B-Metro for specific approval, preceded by résumés.

b. Training

The respondent must describe the content and frequency of employee maintenance trainings and what process will be used to verify that employees have both attended the trainings and mastered the content. Verification information will be submitted to the City upon request.

c. Incentive Program

The respondent must submit a written incentive program it will have in place in order to provide rewards to its employees for attendance, work quality, and any other factors that contribute to safe and productive maintenance. The program must describe goals, specific criteria, and evaluation and selection processes.

### **13. Safety Program**

The proposer must submit a written safety program indicating safety procedures, safety policies, work injury prevention, use of protective equipment, and all other information relevant to maintaining a safe maintenance shop. The program must include a section describing the content and frequency of employee trainings and what process will be used to verify that employees have both attended the trainings and mastered the content. Verification information will be submitted to the City on a periodic basis.

### **14. Transition Plan**

Respondents should include complete details regarding their proposed start-up plan for the contract with B-Metro, including additional staffing and corporate resources that will be utilized during the transition. Respondents should pay particular attention to the issues the Contractor and B-Metro will face during the transition from current to contracted services. Respondents should outline any additional costs to B-Metro associated with the transition.

### **15. Costing Methodology**

The target cost proposal, which shall be the Contractor's operating budget for each year of this contract, shall be included in the respondent's proposal using the attached Cost Proposal Forms and shall include the following cost items:

a. Labor Costs

Personnel costs will include wages, salaries, fringe benefits, payroll taxes, mechanic and management costs.

b. Parts/Supplies/Outside Services

The Contractor will charge B-Metro for parts, supplies, and outside services as the items or services are used, as reflected in the Contractor's repair orders.

c. Overhead Expenses

Overhead expenses will include such items as office supplies, uniforms, bonding costs, copying costs and insurance. All overhead expenses will be invoiced to B-Metro as they are incurred at the Contractor's net cost without markup.

d. Administrative Costs and Management Fees

Line items in the approved budget for administrative costs and management fees will be charged to B-Metro for each accounting period on a pro rata basis.

e. Capital Expenditures

Any and all B-Metro approved capital expenditures of the Contractor for equipment or other capitalized items (i.e., engine analyzer), in connection with the services and work to be provided by the Contractor herein, shall not be included in the approved target.

f. Directed Work

Overtime and other B-Metro approved labor and material cost incurred by the Contractor in performance of emergency or other-directed work may not be included in the approved target, pursuant to the terms of the Contract. Respondents will specify a method for computing all overtime charges. B-Metro will not approve or reimburse the Contractor for overtime charges for work included in the target cost.

g. Additional Reimbursable Items

Costs incurred for unit repairs necessitated as a result of user abuse, vandalism, and accident damage during the life of the contract, or major component failure during the first six (6) months of providing service herein, or to vehicles and equipment in excess of agreed upon life-cycle standards, will not be included in the computation of the cost of performance incentives, and will not be included in the approved target, and will be directly reimbursable by B-Metro to the Contractor.

## **16. Adjustments to the Approved Budget**

a. Changes in the Size or Composition of the Fleet

The cost target shall be adjusted to correspond to increases or decreases in the fleet size or the type of equipment in each class if such changes are at least five (5%) percent on a prorated unit cost basis. These adjustments shall be made annually.

b. Annual Adjustments

The cost target and approved budget, including the Contractor's fee, may be adjusted for the second and subsequent years of the Contract prior to the end of the previous contract term. During the Annual Meeting between B-Metro and the Contractor, the Contractor's performance will be reviewed. B-Metro will present a "report card" that includes B-Metro's assessment of Contractor performance in the areas of fleet maintenance, operations, cost/performance, targets/incentives, and other issues. The meeting shall also include a review of the Contractor's cost of doing business. With the

exception of labor, escalation of the approved budget for the ensuing year shall not exceed the Cost/Price Index (CPI) for all urban consumers in the Transportation Category for the State of Texas for the prior year. Labor costs shall be negotiated separately. Changes to the Contract shall be documented in a Contract Amendment.

Attachment A: Complete Transit Fleet Inventory

Attachment B: Evaluation Score Sheet

Attachment C: List of Existing Equipment at the Maintenance Facility

Attachment D: Evaluation Criteria Score Sheet

### Attachment B: Evaluation Criteria Score Sheet

Criteria	Max. Points		
	Value	Score	Comments
History & Background	<u>15</u>	1.	
Needs Assessment	<u>10</u>	2.	
Maintenance Plan	<u>20</u>	3.	
Performance & Incentive Standards	<u>20</u>	4.	
Preventive Maintenance	<u>10</u>	5.	
Repairs	<u>10</u>	6.	
Work Calendar	<u>5</u>	7.	
Parts	<u>5</u>	8.	
Reporting	<u>4</u>	9.	
Fleet Management Software	<u>4</u>	10.	
Value – Added Services	<u>4</u>	11.	



<b>Management &amp; Personnel</b>	<b><u>8</u></b>	<b>12.</b>	
<b>Safety Program</b>	<b><u>4</u></b>	<b>13.</b>	
<b>Transition Plan</b>	<b><u>4</u></b>	<b>14.</b>	
<b>Costing Methodology</b>	<b><u>20</u></b>	<b>15.</b>	
<b>Adjustments to Approved Budget</b>	<b><u>7</u></b>	<b>16.</b>	
<b>TOTAL POINTS</b>	<b>150</b>		

Multimodal Transportation Department Brownsville Metro Fleet  
Attachment A

Type of Vehicle	Revenue Non-Revenue	Unit #	model year	make/model	Service/Size
FR	R	227	2008	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	228	2008	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	229	2008	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	230	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	231	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	232	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	233	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	234	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	235	2010	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	236	2014	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	238	2016	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	239	2016	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	240	2016	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	241	2019	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	242	2019	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	243	2019	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	244	2019	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	245	2019	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	246	2021	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	R	247	2024	GILLIG	Fixed Route Heavy Duty 35 ft.
FR	Auction	401	Spare	2009 Ford E450 / Champion	Fixed Route Medium Duty <30 ft.
FR	R	414	2024	Ford E450 / Starcraft	Fixed Route Medium Duty <30 ft.
P	R	536	2011	Ford / Champion	Paratransit Ligh Duty <24 ft.
P	R	537	2011	Ford / Champion	Paratransit Ligh Duty <24 ft.
P	R	538	2013	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	539	2013	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	540	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	541	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	542	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	543	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	544	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	545	2016	Chevrolet/Champion	Paratransit Ligh Duty <24 ft.
P	R	546	2024	Ford E450	Paratransit Ligh Duty <24 ft.
P	R	547	2024	Ford E450	Paratransit Ligh Duty <24 ft.
P	Order	548		<i>Ford - on order</i>	Paratransit Ligh Duty <24 ft.
P	Order	549		<i>Ford - on order</i>	Paratransit Ligh Duty <24 ft.
PMM	R	301	2024	Ford Transit E-Van	Paratransit Electric Van
PMM	R	302	2024	Ford Transit E-Van	Paratransit Electric Van
PMM	R	303	2024	Fort Transit E-Van	Paratransit Electric Van
MTOP	NR	104	2006	Ford	Maintenance
MTOP	NR	105	2006	Ford	Maintenance
MTRT	NR	503	2009	Chevrolet	Maintenance Route
MTRT	NR	504	2020	Ford F250	Maintenance Route
MTOP	NR	506	2024	Chevrolet Colorado	Maintenance
OPS	NR	856	2024	Chevrolet Silverado 1500	Operations
OPS	NR	853	2012	Chevrolet Malibu	Operations
OPS	NR	854	2012	Chevrolet Malibu	Operations
OPS	NR	107	2024	Chevrolet Colorado	Operations
AD	NR	855	2022	Ford Explorer	Administration
AD	Order	857		<i>Chevrolet - on order</i>	Administration
AD	Order	858		<i>Chevrolet - on Order</i>	Administration

Multimodal Transportation Department Brownsville Metro  
Colunga Equipment List  
Attachment B

NO	Qty	City Asset #	Vendor/Brand	Description	Model #	Serial #
1	1		CENTRAL MACHINERY	20 TON H-Frame Industrial Heavy Duty Floor Shop Press	60603	371951449
2	1	137	COATS	TIRE CHANGER	40-40SA	
3	1		Grainger	Battery load tester hand held 12/24 volt	1EAP6	
4	1	351	Ingersoll Rand	Impact gun 3/4, 6" shaft	53299	
5	1	354	Solar	Solar Digital Battery & System Tester w/integrated printer	BA327	
6	1	9755	STERTIL-ALM	Wireless Mobile Column Lift CAP. 18,500 LBS.	ST1085 FWA US	213K-603291
7	1	9755	STERTIL-ALM	Wireless Mobile Column Lift CAP. 18,500 LBS.	ST1085 FWA US	213K-603316
8	1	9755	STERTIL-ALM	Wireless Mobile Column Lift CAP. 18,500 LBS.	ST1085 FWA US	213K-603313
9	1	9755	STERTIL-ALM	Wireless Mobile Column Lift CAP. 18,500 LBS.	ST1085 FWA US	213K-603304
10	1		STERTIL-KONI	Wired Mobile Column Lift CAP. 13,000 LBS.	ST-1060-FS	TW141548
11	1		STERTIL-KONI	Wired Mobile Column Lift CAP. 13,000 LBS.	ST-1060-FS	TW141604
12	1		STERTIL-KONI	Wired Mobile Column Lift CAP. 13,000 LBS.	ST-1060-FS	TW141605
13	1		STERTIL-KONI	Wired Mobile Column Lift CAP. 13,000 LBS.	ST-1060-FS	TW141606
14	1	268	TRACERLINE	UV LAMP KIT	TP-1220	
15	1	128		Engine Lift (cherry picker type)	SS021213126	
16	1	347	Associated	6 /12 /18 /24 Volt Heavy Duty Commercial Charger	6002B	
17	4		Balcrank	air fluid transfer pump	1130-016	8/12/2015
18	1		CHORE MASTER	Hot Water Type, 2500 psi Op Press, 2.4 gpm Flow	3NXE4	
19	1	360	COATS	WHEEL BALANCER	775	
20	1	362	COATS	Heavy Duty Tire Changer	CHD-9041	
21	1		Cummins	Tappet Replacer Kit	part number 3165088	
22	1	342	Dayton	Bench grinder 6" 1/3 hp	2LKR6	
23	1		DAYTON	PORTABLE OIL FIRED HEATER 120,000 BTU	3VE50	
24	1		OTC	Universal Belt Tension Gauge	6673	
25	4		OTC	Stinger 22-Ton Capacity Heavy-Duty Jack Stand	1780	
26	1	125	OTC	Stinger Dual Wheel Dolly	1769A	
27	1		OTC	Brake Drum Dolly	1543	
28	1		ROTARY	LIFT, VEHICLE 4-POST CAP. 18,000 LBS.	SM18N000	JIU16I0007
29	2		E. R. Wagner	Drum Dolly, 1400 lb., 6-1/2 in. H	4YV54	
30	1	348	Southern	Porta Power 10 ton w/single-speed OTC 9107B Stinger hand pump	WMH680110	
31	1		STERTIL-KONI	TRANSMISSION JACK CAP. 3500 LBS.	SKTJ 402	7039
32	1	352	Grainger	Socket set, impact deep, include 1 5/16 and 1 1/2	1AR78	
33	1	172	Kent-Moore	Compressor Tester	J-7125	
34	1	340	Westward	Tap and Die 110 pieces, NC, NPT, NF	1PZ54	
35	1		OTC	Genisys EVO hand held electronic diagnostic scanner	3865HDP	

# **Standard Purchasing Terms and Conditions**

By acceptance of a purchase order or agreement, or response to a solicitation, the successful proposer agrees that the following terms and conditions, without modification, will govern:

## **DEFINITION OF BUYER**

The City of Brownsville, its officers, agents, servants, authorized employees, vendors, and subvendors who act on behalf of various City departments, bodies or agencies.

## **DEFINITION OF SELLER**

The consultant, contractor(s), supplier, contractor(s) or other providers of goods and/or services, its officers, agents, servants, employees, vendors and sub vendors who act on behalf of the entity under a contract with the City of Brownsville.

## **PUBLIC INFORMATION**

Any information submitted to the City of Brownsville (the "City") may be requested by a member of the public under the Texas Public Information Act. See TEX. GOV'T CODE ANN. §§ 552.002, 552.128(c) (West Supp. 2006). If the City receives a request for a Seller's proprietary information, the Seller listed in the request will be notified and given an opportunity to make arguments to the Texas Attorney General's Office (the "AG") regarding reasons the Seller believes that its information may not lawfully be released. If Seller does not make arguments or the AG rejects the arguments Seller makes, Seller's information will be released without penalty to the City.

## **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**

No officer or employee of Buyer shall have a financial interest, direct or indirect, in any contract with Buyer or be financially interested, directly or indirectly, in the sale to Buyer of any land, materials, supplies or services, except on behalf of Buyer as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City Commission shall render the contract invalid by the City Manager or the City Commission. (Chapter XXVII, Section 16, City of Brownsville Charter)

## **ORDERS**

No employees of the Buyer or its officers, agents, servants, vendors or sub vendors who act on behalf of various City departments, bodies or agencies are authorized to place orders for goods and/or services without providing approved contract numbers, purchase order numbers, or release numbers issued by the Buyer. The only exceptions are Purchasing Card orders and emergencies pursuant to Texas Local Government Code Section 252.022(a)(1), (2), or (3). In the case of emergencies, the Buyer's Purchasing Division will place such orders.

Acceptance of an order and delivery on the part of the Seller without an approved contract number, purchase order number, or release number issued by the Buyer may result in rejection of delivery, return of goods at the Seller's cost and/or non-payment.

## **SELLER TO PACKAGE GOODS**

Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (a) Seller's name and address; (b) Consignee's name, address and purchase order or purchase change order number; (c) Container number and total number of containers, e.g., box 1 of 4 boxes; and (d) Number of the container bearing the packing slip. Seller shall bear the cost of packaging unless otherwise provided.

Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

### **SHIPMENT UNDER RESERVATION PROHIBITED**

Seller is not authorized to ship the goods under reservation, and no tender of a bill of lading will operate as a tender of goods.

### **TITLE AND RISK OF LOSS**

The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery after inspection and acceptance of the goods.

### **DELIVERY TERMS AND TRANSPORTATION CHARGES**

Freight terms shall be F.O.B. Destination, Freight Prepaid and Allowed, unless delivery terms are specified otherwise in Seller's proposals. Buyer agrees to reimburse Seller for transportation costs in the amount specified in Seller's proposals or actual costs, whichever is lower, if the quoted delivery terms do not include transportation costs; provided, Buyer shall have the right to designate what method of transportation shall be used to ship the goods.

### **PLACE OF DELIVERY**

The place of delivery shall be set forth in the "Ship to" block of the purchase order, purchase change order, or release order.

### **RIGHT OF INSPECTION**

Buyer shall have the right to inspect the goods upon delivery before accepting them. Seller shall be responsible for all charges for the return to Seller of any goods rejected as being nonconforming under the specifications.

### **INVOICES**

Seller shall submit separate invoices in duplicate, on each purchase order or purchase change order after each delivery. Invoices shall indicate the purchase order or purchase change order number. 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, should be attached to the invoice. Seller shall mail or deliver invoices to Buyer's Department and address as set forth in the block of the purchase order, purchase change order or release order entitled "Ship to." Payment shall not be made until the above instruments have been submitted after delivery and acceptance of the goods and/or services.

Seller shall not include Federal Excise, State or City Sales Tax in its invoices. The Buyer shall furnish a tax exemption certificate upon Seller's request.

### **PRICE WARRANTY**

The price to be paid by Buyer shall be that contained in Seller's proposals which Seller warrants to be no higher than Seller's current prices on orders by others for products and services of the kind and specification covered by this agreement for similar quantities under like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the prices contained in Seller's proposals, or in the alternative upon Buyer's option, Buyer shall have the right to cancel this contract without any liability to Seller for breach or for Seller's actual expense. Such remedies are in addition to and not in lieu of any other remedies which Buyer may have in law or equity. Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, excepting employees of an established commercial or selling agency that is maintained by Seller for the purpose of securing business. For breach or violation of this warranty, Buyer shall have the right, in addition to any other right or rights arising pursuant to said purchase(s), to cancel this contract without liability and to deduct from the contract price such commission percentage, brokerage or contingent fee, or otherwise to recover the full amount thereof.

### **PRODUCT WARRANTY**

Seller shall not limit or exclude any express or implied warranties and any attempt to do so shall render this contract voidable at the option of Buyer. Seller warrants that the goods furnished will conform to Buyer's specifications, drawings and descriptions listed in the proposal invitation, and the sample(s) furnished by Seller, if any. In the event of a conflict between Buyer's specifications, drawings, and descriptions, Buyer's specifications shall govern. 46

## **SAFETY WARRANTY**

Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA) of 1970, as amended. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at Seller's expense. In the event Seller fails to make appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense. Where no correction is or can be made, Seller shall refund all monies received for such goods within thirty (30) days after request is made by Buyer in writing and received by Seller. Notice is considered to have been received upon hand delivery, or otherwise in accordance with Section 29.0 of these terms and conditions. Failure to make such refund shall constitute breach and cause this contract to terminate immediately.

## **SOFTWARE LICENSE TO SELLER**

If this purchase is for the license of software products and/or services, and unless otherwise agreed, Seller hereby grants to Buyer, a perpetual, irrevocable, non-exclusive, nontransferable, royalty free license to use the software. This software is "proprietary" to Seller, and is licensed and provided to the Buyer for its sole use for purposes under this Agreement and any attached work orders or invoices. The City may not use or share this software without permission of the Seller; however Buyer may make copies of the software expressly for backup purposes.

## **WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY**

The SELLER warrants that all Deliverables, or any part thereof, furnished hereunder, including but not limited to: programs, documentation, software, analyses, applications, methods, ways, and processes (in this Section each individually referred to as a "Deliverable" and collectively as the "Deliverables,") do not infringe upon or violate any patent, copyrights, trademarks, service marks, trade secrets, or any intellectual property rights or other third party proprietary rights, in the performance of services under this Agreement.

SELLER shall be liable and responsible for any and all claims made against the City for infringement of any patent, copyright, trademark, service mark, trade secret, or other intellectual property rights by the use of or supplying of any Deliverable(s) in the course of performance or completion of, or in any way connected with providing the services, or the City's continued use of the Deliverable(s) hereunder.

SELLER agrees to indemnify, defend, settle, or pay, at its own cost and expense, including the payment of attorney's fees, any claim or action against the City for infringement of any patent, copyright, trade mark, service mark, trade secret, or other intellectual property right arising from City's use of the Deliverable(s), or any part thereof, in accordance with this Agreement, it being understood that this agreement to indemnify, defend, settle or pay shall not apply if the City modifies or misuses the Deliverable(s). So long as SELLER bears the cost and expense of payment for claims or actions against the City pursuant to this section 8, SELLER shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, City shall have the right to fully participate in any and all such settlement, negotiations, or lawsuit as necessary to protect the City's interest, and City agrees to cooperate with SELLER in doing so. In the event City, for whatever reason, assumes the responsibility for payment of costs and expenses for any claim or action brought against the City for infringement arising under this Agreement, the City shall have the sole right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, SELLER shall fully participate and cooperate with the City in defense of such claim or action. City agrees to give SELLER timely written notice of any such claim or action, with copies of all papers City may receive relating thereto. Notwithstanding the foregoing, the City's assumption of payment of costs or expenses shall not eliminate SELLER's duty to indemnify the City under this Agreement. If the Deliverable(s), or any part thereof, is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, SELLER shall, at its own expense and as City's sole

remedy, either: (a) procure for City the right to continue to use the Deliverable(s); or (b) modify the Deliverable(s) to make them/it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the Deliverable(s); or (c) replace the Deliverable(s) with equally suitable, compatible, and functionally equivalent non-infringing Deliverable(s) at no additional charge to City; or (d) if none of the foregoing alternatives is reasonably available to SELLER, terminate this Agreement, and refund all amounts paid to SELLER by the City, subsequent to which termination City may seek any and all remedies available to City under law.

#### **OWNERSHIP OF WORK PRODUCT**

Seller agrees that any and all analyses, evaluations, reports, memoranda, letters, ideas, processes, methods, programs, and manuals that were developed, prepared, conceived, made or suggested by the Seller for the City pursuant to a Work Order, including all such developments as are originated or conceived during the term of the Contract and that are completed or reduced to writing thereafter (the "Work Product") and Seller acknowledges that such Work Product may be considered "work(s) made for hire" and will be and remain the exclusive property of the City. To the extent that the Work Product, under applicable law, may not be considered work(s) made for hire, Seller hereby agrees that this Agreement effectively transfers, grants, conveys, and assigns exclusively to Buyer, all rights, title and ownership interests, including copyright, which Seller may have in any Work Product or any tangible media embodying such Work Product, without the necessity of any further consideration, and Buyer shall be entitled to obtain and hold in its own name, all Intellectual Property rights in and to the Work Product. Seller for itself and on behalf of its vendors hereby waives any property interest in such Work Product.

#### **NETWORK ACCESS**

The City owns and operates a computing environment and network (collectively the "Network"). If Seller requires access, whether onsite or remote, to the City's network to provide services hereunder, and the Seller is required to utilize the Internet, Intranet, email, City database, or other network application, Seller shall separately execute the City's Network Access Agreement prior to providing such services. A copy of the City's standard Network Access Agreement can be provided upon request.

#### **CANCELLATION**

Buyer shall have the right to cancel this contract immediately for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller. Such right of cancellation is in addition to and not in lieu of any other remedies, which Buyer may have in law or equity.

#### **TERMINATION**

The performance of work or purchase of goods under this order may be terminated in whole or in part by Buyer, with or without cause, at any time upon the delivery to Seller of a written "Notice of Termination" specifying the extent to which performance of work or the goods to be purchased under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of any other termination rights of Buyer as set forth herein.

#### **ASSIGNMENT / DELEGATION**

No interest, obligation or right of Seller, including the right to receive payment, under this contract shall be assigned or delegated to another entity without the express written consent of Buyer. Any attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Prior to Buyer giving its consent, Seller agrees that Seller shall provide, at no additional cost to Buyer, all documents, as determined by Buyer, that are reasonable and necessary to verify Seller's legal status and transfer of rights, interests, or obligations to another entity. The documents that may be requested include, but are not limited to, Articles of Incorporation and related amendments, Certificate of Merger, IRS Form W-9 to verify tax identification number, etc. Buyer reserves the right to withhold all payments to any entity other than Seller, if Seller is not in compliance with this provision. If Seller fails to provide necessary information in accordance with this section, Buyer shall not be liable for any penalties, fees or interest resulting therefrom.

#### **WAIVER**

No claim or right arising out of a breach of this 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 in writing and is signed by the aggrieved party.

### **MODIFICATIONS**

This contract can be modified or rescinded only by a written agreement signed by both parties.

### **THE AGREEMENT**

In the absence of an otherwise negotiated contract, or unless stated otherwise, the Agreement between Buyer and Seller shall consist of these Standard Terms and Conditions together with any applicable proposal documents published by the Buyer and Seller's Response to such proposal (the "contract documents"). This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance of or acquiescence in a course of performance under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code (UCC) is used in this Agreement, the definition contained in the UCC shall control. In the event of a conflict between the contract documents, the order of precedence shall be these Standard Terms and Conditions, the Buyer's published proposal documents and the Seller's response. If Buyer and Seller have otherwise negotiated a contract, this Agreement shall not apply.

### **APPLICABLE LAW / VENUE**

This agreement shall be governed by the Uniform Commercial Code wherever the term "Uniform Commercial Code" or "UCC" is used. It shall be construed as meaning the Uniform Commercial Code as adopted and amended in the State of Texas. Both parties agree that venue for any litigation arising from this contract shall be in Brownsville, Cameron County, Texas. This contract shall be governed, construed and enforced under the laws of the State of Texas.

### **INDEPENDENT CONTRACTOR(S)**

Seller shall operate hereunder as an Independent Contractor(s) and not as an officer, agent, servant or employee of Buyer. Seller shall have exclusive control of, and the exclusive right to control, the details of its operations hereunder, and all persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, employees, vendors and sub-vendors. The doctrine of respondent superior shall not apply as between Buyer and Seller, its officers, agents, employees, vendors and sub vendors. Nothing herein shall be construed as creating a partnership or joint enterprise between Buyer and Seller, its officers, agents, employees, vendors and sub vendors.

### **LIABILITY AND INDEMNIFICATION.**

**LIABILITY - SELLER SHALL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF SELLER, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.**

**INDEMNIFICATION - SELLER HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY (ALSO REFERRED TO AS BUYER), ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO SELLER'S BUSINESS, AND ANY RESULTING LOST PROFITS) PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, AND DAMAGES FOR CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE ACTS OR OMISSIONS OF SELLER, ITS OFFICERS, AGENTS, SUBCONTRACTORS, SERVANTS OR EMPLOYEES.**

### **SEVERABILITY**

In case any one or more of the provisions contained in this agreement shall for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, which agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

### **FISCAL FUNDING LIMITATION**

In the event no funds or insufficient funds are appropriated and budgeted in any fiscal period for payments due under this contract, then Buyer will immediately notify Seller of such occurrence and this contract shall be terminated on the last day of the fiscal period for which funds have been appropriated without penalty or expense to Buyer of any kind whatsoever, except to the portions of annual payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available.

### **NOTICES TO PARTIES**

Notices addressed to Buyer pursuant to the provisions hereof shall be conclusively determined to have been delivered three (3) business days following the day such notice is deposited in the United States mail, in a sealed envelope with sufficient postage attached, addressed to Procurement Manager, City of Brownsville, Procurement and Contracting Division, 200 Texas Street, Brownsville, Texas 76102. Notices to Seller shall be conclusively determined to have been delivered three (3) business days following the day such notice is deposited in the United States mail, in a sealed envelope with sufficient postage attached, addressed to the address given by Seller in its response to Buyer's invitation to proposals. Or if sent via express courier or hand delivery, notice is considered received upon delivery.

### **NON-DISCRIMINATION**

This contract is made and entered into with reference specifically to Chapter 17, Article III, Division 3 ("Employment Practices"), of the City Code of the City of Brownsville (1986), as amended, and Seller hereby covenants and agrees that Seller, its employees, officers, agents, vendors or subvendors, have fully complied with all provisions of same and that no employee, participant, applicant, contractor(s) or subcontractor(s) has been discriminated against according to the terms of such Ordinance by Seller, its employees, officers, agents, contractor(s) or subvendors herein.

### **IMMIGRATION NATIONALITY ACT**

City actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Vendor shall verify the identity and employment eligibility of all employees who perform work under this Agreement. Vendor shall complete the Employment Eligibility Verification Form (I-9), maintain photocopies of all supporting employment eligibility and identity documentation for all employees, and upon request, provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Vendor shall establish appropriate procedures and controls so that no services will be performed by any employee who is not legally eligible to perform such services. Vendor shall provide City with a certification letter that it has complied with the verification requirements required by this Agreement. Vendor shall indemnify City from any penalties or liabilities due to violations of this provision. City shall have the right to immediately terminate this Agreement for violations of this provision by Vendor.

### **HEALTH, SAFETY, AND ENVIRONMENTAL REQUIREMENTS**

Services, products, materials, and supplies provided by the Seller must meet or exceed all applicable health, safety, and the environmental laws, requirements, and standards. In addition, Seller agrees to obtain and pay, at its own expense, for all licenses, permits, certificates, and inspections necessary to provide the products or to perform the services hereunder. Seller shall indemnify Buyer from any penalties or liabilities due to violations of this provision. Buyer shall have the right to immediately terminate this Agreement for violations of this provision by Seller.

### **RIGHT TO AUDIT**

Seller agrees that the Buyer, or Buyer's authorized representative, shall, until the expiration of three (3) years after final payment under this contract, and at no additional cost to Buyer, have access to and the right to examine and copy any directly pertinent books, computer disks, digital files, documents, papers and records of the Seller involving transactions relating to this contract, including any and all

records maintained pursuant to Section 31 of this Agreement. Seller agrees that the Buyer shall have access, during normal working hours, to all necessary Seller facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this section. Buyer shall pay Seller for reasonable costs of any copying in accordance with the standards set forth in the Texas Administrative Code. The Buyer shall give Seller reasonable advance written notice of intended audits, but no less than ten (10) business days.

**DISABILITY**

In accordance with the provisions of the Americans With Disabilities Act of 1990 (ADA), Seller warrants that it and any and all of its subvendors will not unlawfully discriminate on the basis of disability in the provision of services to general public, nor in the availability, terms and/or conditions of employment for applicants for employment with, or employees of Seller or any of its subvendors. Seller warrants it will fully comply with ADA's provisions and any other applicable federal, state and local laws concerning disability and will defend, indemnify and hold Buyer harmless against any claims or allegations asserted by third parties or subvendors against Buyer arising out of Seller's and/or its subvendor's alleged failure to comply with the above-referenced laws concerning disability discrimination in the performance of this agreement.

**DISPUTE RESOLUTION**

If either Buyer or Seller has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, either through email, mail, phone conference, in-person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties in accordance with the Industry Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute.

**PROHIBITION ON CONTRACTING WITH COMPANIES THAT BOYCOTT ISRAEL**

Seller acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, Seller certifies that Seller's signature provides written verification to the City that Seller: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

Revised May 18, 2023