



# Solicitation COVER SHEET

**RFP 5000  
JRN3047**

## IDENTIFICATION

Number	RFP 5000 JRN3047
Title	Custom Signs, Clings, Banners, and Miscellaneous Signs
Summary	The purpose of this contract is to purchase commercial interior and exterior custom signs, clings, banners, miscellaneous sign fabrication, and installation services on an as-needed basis.
Type	Request for Proposals (RFP)
Version (Addenda)	1

## AUTHORIZED CONTACT PERSONS

Primary	Jackie Nunez, Procurement Specialist III; (512) 978-1345; Jackie.Nunez@austintexas.gov
Secondary	Brenita Wilkison, Procurement Supervisor; (512) 974-3164; Brenita.Selement@austintexas.gov
Subcontractor Questions	Small Minority Business Resources Department; (512) 974-7600; SMBRComplianceDocuments@austintexas.gov
Notes	See Solicitation Instructions, 3.1 Authorized Contact Persons.

## IMPORTANT DATES

### OFFERS DUE

Date and Time	Thursday, August 14, 2025, BEFORE 2:00PM CST
Notes	See Solicitation Instructions, 5 Offer Submission.

### OFFER OPENING

Date and Time	Thursday, August 14, 2025, at 3:00PM CST
Notes	See Solicitation Instructions, 5 Offer Submission.

### QUESTIONS DUE

Date and Time	Friday, August 1, 2025, BEFORE 5:00PM CST
Submission Method	Email Only
Notes	See Solicitation Instructions, 3.2 Questions.

**PRE-OFFER CONFERENCE**

Conference (Yes/No)	Yes
Mandatory (Yes/No)	No
Date and Time	July 28, 2025, at 10:00AM CST
Location	N/A
Notes	N/A

**PUBLISHED**

Date	July 14, 2025
Available Online	<a href="https://www.austintexas.gov/page/solicitations">https://www.austintexas.gov/page/solicitations</a>
Available Hardcopy	Financial Services Department-Central Procurement, 505 Barton Springs Road, Ste 330, Austin, TX 78704

**SOLICITATION DOCUMENTS**

Document name	Pages	Date
<b><u>Solicitation Packet – RFP 5000 JRN3047 Includes the following:</u></b>		
<u>Solicitation Cover Sheet</u>	2	7/14/2025
<u>Solicitation Instructions</u>	12	7/14/2025
<u>Terms and Conditions</u>	29	7/14/2025
<u>Scope of Work</u>	25	7/14/2025
<u>Attachment A - Custom Signs, Clings, Banners, and Miscellaneous Signs Examples</u>	15	7/14/2025
<u>Attachment B – Definitions</u>	3	7/14/2025
<u>Price Sheet – Complete and return</u>	1	7/14/2025
<u>Offer and Certifications– Complete and return</u>	14	7/14/2025

**NIGP CODES****COMMODITY CODES**

Code	Description
55762	<b>Signage, Advertising Type (Interior and Exterior)</b>
55970	<b>Signage (Incls. Destination, Routing and Advertising)</b>
96279	<b>Sign Making Services</b>



# Solicitation INSTRUCTIONS

**RFP 5000  
JRN3047**

## 1 REQUEST FOR PROPOSALS

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

## 2 PUBLICATION AND NOTICES

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

## 3 COMMUNICATIONS AND MEETINGS

- 3.1 Authorized Contact Persons.** The names and contact information for the authorized contact persons for this Solicitation are displayed in the Solicitation Cover Sheet. Offerors needing assistance contacting an Authorized Contact Person regarding this Solicitation may also contact the Financial Services Department- Central

Procurement's main line at (512) 974-2500 and request assistance from any member of the Financial Services Department- Central Procurement's management team. Offerors may direct specific questions concerning subcontractors and responding to the Minority-owned Business Enterprise and Women-owned Business Enterprise Procurement Program requirements to the SMBR contact, also listed on the Solicitation Cover Sheet.

- 3.2 Questions.** Offerors shall submit any questions concerning this Solicitation in writing via e-mail to the Authorized Contact Persons displayed on the Solicitation Cover Sheet. The City will respond to all questions received by the Questions Due Date and Time displayed on the Solicitation Cover Sheet. The City will publish one or more Addenda displaying all timely received questions and the City's responses to each for any information not already contained in the solicitation.
- 3.3 Vendor Help Desk.** For general questions concerning the City's online financial services system, Austin Finance Online, Vendor Connection ("Vendor Connection"), Offerors may contact the Vendor Help Desk at (512) 974-2018. Assistance from the Vendor Help Desk is limited to navigating and using Vendor Connection only. The Vendor Help Desk will not respond to any questions concerning a specific Solicitation.
- 3.4 Pre-Offer Conferences.** The City may hold one or more pre-offer conferences to review the Solicitation and to receive verbal questions. The Solicitation Cover Sheet will display if a Pre-Offer Conference is being held and if attendance at this meeting is mandatory. If a Pre-Offer Conference is planned, the date, location, time, and any other necessary information regarding this meeting will also be displayed in the Solicitation Cover Sheet. Attendance at any Pre-Offer Conference will be recorded and will be included in an Addendum published following the meeting. As the Solicitation is subject to changes (See Solicitation Instruction, 1.4 Changes.) Offerors shall not rely on verbal exchanges that may occur at a Pre-Offer Conference. Offerors shall continue to submit all questions in writing. (See Solicitation Instructions, 3.2 Questions.)
- 3.5 Site Visits.** The City may hold one or more site visits to allow prospective Offerors to inspect the location(s) where work under any resulting contract will be performed and to receive verbal questions. The Solicitation Cover Sheet will display if a Site Visit is being held and if attendance at this meeting is mandatory. If a Site Visit is planned, the date, location, time, and any other necessary information regarding this meeting will also be displayed in the Solicitation Cover Sheet. Attendance at any Site Visit will be recorded and will be included in an Addendum published following the meeting. As the Solicitation is subject to changes (See Solicitation Instruction, 1.4 Changes.) Offerors shall not rely on verbal exchanges that may occur at a Pre-Offer Conference. Offerors shall continue to submit all questions in writing. (See Solicitation Instructions, 3.2 Questions.)

#### 4 OFFER PREPARATION

- 4.1 Offer Submittals.** Offerors intending to respond to this Solicitation shall download and complete each of the Submittal documents listed in the Solicitation Cover Sheet. Submittal documents will include additional Solicitation instructions specific to its contents. Offerors will complete each Submittal in accordance with the instructions in the submittal. At a minimum, submittals will include a Price Offer, a Technical Offer, and an Offer and Certifications submittal.
- 4.2 Alternate Offers.** Unless excluded elsewhere in the Solicitation, Offerors may submit alternative Offers, in addition to their primary Offer. Offerors seeking to submit an alternative Offer may include with their completed Submittals, any alternative Submittals as applicable.
- 4.3 Exceptions.** Offerors shall indicate if they take exception to any portions of the Solicitation in their Proposal. Any exceptions included in the Proposal may negatively impact the City's evaluation of the Proposal or may cause the City to reject the Proposal entirely.
- 4.4 Offer Acceptance Period.** All Offers are valid for a period of one hundred and eighty (180) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the proposal.

- 4.5 Proprietary and Confidential Information.** All Offers received and opened by the City are subject to the Texas Government Code, Ch. 552, and will be made available to the public. Offerors seeking to keep any portions of their Offer confidential shall mark each such portion as “Proprietary.” The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The City may request a review and determination from the Attorney General’s Office of the State of Texas, of any Proposal contents marked as “Proprietary.” A copyright notice or symbol is insufficient to identify proprietary or confidential information.
- 4.6 Cost of Offer Preparation and Participation.** Offerors are responsible for all costs related to the preparation of their Offer and incurred while participating in this Solicitation process.
- 4.7 Minority and Women Owned Business Enterprise (MBE/WBE) Procurement Program.** If the solicitation includes an MBE/WBE Program Compliance Plan or Offeror intends to subcontract, the Offeror shall comply with the provisions of Chapters 2-9A and B, of the Austin City Code and the terms of the Compliance Plan or Subcontractor Utilization Plan as approved by the City (the “Plan”).
- 4.8 Living Wage.** The City requires Contractors submitting Offers on this Contract to provide a certification (see the Living Wages Contractor Certification included in the Solicitation) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater to the amount Living Wage Certification. The Living Wage Certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- 4.9 Wage Theft.** This Solicitation is subject to City Code, Chapter 4-22 Wage Theft ([Ordinance No. 20221201-031 | Code of Ordinances | Austin, TX | Municode Library](#)). In accordance with City Code, Ch. 4-22, any Employer that submits an Offer to the City is required to provide certification (see the Employer Certification Wage Theft Ordinance – Responsibility Criteria included in this the Solicitation) that they have not been adjudicated for Wage Theft related incidents within five (5) years prior to the date set forth within the Employer Certification Wage Theft Ordinance – Responsibility Criteria. Additionally, City Code, Ch. 4-22 Wage Theft, requires all Employers to complete a training program designed by the Wage Theft Coordinator on federal and state wage laws and the provisions of City Code, Ch. 4-22 Wage Theft. All Employers must complete the City of Austin Wage Theft Training within 30 days of being awarded a contract with the City. Contact the Wage Compliance Training to register for training or additional information at [wagetheft@austintexas.gov](mailto:wagetheft@austintexas.gov).
- 4.10 Materials Specifications/Descriptive Literature.**
- 4.10.1** If a Solicitation refers to a Qualified Products List (QPL), Standard Products List (SPL) or a manufacturer’s name and product, any Offeror offering products not referenced in the solicitation must submit as part of their Offer materials specifications/descriptive literature for the non-referenced product. Materials specifications/descriptive literature must be identified to show the item(s) in the Offer to which it applies.
- 4.10.2** Material specifications/descriptive literature are defined as product manufacturer’s catalog pages, “cut sheets” applicable tests results, or related detailed documents that specify material construction, performance parameters, and any industrial standards that are applicable such as ANSI, ASTM, ASME, SAE, NFPA, NBS, EIA, ESL, and NSA. The submitted materials specifications/descriptive literature must include the manufacturer’s name and product number of the product being offered.
- 4.10.3** The failure of the materials specifications/descriptive literature to show that the product offered conforms to the requirements of the Solicitation shall result in rejection of the Offer.
- 4.10.4** Failure to submit the materials specifications/descriptive literature as part of the Offer may subject the Offer to disqualification from consideration for award.

**4.11 Samples – Representative.**

**4.11.1** The Offeror shall submit a representative sample of the goods to be provided per Scope of Work and Attachment A. This sample shall be provided within three (3) working days after request by the City. At a minimum, the representative sample shall reflect the following:

**4.11.2** Send samples to the City at the following address:

City of Austin	
Department	Purchasing Office
Address	124 W. 8 <sup>th</sup> Street, Ste #320
City, State Zip Code	Austin, TX 78701
Attn:	RFP 5000 JRN3047

**4.11.3** The Offeror must also submit with the sample a statement from the manufacturer that guarantees the goods will be manufactured in accordance with the City specifications and that delivery requirements will be met. Failure to do so may subject the Offer to disqualification from consideration for award.

**4.11.4** All products provided to the City under this solicitation will be evaluated or tested and must meet all requirements of the specification, regardless of whether or not all requirements are to be evaluated or tested.

**4.11.5** Samples must be provided at no cost to the City, will be retained by the City, and may be used for use in assuring compliance with materials specifications after award. Failure to supply samples when requested shall subject the Offer to disqualification from consideration for award.

**4.11.6** Samples will be evaluated or tested as follows: Samples shall be visually inspected to ensure they meet all specification/scope of work requirements.

**4.12 Pricing Requirements – Non-Specified Items.**

**4.12.1** The City may purchase additional related items that are available from the Contractor in various quantities. Pricing for these non-specified items will be calculated based on a percentage markup over Contractor's cost as identified in the Price Sheet under the Non-Specified Parts Section.

**4.12.2** Offeror shall bid a percentage markup to their cost.

**4.12.2.1** The percentage markup shall be fixed throughout the term of the Contract and are not subject to increase. They shall also remain firm through subsequent renewal periods if the City and the Contractor choose to renew the Contract.

**4.12.2.2** The Offeror may offer a different percentage discount or markup amount per manufacturer for any Non-Specified Part; however, parts within each manufacturer's product line shall be priced by taking the stated list price and applying that percentage discount or markup.

**4.13 Hazardous Materials.**

**4.13.1** If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Safety Data Sheets (SDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.

**4.13.2** Failure to submit the SDS as part of the Offer may subject the Offer to disqualification from consideration for award.

**4.13.3** The SDS, instructions and information required in paragraph "A" must be included with each shipment under the contract.

#### **4.14 Recycled Products.**

**4.14.1** The City prefers that Offerors offer products that contain recycled materials. When a recycled product is offered by the Offeror, the Offeror must state in their Offer the percentage of the product that is recycled and must include a list of the recycled materials that are contained in the product.

**4.14.2** The recycled content of paper products offered to the City shall be in accordance with the Federal Environmental Protection Agency's Recycled Product Procurement Guidelines. These guidelines are available at <http://www.epa.gov/cpg/>.

**4.14.3** Contract award for paper products will be made for recycled products unless the cost is more than 10% above the lowest price for non-recycled paper products as required in the City's Comprehensive Recycling Resolution.

#### **4.15 Published Price Lists.**

**4.15.1** Offerors may quote using published price lists in the following ways:

**4.15.1.1** Offerors may quote one discount from a Published Price List for all offered items to be covered in the Contract. The discount must remain firm during the life of the Contract.

**4.15.1.2** Offerors may quote their dealer cost, plus a percentage markup to be added to the cost. The percentage markup must remain firm during the life of the contract.

**4.15.2** Two (2) copies of the list upon which the discounts or markups are based shall be submitted with the Offer. All price lists identified in the Offer shall clearly include the Offeror's name and address, the solicitation number, prices, title of the discount and number, and the latest effective date of the price list. If the Offer is based on a discount or markup on a manufacturer's price list, the price list must also include the manufacturer's name, the manufacturer's latest effective date, and the manufacturer's price schedule. All price lists submitted become part of the Offer.

**4.15.3** The price list may be superseded or replaced during the Contract term only if price revisions are the result of the manufacturer's official price list revision. Written notification from the Contractor of price changes, along with two (2) copies of the revised list must be submitted to the Buyer in the Financial Services Department - Central Procurement with the effective date of change to be at least calendar days (30 unless a different period is inserted) after written notification. The City reserves the right to refuse any list revision.

**4.15.4** The discounts or markups on equipment rental, material, supplies, parts, and contract services shall be fixed throughout the term of the Contract and are not subject to increase.

**4.15.5** Failure to submit written notification of price list revisions will result in the rejection of new prices being invoiced. The City will only pay invoices according to the last approved price list.

## **5 OFFER SUBMISSION**

**5.1 Electronic Offers.** All Offers in response to this solicitation shall be submitted electronically (electronic documents) to the City of Austin using the Solicitation's eResponse function, available through the City's online financial system, Austin Finance Online. To submit Electronic Offers using the eResponse function, Offeror's

must first be registered as a vendor with the City of Austin in Austin Finance Online. See [Instructions, Submitting Offers in Austin Finance Online](#). For any questions or problems concerning eResponse, please contact [vendor@austintexas.gov](mailto:vendor@austintexas.gov) and copy the Procurement Specialist listed on the Cover Sheet. For immediate attention, call 512-974-2467.

- 5.2 Due Date and Time for Electronic Offers.** Electronic Offers in response to this Solicitation shall be submitted via eResponse by the Offer Due Date and Time displayed in the Important Dates section of the Solicitation Cover Sheet. The system time within Austin Finance Online shall be the official time of record for Electronic Offers.
- 5.3 Withdrawing Electronic Offers.** Electronic Offers submitted online in response to this Solicitation may be withdrawn, revised, and resubmitted using the eResponse function any time prior to the Solicitation's Due Date and Time. Withdrawn Electronic Offers may be resubmitted, with or without modifications, up to the Solicitation's Due Date and Time.
- 5.4 Late Electronic Offers.** The Solicitation's eResponse function in Austin Finance Online will not allow Electronic Offers to be submitted past the Solicitation's Due Date and Time.
- 5.5 Opening Electronic Offers.** The information regarding Electronic Offers will become available on or shortly after the Offer Opening Date and Time stated on the Solicitation's Cover Sheet. When Electronic Offers are opened, the names of each Offeror would be displayed within the Solicitation's eResponse section. For Solicitations conducted via Competitive Sealed Bidding, the Price Offer for each Offeror will also be displayed in the eResponse section.

## 6 OFFER EVALUATION

- 6.1 Bases of Competition.** The City may compare Offers based on groups or categories and will choose the basis or bases of competition that best meets the City's needs for the resulting contracts. The basis or bases of competition for each RFP will be described in section 11, Evaluation of Offers below.
- 6.2 Minimum Responsiveness.** Proposals are Minimally Responsive when they include all of the Submittals listed in this Solicitation, completed and with sufficient detail in each to evaluate the Proposal in accordance with the Solicitation's Instructions. Proposals that are not Minimally Responsive may be deemed non-responsive and rejected.
- 6.3 Responsibility.** An Offeror is responsible if they have the financial and practical ability, resources, expertise, past performance, and positive compliance history with all City ordinances. An Offer may be rejected if an Offeror is determined to not be responsible.
- 6.4 Clarifications.** Any time after the opening of Proposals, the City may contact Offerors to ask questions about their Proposal's contents in order to better understand these contents as-written. Responses to clarification questions, whether done verbally or submitted in writing, do not change the Proposal's contents. Clarifications are not to be confused with Discussions as described herein.
- 6.5 Evaluation.** Proposals that are Minimally Responsive will be evaluated based on the Evaluation Factors listed in Section 11.1 of the Solicitation Instructions. Evaluation Factors correspond to their specified Submittals and shall indicate their respective weighting next to each. Proposal submittals not identified as Evaluation Factors will be evaluated on a pass / fail basis in accordance with the Solicitation's Instructions and any further instructions within each Solicitation. Although minimum responses are required in all Submittals, the Submittals identified as Evaluation Factors will be used to differentiate the Proposals and to identify which Proposal(s) represent the Best Value to the City. The City's evaluation may be made without Clarifications or Discussions with Offerors. Proposals should, therefore, include the Offeror's most favorable terms.



- 6.6 Discussions and Proposal Revisions.** After completing initial evaluations, the City may enter into discussions (communications which may include negotiations and feedback about the Proposal submitted) with one or more Offerors submitting the highest rated Proposal(s). Following the completion of Discussions, the City may request Proposal revisions from these Offerors. The City may seek multiple rounds of Discussions and Proposal revisions as deemed necessary by the City. The City may revise its initial evaluations depending on the contents of any Proposal revisions received following these Discussions.
- 6.7 Interviews/Presentations.** The City may require that one or more Offeror submitting the highest rated Proposals participate in interviews and/or presentations.

## 7 CONTRACT AWARD AND EXECUTION

- 7.1 Award Determination.** City staff will recommend Contract award to the Offeror(s) submitting the highest rated Proposal(s) based on the Evaluation Factors set forth in this Solicitation. The Award Determination will be published to Austin Finance Online and notice will be sent to all Offerors subscribed to the Solicitation.
- 7.2 Multiple Awards.** If the City determines that multiple contracts are needed, the City will award one or more additional contracts to the Offeror(s) submitting the next highest rated Proposal(s).
- 7.3 Contract Execution.** Contracts within the City Manager's authority will be awarded and executed simultaneously. Contracts above the City Manager's authority will be executed following their authorization by the Austin City Council.

## 8 ADMINISTRATIVE MATTERS

- 8.1 Solicitation File.** All documents included in this Solicitation, and all timely received Offers in response to this Solicitation, except for Offer contents deemed by Offerors to be proprietary and confidential, will be available for public inspections upon the execution of the contract.
- 8.2 Debriefings.** Offerors may request a debriefing meeting to ask any questions concerning the Solicitation's contents, process, or the evaluation of their Offer. Debriefing meetings are informal exchanges and may be requested anytime following the earlier of (i) after the contract resulting from this Solicitation is executed, or in the case of multiple awards, the last contract is executed; (ii) the date the Solicitation is cancelled. Debriefings are not public called meetings in accordance with the Texas Open Meetings Act and are usually limited to a single Offeror and any of their representatives. Only information regarding the Solicitation documents and the Offeror's Offer (including City's evaluation of the Offer) in response to the Solicitation will be discussed.
- 8.3 Reservations.** The City reserves the right to: (i) specify approximate quantities in the Solicitation; (ii) extend the Solicitation due date and time; (iii) add additional terms or modify existing terms in the Solicitation; (iv) reject an Offer containing exceptions, additions, qualifications or conditions not called for in the Solicitation; (v) reject an Offer received from an Offeror who is currently debarred or suspended by the City, State, or Federal Government; (vi) reject an Offer that contains fraudulent information; (vii) reject an Offer that has material omissions; (viii) reject any or all Offers; (ix) procure any goods or services included in this Solicitation by other means; (x) consider and accept alternate Offers, if specified in the Solicitation, when most advantageous to the City; (xi) reject an Offer if prices in the Offer are unbalanced (some prices are significantly high and other prices are significantly low) and/or (xii) waive any minor informality in any Offer or procedure so long as the deviation does not affect the competitiveness of the Solicitation process.
- 8.4 Protests.** The Financial Services Department - Central Procurement has the authority to settle or resolve any claim of an alleged deficiency or protest. The procedures for notifying the City of Austin of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Financial Services Department - Central Procurement may dismiss your complaint or protest.

- 8.4.1** Protest regarding the Solicitation (Pre-Submittal Protest). Any protest regarding the Solicitation by the City shall be filed no later than five (5) business days prior to the due date and time for proposals. Any protest filed after that date which raises issues regarding the Solicitation will not be considered.
- 8.4.2** Protests regarding the evaluation of Proposals. Any protest regarding the evaluation of Proposals by the City shall be filed with the City no later than five (5) business days after the notification of award recommendation is posted on Austin Finance Online, or notification that the protestor's status as a Offeror has changed, such as notification that an Offer has been found to be non-responsive or an Offeror has been found to be non-responsible. Any protest filed after such date which raises issues regarding the evaluation will not be considered. Offerors may only protest the evaluation of their Proposal.
- 8.4.3** Protest Regarding Award of Contract (Post-Award Protest). Any protest regarding the award of the contract shall be filed no later than ten (10) business days after the date of award. Any protest regarding the award of the contract filed after such date will not be considered.
- 8.4.4** You shall submit your protest in writing, and it shall include the following information: (i) your name, address, telephone, and email address; (ii) the Solicitation number; (iii) the specific facts and/or law upon which the protest of the Solicitation or the award is based, including all pertinent documents and evidence thereto; and (iv) the form of relief requested.
- 8.4.5** Your protest shall be concise and presented logically and factually to help with the City's review.
- 8.4.6** When the City receives a timely written protest, the Financial Services Department - Central Procurement will determine whether the grounds for your protest are sufficient. If the Financial Services Department - Central Procurement decides that the grounds are sufficient, the Financial Services Department - Central Procurement will schedule a protest hearing, usually within five (5) business days. If the Financial Services Department - Central Procurement determines that your grounds are insufficient, the City will notify you of that decision in writing.
- 8.4.7** The protest hearing is informal and is not subject to the Open Meetings Act. The purpose of the hearing is to give you a chance to present your case, it is not an adversarial proceeding. Those who may attend from the City are: representatives from the department that requested the purchase, the Department of Law, the Financial Services Department- Central Procurement, and other appropriate City staff. You may bring a representative or anyone else that will present information to support the factual grounds for your protest with you to the hearing.
- 8.4.8** A decision will usually be made within fifteen (15) calendar days after the hearing.
- 8.4.9** The City will send you a copy of the hearing decision after the appropriate City staff has reviewed the decision.
- 8.4.10** When a protest is filed, the City usually will not make an award until a decision on the protest is made. However, the City will not delay an award if the City Manager or the Financial Services Department - Central Procurement determines that the City urgently requires the supplies or Services to be purchased, or failure to make an award promptly will unduly delay delivery or performance. In those instances, the City will notify you and make every effort to resolve your protest before the award.
- 8.5 Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will

submit the “Certificate of Interested Parties” to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the Offerors and local officials remain in place. Link to Texas Ethics Commission Form 1295 process and procedures below: <https://ethics.state.tx.us/filinginfo/1295/>.

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

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

**“Best Offer”** means the best evaluated Offer in response to a Request for Proposals or Request for Qualifications/Statements.

**“Best Offeror”** means the Offeror submitting the Best Offer.

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

**“Offer”** means a complete signed response to a Solicitation including, but not limited to, a Request for Proposals.

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

**“Proposal”** means a complete, properly signed Offer to a Request for Proposals.

**“Financial Services Department - Central Procurement”** refers to the line of business within the City of Austin’s Financial Services Department, responsible for the City’s procurement business function.

**“Chief Procurement Officer”** means the officer of the Financial Services Department – Central Procurement and the principal recipient of procurement authority from the City Manager.

**“Request for Proposals”** means all documents utilized for soliciting Proposals.

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

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

**“Solicitation”** means this Request for Proposals or RFP.

**“Wage Theft”** means any action by an employer that secures performance of a service by agreeing to provide compensation for the service and, after the service is rendered, fails to make full payment.

**10 PROPOSAL SUBMITTALS.**

**10.1 Proposal Format:**

**10.1.1** The Price Sheet shall be submitted with each proposal:

**10.1.2** The City reserves the right to make a single award, split award, or no award, depending on what is deemed to be in the best interest of the City.

**10.1.3** Provide all details as requested and any additional information Proposer deems necessary for a comprehensive evaluation of the proposal. Indicate specific services, products, or relationships with other partners that would add value to the City.

The Proposal itself shall be organized in the following format and information sequence (with related tabs):

**10.2 Executive Summary.** Provide all details as requested and any additional information Proposer deems necessary for a comprehensive evaluation of the proposal. Indicate specific services, products, or relationships with other partners that would add value to the City.

**10.3 Tab 1 - Business Organization & Project Management Structure:** State full name and address of your organization and identify parent company if you are a subsidiary. Specify the branch office or other subordinate element which will perform, or assist in performing, work herein. Indicate whether you operate as a partnership, corporation, or 1 individual. Include the State in which incorporated or licensed to operate.

Provide a general explanation and organizational chart which specifies project leadership and reporting responsibilities; and how the proposer will interface with the City project management. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor.

**10.4 Tab 2 - Authorized Negotiator:** Include name, address, email, and telephone number of a person in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.

**10.5 Tab 3 - City of Austin Required Purchasing Documents**

**10.6 Tab 4 - Representative Sample:** Provide a representative sample(s) to be visually inspected to ensure the product(s) meet all the requirements in the Scope of Work.

**10.6.1** The sample(s) shall be submitted with the Proposer's proposal, by the due date and time. At a minimum, the representative sample submitted shall meet the requirements specified in the Scope of Work and artwork provided.

**10.6.2** The Proposer must provide a detailed explanation of the process (software, materials, fabrication method, colors, finished applied, etc.) used to produce the sample(s).

**10.6.3** Sample(s) and components shall be clearly labeled with the vendor's name, the solicitation number and should be separate from the vendor's proposal. After the City has completed the evaluation of the samples, the vendor has the option to 1) allow the City to keep samples, 2) pick up the samples or 3) have the samples returned/shipped back if a return shipping label is included.

**10.6.4** Required Samples:

**10.6.4.1 Custom Signs** - If the Proposer is submitting a proposal for custom signs the Proposer must provide the following representative sample according to the sample specifications provided below.

ADA Tactile Sign Sample.

10.6.4.1.1 Sample specification: ADA-DP Sign

10.6.4.1.2 Sample Sign Specifications include:

10.6.4.1.3 Dimensions: 12" H x 10" W,

10.6.4.1.4 Acrylic Thickness: 0.25" with flame-polished edging,

10.6.4.1.5 Colors: Pantone Matching System (PMS) 3005C with White Text, braille lettering.

**10.6.4.2 Custom Clings, Banners and Miscellaneous Signs** - If the Proposer is submitting a proposal for custom clings, banners and miscellaneous signs the Proposer must provide the following representative sample according to the sample specifications provided below.

Exterior Pole Banners

- 10.6.4.2.1 Sample Specification: Banner
- 10.6.4.2.2 Sample Specifications include:
- 10.6.4.2.3 Dimensions: 45" L x 14.25" W
- 10.6.4.2.4 Pole Pocket Depth: 2.25" each area
- 10.6.4.2.5 Graphic Space: 42.75"

**10.7 Tab 5 - Proposed Solution and Program:** Describe your technical plan for accomplishing required work. Clearly describe the scope of services to be provided based upon the information in the Scope of Work. Include such time related displays, graphs, and charts as necessary to show tasks, sub-tasks, milestones, and decision points related to the Scope of Work and your plan for accomplishment. Demonstrate or provide details for the following:

- 10.7.1** A list of the types of signs your company can provide.
- 10.7.2** A list of the types and brands of hardware you can provide, especially the brushed chrome finish hugger stud-mounts with varying offsets and cap locking mechanisms.
- 10.7.3** The types of materials and finishing methods the company has experience in.
- 10.7.4** If your company can produce tactile signage with braille and the fabrication method used.
- 10.7.5** Delivery Method. Provide details on how the sign is packaged during transport.
- 10.7.6** If your company can provide installation services of signs provided. If so specifically state if the installers are subcontracted and how many years the installers have been in business.
- 10.7.7** Provide the standard turnaround time for each type of sign product you provide.
- 10.7.8** Explain your business process for addressing issues with regard to product workmanship, staff and subcontractors.
- 10.7.9** A statement of your compliance with all applicable rules and regulations of Federal, State and Local governing entities.
- 10.7.10** A statement regarding any exceptions being taken to the City's solicitation. Be advised and read sections 4.3 and 8.3 regarding exceptions.

**10.8 Tab 6 – Portfolio:** Provide a portfolio in an electronic format. The Proposer's portfolio must include project pictures demonstrating the following:

- 10.8.1** Project title
- 10.8.2** Year project completed
- 10.8.3** Summary of work performed including the types of signs provided
- 10.8.4** If installation services were provided and the type of installation completed.
- 10.8.5** Reference name, title, present address, and phone number of principal person(s) for whom prior projects were accomplished.

**10.9 Tab 7 - Prior Experience:** Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project. Describe the Proposer's general experience in the services being requested. Any additional information which would serve to distinguish the person or entity/firm from other person(s) or entities/firms submitting proposals, such as examples of work similar to the scope of services contemplated by this RFP, any special expertise or experience of the person or entity/firm, etc. Do not include corporate experience unless personnel assigned to this project actively participated. Do not include experience prior to 2013. Experience provided must be similar in size and scope to the Scope of Work. Supply three references specifically stating:

- 10.9.1** project title
- 10.9.2** year project completed
- 10.9.3** summary of work performed including the types of signs provided

**10.9.4** if installation services were provided and the type of installation completed.

**10.9.5** reference name, title, present address, and phone number of principal person(s) for whom prior projects were accomplished.

**10.10 Tab 8 - Price Proposal.** The Proposer shall provide their proposed fees for all services required in the RFP. Proposer's fees shall be offered as requested on the Price Sheet(s).

**10.10.1** Whichever Offeror offers the City the most competitive price will be awarded the maximum amount of points. Remaining points will be distributed on a pro-rated basis.

## 11 EVALUATION OF OFFERS

**11.1 Evaluation Factors:** All Proposals will be evaluated based on the following criteria and maximum point values. A maximum of 100 points will be awarded for custom signs and a maximum of 100 points will be awarded for custom clings, banners and miscellaneous signs.

### Evaluation Criteria

RFP Evaluation Factors	Maximum Points
Representative Sample (Tab 4)	20
Proposed Solution & Program (Tab 5)	20
Portfolio (Tab 6)	20
Prior Experience (Tab 7)	10
Price Proposal (Tab 8)	10
Local Business Preference	Up to 10
Small Business Preference	Up to 10
<b>Total</b>	<b>Up to 100</b>

**11.2 Interviews and/or presentations, Optional.** The City will score proposals on the basis or bases of the criteria listed above. The City may select a "short list" of Offerors based on those scores. "Short-listed" Offerors may be invited for presentations, demonstrations, or discussions with the City. The City reserves the right to re-score "short-listed" proposals as a result, and to make award recommendations on that basis or bases.

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The Contractor agrees that the Contract shall be governed by the following terms and conditions.

**1 GENERAL**

**1.1 TERM OF CONTRACT:**

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

**1.2 INDEFINITE QUANTITY:**

The quantities and/or services listed herein are estimates of the goods and services needed by the City for the period of the Contract. The City reserves the right to purchase more or less of these quantities and/or services as may be required during the Contract term. Quantities and/or services will be as needed and specified by the City for each order. Unless specified in the Contract, there are no minimum order quantities.

**1.3 INVOICES:**

- A. The Contractor shall submit separate Invoices for each Order after each delivery or on the schedule provided in the Contract. If partial shipments or deliveries are authorized by the City, a separate Invoice must be sent for each shipment or delivery made.
- B. Invoices shall be sent to the address on the Purchase Order or Delivery Order in the section entitled, "BILL TO". Proper Invoices must include a unique Invoice number, the purchase Order or delivery Order number, the master agreement number (if applicable), the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized according to pricing structure in the Contract. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the Invoice. The Contractor's name and, if applicable, the tax identification number on the Invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's Invoice. Invoices received without all required information cannot be processed and will be returned to the vendor.
- C. Invoices for labor shall include a tabulation of work-hours at the appropriate rates and grouped by work Order number. Time billed for labor shall be limited to hours actually worked.
- D. **Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontracting and other authorized expenses at actual cost without markup.**
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the Invoiced amount. The City will furnish a tax exemption certificate upon request.

**1.4 PAYMENT:**

- A. All proper Invoices received by the City will be paid within 30 calendar days of the City's receipt of the Deliverables or of the Invoice, whichever is later.

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- B. If payment is not timely made, (per Paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code §2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until 10 calendar days after the grounds for withholding payment have been resolved.
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the Invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - i. Delivery of defective or non-conforming Deliverables by the Contractor;
  - ii. Third party claims, which are not covered by the insurance which the Contractor is required to provide under the terms of this Contract, are filed or there is reasonable evidence indicating probable filing of such claims;
  - iii. Failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. Damage to the property of the City or the City's agents, employees or Contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. Reasonable evidence demonstrates that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. Failure of the Contractor to submit proper Invoices with all required attachments and supporting documentation; or
  - vii. Failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, §1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.
- G. The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations incurred prior to the date of notice of non-appropriation.

**1.5 FINAL PAYMENT AND CLOSE OUT:**

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



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

**1.6 SPECIAL TOOLS & TEST EQUIPMENT:**

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

**1.7 AUDITS AND RECORDS:**

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance, including security audits, under this Contract, at the City's expense. The Contractor agrees to refund to the City any overpayments disclosed by any such audit. The City agrees to protect from disclosure Contractor's confidential and proprietary information disclosed during an audit to the same extent it protects its own confidential and proprietary information, subject to the requirements of the Texas Public Information Act, Chapter 552, Texas Government Code.
- B. Records Retention:
  - i. Contractor is subject to City Code Chapter 2-11 (Records Management), and as it may subsequently be amended.
  - ii. The Contractor shall retain all records for a period of three years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

**1.8 FINANCIAL DISCLOSURES AND ASSURANCE:**

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

**1.9 RIGHT TO ASSURANCE:**

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

**1.10 STOP WORK NOTICE:**

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

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**1.11 DEFAULT:**

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

**1.12 TERMINATION FOR CAUSE:**

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

**1.13 ATTORNEY'S FEES:**

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

**1.14 TERMINATION WITHOUT CAUSE:**

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

**1.15 FRAUD:**

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

**1.16 DELAYS:**

The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an

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adjustment within 30 calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution Clause. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

**1.17 FORCE MAJEURE:**

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

**1.18 INDEMNITY:**

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

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

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

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- C. THE INDEMNIFIED PARTY MAY SELECT ITS OWN LEGAL COUNSEL TO REPRESENT ITS INTERESTS. THE INDEMNIFYING PARTY SHALL:
  - i. REIMBURSE THE INDEMNIFIED PARTY FOR ITS REASONABLE COSTS AND ATTORNEY'S FEES IMMEDIATELY UPON REQUEST, AS THEY ARE INCURRED, AND
  - ii. REMAIN RESPONSIBLE TO THE INDEMNIFIED PARTY FOR ANY LOSSES INDEMNIFIED UNDER THIS SECTION.
- D. THE INDEMNIFYING PARTY SHALL GIVE PROMPT, WRITTEN NOTICE TO THE INDEMNIFIED PARTY OF ANY PROPOSED SETTLEMENT OF A CLAIM THAT IS INDEMNIFIABLE UNDER THIS SECTION. THE INDEMNIFYING PARTY MAY NOT, WITHOUT THE INDEMNIFIED PARTY'S PRIOR, WRITTEN CONSENT, SETTLE OR COMPROMISE ANY CLAIM OR CONSENT TO THE ENTRY OF ANY JUDGMENT REGARDING WHICH INDEMNIFICATION IS BEING SOUGHT UNDER THIS SECTION.
- E. MAINTENANCE OF THE INSURANCE REQUIRED BY THIS CONTRACT SHALL NOT LIMIT THE INDEMNIFYING PARTY'S OBLIGATIONS UNDER THIS SECTION. THE INDEMNIFYING PARTY SHALL REQUIRE ALL SUBCONTRACTORS TO INDEMNIFY THE CITY IN THE SAME MANNER AS PROVIDED IN THIS SECTION.

**1.19 NOTICES:**

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Notices to the Contractor shall be sent to the address registered with the City. Notices to the City shall be addressed to: City of Austin, Financial Services Department-Central Procurement, 505 Barton Springs Road, Ste 330, Austin, TX 78704 and marked to the attention of the assigned Procurement Specialist.

**1.20 CONFIDENTIALITY:**

The Parties may be granted access to certain of the other Party's or Licensor's Confidential Information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the Party or its licensors consider confidential) (Confidential Information) to provide the Deliverables to the City. The Parties acknowledge and agree that the Confidential Information is the valuable property of the disclosing Party and its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the disclosing Party and its licensors. The receiving Party (including its employees, Subcontractors, agents, or representatives) agrees it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without prior written consent of disclosing Party, or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an Order of a court or other governmental authority (including a Texas Attorney General opinion) with proper jurisdiction. In all cases, the receiving Party agrees to promptly notify the disclosing Party before disclosing Confidential Information to permit the disclosing Party reasonable time to seek an appropriate protective Order. The receiving Party agrees to use protective measures no less stringent than the receiving Party uses in its business to protect its own most valuable information. In all circumstances, the receiving Party's protective measures must be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

- A. The Parties agree: (i) not to use Confidential Information for any reason other than for the purpose of providing or receiving the Deliverables, (ii) not to disclose Confidential Information to any third party other than to its employees who have a need to know the Confidential Information for furtherance of providing the Deliverables, and (iii) to promptly notify the disclosing Party of any request for

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Confidential Information to be disclosed under any law or order of any court or other governmental authority with proper jurisdiction, so as to permit disclosing Party reasonable time to seek an appropriate protective order.

- B. All Confidential Information and derivations thereof shall remain the sole and exclusive property of disclosing Party, and no license or other right to the Confidential Information or intellectual property is granted or implied hereby. Upon the written request of disclosing Party, the receiving Party shall promptly return to disclosing Party all tangible items of Confidential Information furnished by disclosing Party and all copies thereof or certify in writing that all Confidential Information, including all copies, has been destroyed.
- C. No expiration or termination of the Contract shall affect either Party's rights or obligations with respect to Confidential Information.
- D. The Parties acknowledge and agree that any breach or threatened breach of the Contract could cause harm for which money damages may not provide an adequate remedy.
- E. The parties agree that in the event of such a breach or threatened breach of the Contract, in addition to any other available remedies, City may seek temporary and permanent injunctive relief restraining the Contractor from disclosing or using, in whole or in part, any Confidential Information.

**1.21 TEXAS PUBLIC INFORMATION ACT:**

- A. All material submitted by the Contractor to the City related to the Contract may become subject to public disclosure upon receipt by the City. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
- B. In accordance with Texas Government Code §552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:
  - i. Preserve all Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract;
  - ii. Promptly provide to the City any Contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and
  - iii. On completion of the Contract, either:
    - (1) Provide at no cost to the City all Contracting information related to the Contract that is in the custody or possession of Contractor; or
    - (2) Preserve the Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract.
- C. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

**1.22 PUBLICATIONS:**

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

**1.23 ADVERTISING:**

The Contractor shall not advertise or publish, without the City's prior written consent, the fact that the City has entered into the Contract, except to the extent required by law.

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**1.24 NO CONTINGENT FEES:**

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

**1.25 GRATUITIES:**

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

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

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

**1.27 INDEPENDENT CONTRACTOR:**

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

**1.28 ASSIGNMENT DELEGATION:**

The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third-party beneficiaries to the Contract.

**1.29 WAIVER:**

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

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**1.30 MODIFICATIONS:**

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

**1.31 INTERPRETATION:**

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

**1.32 DISPUTE RESOLUTION:**

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

**1.33 JURISDICTION AND VENUE:**

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

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**1.34 INVALIDITY:**

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

**1.35 HOLIDAYS:**

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

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

**1.36 SURVIVABILITY OF OBLIGATIONS:**

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

**1.37 COOPERATIVE CONTRACT:**

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

**1.38 EQUAL OPPORTUNITY:**

- A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City's Financial Services Department a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract and the Contractor's suspension or debarment from participation on future City Contracts until deemed compliant with Chapter 5-4.
- B. **Non-Retaliation:** The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.
- C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.



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**1.39 SUBCONTRACTORS:**

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

**1.40 NON-SPECIFIED ITEMS:**

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

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**1.41 ECONOMIC PRICE ADJUSTMENT:**

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

Weight % or \$ of Base Price: 100%	
Database Name: Bureau of Labor Statistics Data	
Series ID: CIU2010000430000A (B)	
<input checked="checked" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: National	

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Description of Series ID: Total Compensation for Private Industry workers in installation, maintenance, and repair, 12-month change
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: Category 1

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

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

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

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

**1.42 INSURANCE:**

A **GENERAL INSURANCE REQUIREMENTS:**

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages and endorsements required in Section B., Specific Insurance Requirements, to the City prior to Contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- ii. All endorsements naming the City as additional insured, waivers, and notices of cancellation shall indicate, and the Certificate of Insurance shall be mailed to the following address:  
City of Austin Financial Services Department-Central Procurement  
505 Barton Springs Road, Ste 330  
Austin, TX 78704  
OR  
[PURInsuranceCompliance@austinTexas.gov](mailto:PURInsuranceCompliance@austinTexas.gov)
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all Subcontractors prior to the Subcontractors commencing work on the project.
- v. The Contractor's and all Subcontractors' insurance coverage shall be written by companies authorized to do business in the State of Texas and have an A.M. Best rating of B+VII or better.

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

B. **Specific Insurance Coverage Requirements:** The Contractor, consistent with its status as an independent Contractor shall carry and will cause its Subcontractors to carry, at a minimum insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period.

- i. **Worker’s Compensation and Employers’ Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker’s Compensation Act (Section 401). The minimum policy limits for Employer’s Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor’s policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - a. Waiver of Subrogation, Form WC420304, or equivalent coverage;
    - b. 30 Days’ Notice of Cancellation, Form WC420601, or equivalent coverage.
- ii. **Commercial General Liability Insurance:** Coverage with minimum bodily injury and property damage per occurrence limits of \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - a. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project;
    - b. Independent Contractors coverage (Contractor/Subcontracted work);

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- c. Products/Completed Operations Liability for the duration of the warranty period;
  - d. If the project involves digging or drilling, provide Explosion, Collapse, and Underground (X, C, & U) Coverage.
- (2) The policy shall also include these endorsements in favor of the City of Austin:
  - a. Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage;
  - b. 30 Days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage;
  - c. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.
- iii. **Business Automobile Liability Insurance**: Coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
  - (1) The policy shall include these endorsements in favor of the City of Austin:
    - a. Waiver of Subrogation, Endorsement CA0444, or equivalent coverage;
    - b. 30 Days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage;
    - c. The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
- C. **Endorsements**: The specific insurance coverage endorsements specified above, or their equivalents must be provided. If endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

## **2 GOODS**

### **2.1 DELIVERY AND PACKAGING TERMS:**

- A. **DELIVERY AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. destination, prepaid and allowed unless otherwise specified. Unless otherwise stated in this Contract, the Contractor's price shall be deemed to include all delivery and transportation charges of required mode of transportation. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be set forth in the block of the Purchase Order or Delivery Order entitled "SHIP TO" and/or Offer Sheet. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays. The City expressly reserves all rights under law, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables.
- B. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach. However, the Contractor shall have the right to substitute a conforming tender; provided if the time for performance has not yet expired. The Contractor shall notify the City of the intention to cure and may then make a conforming tender within the time allotted in the Contract.
- C. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: All Deliverables must be shipped complete unless arrangements for partial shipments are made in advance. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables or Services. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables or Services. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor within 30 calendar days of notification provided by the City.

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

**2.2 WARRANTY:**

A. **PRICE:**

- i. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- ii. The Contractor warrants that its prices provided in this Contract are no higher than its current prices on orders for similar goods under similar terms of purchase.

- B. **TITLE & RISK OF LOSS:** Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables. The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.

- C. **DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the Specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Contract, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

- i. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
- ii. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.
- iii. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.

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- iv. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall fully assist and cooperate with the City to enforce such manufacturer's warranty for the benefit of the City.
- i. Contractor warrants that all Equipment shall be at current engineering change levels and shall be eligible for the manufacturer's standard prime shift maintenance contract upon delivery.

**2.3 WARRANTY BY CONTRACTOR AGAINST INFRINGEMENTS:**

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

**2.4 RESTOCKING FEES:**

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

**2.5 PUBLISHED PRICE LISTS:**

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

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**2.6 OWNERSHIP AND USE OF DELIVERABLES:**

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

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

**2.7 HAZARDOUS MATERIALS:**

- A. If this Contract involves hazardous materials, the Contractor shall provide the City the Safety Data Sheets (SDS) on all chemicals and hazardous materials being used, specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the SDS is grounds for the City to terminate this Contract immediately.
- C. The SDS, instructions and information required in Paragraph "A" must be included with each shipment under the Contract.



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**3 SERVICES**

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

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

**3.2 WORKFORCE:**

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

**3.3 GUARANTEE – SERVICES:**

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

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from Final Acceptance Date. The maintenance period shall not begin until after the Final Acceptance Date and no associated maintenance fees will be charged until commencement of the maintenance period. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with the services warranty standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.
- C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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**3.4 PLACE AND CONDITION OF WORK:**

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

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

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

**3.6 LIVING WAGES:**

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

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

- A. The minimum wage required for all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$21.63 per hour, unless Published Wage Rates are included in this Solicitation. In addition, the City may stipulate higher wage rates in certain Solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (see the Living Wages Contractor Certification included in the Solicitation) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$21.63 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant Contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- C. The Contractor shall maintain throughout the term of the resultant Contract basic employment and wage information for each employee as required by the Fair Labor Standards Act.
- D. The Contractor shall provide to the City Contract Manager within the first 30 days after the Contract execution, individual Employee Certifications for all Contractor Employees (and all tiers of Subcontracting) directly assigned to the Contract. The City reserves the right to request individual Employee Certifications at any time during the Contract term. Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the Contract. The Employee Certification form is available on-line at <https://www.austintexas.gov/page/living-wage-program>.
- E. Contractor shall submit employee certifications for Contractor Employees (and all tiers of Subcontracting) annually on the anniversary date of Contract execution to the Contract Manager to

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verify that employees are paid the Living Wage throughout the term of the Contract. The Employee Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the Contract and/or to report any employee changes as they occur.

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

**3.7 WAGE THEFT:**

Any Employer that submits an offer to the City seeking award of a City contract shall comply with the requirements of Austin City Code, Chapter 4-22 Wage Theft. ([Ordinance No. 20221201-031](#) | [Code of Ordinances](#) | [Austin, TX](#) | [Municode Library](#)).

- A. Any Employer that submits an Offer to the City is required to provide certification that they have not been adjudicated for certain offenses related to Wage Theft.
- B. All Employers must complete the City of Austin Wage Theft Training within 30 days of being awarded a contract with the City.

**3.8 NON-SOLICITATION:**

- A. During the term of the Contract, and for a period of 6 months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City Department that engages or uses the services of a Contractor employee.
- B. If a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one year of the employee's annual compensation; or (ii) 25 percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.
- C. During the term of the Contract, and for a period of six months following termination of the Contract, a Department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.
- D. Notwithstanding the foregoing, this provision shall be waived in the event an employee initiates an unsolicited action based on public advertisements in newspapers, trade publications, or electronic job boards.

**3.9 WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):**

- A. Access to the Department building by the Contractor, all Subcontractors, and their employees will be strictly controlled, at all times, by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the buildings at least 30 days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than 20 days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the Contract, the Contractor shall so notify the City's Contract Manager, in writing, within 10 days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the buildings and security badges must be on display, at all times, when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.

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- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth, driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.
- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and Subcontractors are kept fully informed as to these requirements.

**ACCD CONTRACTOR OR SUBCONTRACTOR ACCESS REQUIREMENTS:**

Authorized ID and access to those acting as a Contractor or Contractor's Subcontractor who are providing services at Austin Convention Center Department (ACCD) must adhere to the security requirements defined below. Violation of the applicable requirements below may result in the Contractor or its Subcontractor to be removed from ACCD facility or property.

- A. Other than ACCD and in-house contractor employees, and unless other arrangements are made with the Contract Manager, persons conducting business with Austin Convention Center (ACC) are required to enter through the service entrance at the pedestrian gate on Red River St. and check-in at the Security Check-In inside the service yard or with the Security Operations Center. Persons arriving at ACC may also enter through the Administrative Offices entrance on Cesar Chavez Street. Persons conducting business with Palmer Events Center (PEC) are required to enter through the garage service entrance and check-in with the PEC Security Operations Center or PEC Administrative Offices. Any other means of access entry into the facilities are unauthorized.
- B. Contractors, Contractor's Subcontractors or others who are providing services at ACCD shall be issued Temporary Badge/Access, which may be an ACCD Photo or Non-Photo ID Badge.
- C. All persons not directly escorted by an ACCD employee must clearly display an access/ID device while on ACCD facility premises.
- D. Use of ACCD access/ID devices to access any part of ACCD facilities for non-business purposes (events, shows, etc.) is prohibited.
- E. Any ACCD employee may check an individual's status or contact Security Operations Center whenever observing person(s) in non-public areas of ACCD facilities who are not being directly escorted by an ACCD employee or who are not displaying any required access/ID devices.
- F. Restricted areas of the facility with signs stating "Authorized Personnel Only", "Restricted Access", "Client Access Only" or "No Access" are off limits to all persons except those authorized.
- G. Unless authorized by ACCD Management, exterior access into ACCD facilities using keys is prohibited.
- H. Under no circumstances shall any person issued an access/ID device, allow another person entry into any ACCD facility using their access/ID device. This includes "piggy-backing" through access doors or gates. Any person with an ACCD ID badge or access device who allows another person to enter using their access privileges should bring the person directly to the Security Operations Center to be checked-in.
- I. Due to security and safety concerns, Contractors and Contractor's Subcontractors conducting business at ACCD, are not allowed to walk through the open service yard vehicle gates to enter or exit the service yards. Entry and exit should be by way of the designated pedestrian gates and walkway using appropriate access/ID devices and check-in procedures.
- J. Pedestrian traffic through ACCD's service yards and exhibit halls is restricted to authorized persons during event/show move-in and move-outs. Children under seventeen (17) are prohibited from ACCD service yards and exhibit halls during move-in and move-outs.
- K. During periods where there is no move-in or move-out traffic in the service yards, only persons with legitimate business needs are allowed into the service yards.

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- L. Temporary badge/access devices issued to contractors, subcontractors or temporary workers must be returned to the Security Operations Center at the completion of the ACCD work assignment. Non- photo temporary badges must be returned at the end of the employees work shift/assignment. Failure to return temporary badges/access devices at the completion of work assignments may lead to future ACCD facility access restrictions.

**AUSTIN ENERGY SECURITY REQUIREMENTS:**

**WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):**

- A. Access to the Austin Energy building by the Contractor, all Subcontractors and their employees will be strictly controlled, at all times, by the City. Security/visitor badges will be issued by the Department for this purpose. The Contractor may be required to submit a complete list of all persons requiring access to Austin Energy facilities in advance of their need for access. The City reserves the right to deny a security/visitor badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than 20 days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the Contract, the Contractor shall so notify the City's Contract Manager, in writing, within 10 days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the Austin Energy building and security/visitor badges must be on display, at all times, when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security/visitor badges may not be removed from the premises.
- D. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and Subcontractors are kept fully informed as to these requirements.

**WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID) REQUIRED PERSONNEL RISK ASSESSMENT FOR (PRA) FOR AUSTIN ENERGY:**

- A. The City may perform a personnel risk assessment ("PRA") that includes a criminal background investigation report for all Contractor, Subcontractor, and Supplier personnel performing work under the Contract ("Contractor Personnel"). Contractor shall not use or employ any Contractor Personnel in performance of the Contract who have been convicted of any crime involving theft, deception, fraud, violence, threat of violence, moral turpitude, or such other crime which in the City's sole discretion may be relevant to the Contractor's performance during the seven-year period preceding the PRA.
  - a. If seven years of criminal history records are not available for an individual, the City may obtain as much criminal history records from the past seven years that are available under the circumstances.
  - b. The City reserves the right to conduct a more detailed PRA for any Contractor Personnel that look backs further than seven years, as permitted by law, depending on the criticality of the position and as appropriate for the level of security access granted.
  - c. The City may conduct additional PRAs at least once every three years for Contractor Personnel who remain in the same position or contract assignment beyond three years.
  - d. In the event a felony or misdemeanor conviction is revealed in a PRA, including a conviction more than seven years old, the City may deny access to Contractor Personnel in its sole discretion based on any additional relevant information including, but not limited to, the following:

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- i. Seriousness and date of the felony or misdemeanor conviction and disposition issued by the courts.
  - ii. Relevance of the conviction to the work and level of responsibility the individual holds within the City.
  - iii. Compliance with state and federal laws governing the proper collection of information by, and the use of information acquired in, a PRA.
  - iv. City policies and procedures.
  - v. Consistency with the disclosure required on the City's required notice and disclosure form.
  - vi. Potential risk of non-compliance with federal, state, and local requirements.
- B. The City uses third-party agencies to conduct the criminal background investigations, which may include a fingerprint check. The type of information that can be collected by third-party agencies can include, but is not limited to, information pertaining to an individual's past criminal history, employment, character, finances, and reputation.
- C. Contractor shall provide the City with all information necessary to enable the City to complete the PRA at least 14 days prior to any onsite work commencement.
- D. Upon successful completion by the City of Contractor's PRA described in (A) above and the list of the Contractor Personnel, the City will provide each of Contractor's Personnel a City-issued Contractor ID badge that is required for access to City property that shall be worn at all times by Contractor Personnel while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, and the City shall have no liability for resulting delays to Contractor's schedule. Lost ID badges shall be reported to the City's Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
- E. The City reserves the right to deny an ID badge to any Contractor Personnel for reasonable cause, including failure of a criminal background check. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work under the Contract, the Contractor shall so notify the City's Contract Manager, in writing, within 10 calendar days of the receipt of notification of denial.
- F. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.
- G. **Non-disclosure and Separation of Duties:** The Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of City data to that which is absolutely necessary to perform job duties.
- H. **Right to Remove Individuals:** The City shall have the right at any time to require that the Contractor remove for any or no reason at all from interaction with City any Contractor representative whom the City believes is detrimental to its working relationship with the Contractor. The City shall provide the Contractor with notice of its determination if reasonably possible. If the City signifies that a potential security violation or other immediate risk situation exists with respect to the request, the Contractor shall immediately remove such individual. The Contractor shall not assign the person to any aspect of the Contract or future work orders without the City's consent.
- I. The City is not required to perform PRAs for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons; however, all delivery personnel must present company/employer-issued photo ID and be accompanied by Contractor Personnel at all times while at the work site.

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**4 DEFINITIONS**

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

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confidential or that by the nature of the information or the circumstances surrounding disclosure ought reasonably to be treated as confidential; **"City Confidential Information"** is a subset of Confidential Information.

12. **"Contract"** – the final general authorizing document (including Change Orders thereto) utilized by the City to procure Services from Contractor and any attachments and appendices attached thereto.
13. **"Contract Price"** – the total amount to be paid to Contractor under any Purchase Order as it may be adjusted or changed in accordance with the terms of the final Contract.
14. **"Contractor"** – the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
15. **"Contractor Information"** – all techniques, algorithms and methods or rights thereto owned by or licensed to Contractor during the term of this Contract and employed by Contractors in connection with the Services provided to City.
16. **"Contractor Software"** – software that was developed or licensed to Contractor independent of this Contract and which Contractor utilizes to provide the Subscription Services or the Non-subscription Services.
17. **"Data Breach"** – the unauthorized access by a non-authorized person(s) that results in the use, disclosure or theft of City's or City's customers' unencrypted Personally Identifiable Information or City Confidential Information.
18. **"Documentation"** – the documentation created by the Contractor for the Services provided but does not include customized documentation prepared under the Contract and which are Deliverables under the Contract, including the Statement of Work; such Deliverables are wholly owned by City and Contractor shall make no claim to such Deliverables.
19. **"Facility"** – the City designated facility or location set forth in the Purchase Order where Services are to be performed by Contractor or Supplier or software installed.
20. **"FACTA"** – the Fair and Accurate Credit Transactions Act, 15 U.S.C. §§ 1681-1681x.
21. **"Final Acceptance Date"** – the date upon which the City confirms that all Services and Work Products have been completed and tested and function in accordance with the terms of the Contract.
22. **"IaaS Subscription Schedule"** – the document, part of the Contract, executed by both Parties that sets out the Parties' rights and obligations with respect to City's access to and use of the IaaS services.
23. **"Infrastructure-as-a-Service"** (IaaS) – the capability provided to the consumer to provision processing, storage, networks and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not



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manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications and possibly limited control of select networking components (e.g., host firewalls).

24. **“Non-Public Data”** – data typically considered internal and used for city business or mission needs. All information is considered Non-Public unless otherwise classified or explicitly defined through the Information Governance Program or official policy or procedural documents.
25. **“Public Data”** means data typically created for public release or released to the public through management decision and/or a public information request.
26. **“Restricted Data”** means data typically exempt from public disclosure requirements under the provisions of applicable state or federal law. Examples of restricted information are regulated and confidential data.
27. **“Non-Subscription Services”** – the Services provided to City by Contractor under this Contract that are not included in the definition of Subscription Services. Non-subscription Services shall include, but not be limited to, consulting, implementation, customization, and other services provided to City by Contractor under this Contract, together with all documentation provided by or otherwise required of Contractor for any of the consulting, implementation, customization, or other Services it provides.
28. **“PaaS Subscription Schedule”** – the document, part of the Contract, executed by both Parties that sets out the Parties’ rights and obligations with respect to City’s access to and use of the PaaS services.
29. **“Party”** or **“Parties”** – the City and Contractor, individually or together, as applicable.
30. **“Personally Identifiable Information”** – information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. PII includes, but is not limited to, personal information and/or personal data. Some forms of PII are considered Restricted Data and require additional protection, including, but not limited to, Sensitive Personal Information (SPI), Sensitive and/or Protected PII, and Protected Health Information (PHI).
31. **“Platform-as-a-Service” (PaaS)** – the capability provided to the City to deploy onto the cloud infrastructure consumer-created or -acquired applications created using programming languages and tools supported by the provider. This capability does not necessarily preclude the use of compatible programming languages, libraries, services, and tools from other sources. The consumer does not manage or control the underlying cloud infrastructure, including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment configurations.
32. **“Purchase Order”** – the general authorizing document (including Change Orders thereto) utilized by the City to procure Services from Contractor under this Contract and any attachments and appendices attached thereto.

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33. **“SaaS Software Application”** and **“SaaS Software”** – the computer software listed on a SaaS Subscription Schedule to which Contractor has granted City access and use as part of the Subscription Services. This includes any customization, other derivative works, upgrades, releases, fixes, patches, etc. related to the software that Contractor develops or deploys during the term of this Contract, together with all documentation provided by or otherwise required of Contractor for any of the software, customization, other derivative works, upgrades, releases, fixes, patches, etc.
34. **“SaaS Subscription Schedule”** – the document, part of the Contract, executed by both Parties that sets out the Parties’ rights and obligations with respect to City’s access to and use of the SaaS Software Application.
35. **“Security Incident”** – any actual or potential unauthorized disclosure of, or unauthorized access to, City Confidential Information; or a violation or imminent threat of violation of computer security policies, acceptable use policies, or violation or imminent threat of violation of industry standard security practices.
36. **“Service Level Agreement” (SLA)** – a written agreement between both the City and the Contractor that is subject to the terms and conditions of the Contract that, unless otherwise agreed, includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures by or otherwise required of Contractor for any of the software, customization, other derivative works, upgrades, releases, fixes, patches, etc.
37. **“Service Levels”** – the performance specifications for work performed by the Contractor under a SaaS Subscription Schedule or Statement of Work.
38. **“Services”** – work, direction of work, installation services, technical information, technical consulting, software programming and development, software maintenance and support services, or other professional and technical services furnished by Contractor as described in detail in the final Contract.
39. **“Software”** – the computer programs in source code, object code or binary form or in any other form, including any related or included computer programs, whether owned by Licensor or licensed to Licensor by a third party which has authorized Licensor to sublicense such computer programs, and including any documentation or related materials concerning the application, use, training of users, theory of operation, maintenance or any other aspect of the Software.
40. **“Software-as-a-Service” (SaaS)** – the Services provided to the City to use the Contractor’s offering running on non-City owned infrastructure. The User does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

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- 41. **"Specifications"** – those technical specifications attached to the Contract and to which the Services and Work Products supplied by Contractor must conform.
- 42. **"Statement/Scope of Work"** – a written statement of Deliverables including Services and, ultimately, the Contract, which describes the City's Service needs and expectations.
- 43. **"Subscription Services"** – City's access to and use of and Contractor's provision of the SaaS Software Applications and other Services listed on a SaaS Subscription Schedule and in accordance with the terms and conditions set forth in the SaaS Subscription Schedule and Contract documents, as appropriate.
- 44. **"Third Party"** – any natural person or legal entity other than Contractor and City.
- 45. **"Transition Date"** – the date upon which it is established to City's satisfaction that the SaaS Software Application is stable enough to support City's production processing.
- 46. **"User Information"** – all information directly or indirectly obtained from Users accessing the SaaS Software Applications where such information is obtained by Contractor or by any of its employees, representatives, agents or any Third Parties having contractual privity with Contractor or who are under Contractor's supervision or control.
- 47. **"User"** – City's employees, agents, consultants, outsourcing companies, contractors, and others who are authorized by City to access and use the SaaS Software Applications and any part or portion of the Subscription Services or non-Subscription Services in the performance of their duties for City.
- 48. **"Wage Theft"** – any action by an employer that secures performance of a service by agreeing to provide compensation for the service and, after the service is rendered, fails to make full payment.
- 49. **"Work Product"** – all deliverables and other materials, products or modifications developed or prepared for City by Contractor under this Contract, including without limitation, any integration software or other software, all data, program images and text viewable on the Internet, any HTML code relating thereto, or any program code, including program code created, developed or prepared by Contractor under or in support of the performance of its obligations under this Contract, including manuals, training materials and documentation, but excluding the Contractor's Software.

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**1.0 PURPOSE**

The purpose of this contract is to purchase commercial interior and exterior custom signs, clings, banners, miscellaneous sign fabrication, and installation services on an as-needed basis.

The City reserves the right to unilaterally add or remove City departments and facilities at the City's sole discretion. Any requirements omitted from this specification, which are clearly necessary for the completion of this work, should be noted by the proposer in their Pricing Submittal (Refer to the Proposal Preparation Instructions).

The City makes no guarantee of quantities requested nor will the City accept minimum order quantity requirements.

**2.0 TERM OF CONTRACT**

This Contract shall remain in effect for an initial term of 24 months, or the City terminates the Contract. This Contract may be extended automatically beyond the initial term for up to three (3) additional 12-month periods at the City's sole option.

**3.0 CONTRACTOR'S MINIMUM QUALIFICATIONS**

The Contractor shall:

- 3.1 Have a minimum of three (3) recent years of continuous experience prior to this solicitation providing commercial interior and exterior custom sign fabrication and installation services similar in size and scope to this specification.
- 3.2 Submit with offer or within five (5) working days of the City's request a list of current or previous clients within the last five (5) years that meet the three (3) consecutive years minimum requirement.
- 3.3 Have and operate computer software compatible with most recent versions Adobe Creative Cloud Suite software.
  - 3.3.1 The Contractor shall provide additional software that will create and allow contractor to design as needed sign artwork.
  - 3.3.2 The City will provide digital artwork in this format and provide Vector graphics in AI, PDF or EPS format.
- 3.4 Have a full-time, operational commercial facility with a permanent business address, a functional email address and telephone.
- 3.5 Comply with all applicable Federal, State, Local and City of Austin guidelines and regulations as they relate to commercial interior and exterior sign production, delivery and installation including ASTM standards, ADA, ANSI, MUTCD, ASCE 7-98 and when applicable, all signs must comply with 2012 TAS and 2015 IBC.

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**4.0 CONTRACTOR'S RESPONSIBILITIES**

**4.1 General Requirements**

The Contractor shall:

- 4.1.1 Comply with all applicable Federal, State, Local and City of Austin guidelines and regulations as they relate to commercial interior and exterior sign production, delivery and installation including [ASTM International | ASTM](#) standards, [The Americans with Disabilities Act | ADA.gov](#) ADA, [American National Standards Institute - ANSI Home](#) ANSI, [Manual on Uniform Traffic Control Devices \(MUTCD\) - FHWA](#) MUTCD, [Home | ASCE](#) ASCE 7-98 and when applicable, all signs must comply with 2012 <https://www.tdlr.texas.gov/ab/abtas.htm>, City of Austin Codes and Amendments including but not limited to International Building Codes [International Building Code \(IBC\)](#) <https://www.austintexas.gov/page/building-technical-codes>. Only provide exterior signs, clings, banners and miscellaneous signs rated for outdoor use.
- 4.1.2 Obtain all necessary permits to provide services herein, including but not limited to permits necessary to barricade City streets and sidewalks.
- 4.1.3 Provide a Single Point of Contact (SPOC).

The SPOC shall:

- 4.1.3.1 Provide their name, office phone number, email address and cell phone number within five (5) business days after contract execution.
- 4.1.3.2 Be English-speaking, skilled, knowledgeable, and experienced in providing the types of services listed in this Scope of Work. The SPOC shall have the authority to dispatch Contractor personnel; and shall have full decision-making authority on behalf of the Contractor for all services provided under this Contract.
- 4.1.3.3 Inspect, monitor, and supervise the Contractor's employees; ensuring adherence to the work schedule, safety requirements, and quality of work. The SPOC shall not be removed from the project without prior written consent by the Contract Manager or designee.
- 4.1.3.4 Be available during the hours of 8:00 a.m. through 5:00 p.m. (CST), Monday through Friday.
- 4.1.3.5 Be available to assist the Contract Manager or designee in the coordination of all phases in the production, delivery and installation of the sign(s), clings, banners and miscellaneous signs.
- 4.1.3.6 Be available to travel to City's location(s), at no additional expense to the City, for any meeting, transporting of proofs, sample test and/or additional services, which are in direct relation to this Scope of Work, upon request by the Contract Manager or designee.

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- 4.1.4 Fabricate, deliver and install various interior and exterior custom signs, clings, banners and miscellaneous signs with associated hardware upon request by the Contract Manager or designee.
- 4.1.5 Understand size, color, and type of clings, banners, and miscellaneous signs will vary and must be customized to each project. The Contract Manager or designee will indicate size, color, and type of cling and banner needed upon request for estimate.
- 4.1.6 Provide all labor, supervision, materials, tools, equipment, delivery, instruments, incidentals, expendable items, personnel protective equipment, installation services (if requested by the Contract Manager or designee) and transportation necessary for execution of the products and services provided under this Contract. Any costs associated with meeting this requirement shall be included in the price for signs, clings, banners, miscellaneous signs and sign hardware listed on the Pricing Submittal document and not charged separately.
  - 4.1.6.1 The City's equipment, tools and materials will not be accessible for use by the Contractor or Contractor's personnel.
- 4.1.7 Understand and agree scheduled City events take precedence over any other schedule(s) agreed to by the City and the Contractor. The Contractor shall not hold the City liable, financially or otherwise, if an alteration in the City schedule requires the City to reschedule services with the Contractor. The City will make every reasonable effort to immediately notify the Contractor of changes in the City schedule which may have an impact on any other schedule agreed to by the City and the Contractor.
- 4.1.8 Understand there is no onsite storage space for Contractor tools, materials or equipment.
- 4.1.9 Perform all steps reasonably necessary to protect City property and persons from harm.
- 4.1.10 Be responsible for any and all damage to City equipment or property as a direct result of Contractor's owned or rented equipment, employees, or Contractor's subcontractor's actions. If damage occurs, Contractor shall notify the Contract Manager or designee immediately.
  - 4.1.10.1 Damages to City equipment or property by Contractor's employees or its subcontractor shall be replaced or repaired to the satisfaction of the City by the Contractor, at no cost to the City. The City may, however, at its sole discretion, elect to make repairs or replacements of damaged equipment or property and deduct the cost from any payments owed to Contractor or to recover costs if no payments are owed.
- 4.1.11 Be responsible for clean-up of work area and removal of debris. Cleanliness of the work area shall be subject to the Contract Manager or designee's inspection and approval.
  - 4.1.11.1 Clean-up of the work area shall be performed daily to keep the work area in an uncluttered condition.

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- 4.1.11.2 All debris or rubbish accumulated for each job shall be removed from the City's premises by the Contractor at the Contractor's expense.
  - 4.1.11.3 Shall leave work areas in the original condition, or better, prior to the start of installation.
  - 4.1.11.4 If the Contractor does not timely remedy the deficiencies, the City reserves the right to contact another Contractor to correct the deficient items, and the Contractor shall be responsible for the alternate Contractor's charge to remedy the situation.
  - 4.1.12 Require a purchase order (DO) from the City prior to performing any work.
    - 4.1.12.1 Understand the City shall not be responsible for costs incurred by the Contractor prior to receipt of confirmation DO from the Contract Manager or designee.
  - 4.1.13 Understand that all work is subject to inspection and acceptance by the Contract Manager or designee.
  - 4.1.14 Ensure all lettering is sharp, legible, straight, and aligned.
  - 4.1.15 Ensure no signs, clings or banners contain smudges, misalignment, misspelling, crooked letters, incorrect color, incorrect materials, and any other problems that show poor quality.
  - 4.1.16 Not manufacture, reproduce, exhibit, or modify the artwork for any other purpose outside of this Contract, without approval from the Contract Manager or designee.
  - 4.1.17 Understand the City may order signs, clings, banners or miscellaneous signs with or without installation services dependent on the needs of the City.
- 4.2 Hours of Service, Labor Rates and Contractor's Pricing**
- 4.2.1 The Contractor labor hours shall be defined as follows:
    - 4.2.1.1 REGULAR HOURS shall be 8:00 a.m. through 5:00 p.m. Monday through Friday.
    - 4.2.1.2 NON-REGULAR HOURS shall be: 5:01 p.m. through 7:59 a.m. Monday through Friday, all day Saturday, Sunday, and Holidays.
  - 4.2.2 Unless otherwise designated by the Contract Manager or designee, the Contractor shall perform all services during Regular Hours, as defined in this Scope of Work.
  - 4.2.3 If the Contractor is unable to provide these services during the designated Regular Hours, the Contractor shall notify the Contract Manager or designee by email twenty-four (24) hours prior to the scheduled services and obtain written approval from the Contract Manager or designee to perform the services during Non-Regular Hours.
  - 4.2.4 The Contractor shall invoice at the hourly labor rate specified in the Pricing Submittal. If Contractor does not provide an hourly labor rate, no additional labor charges shall be charged to the City.

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- 4.2.5 The Contractor may be required to perform as-needed services during Non-Regular Hours as defined in this Scope of Work.
  - 4.2.6 The Contractor shall not invoice at the Non-Regular Hour rate for services unless requested and approved in writing by the City Contract Manager or designee prior to starting the work.
  - 4.2.7 In order to be reimbursed, the Contractor shall include all related permit fees in the final invoice and attach receipts showing the amount paid, date paid, and project name or Project Estimate number.
  - 4.2.8 The Contractor shall understand the cost for all signs, clings, banners, miscellaneous signs, hardware, and accessories shall be reimbursed to the contractor by the City as mutually negotiated and agreed upon between the parties, utilizing the Project Estimate Process, and in accordance with the Pricing Submittal.
- 4.3 Pre-Production Digital Proofs**
- 4.3.1 The Contractor shall provide digital proof(s) after the City's acceptance of their Estimate and issuance of a City DO.
    - 4.3.1.1 Digital proof(s) shall be submitted to the Contract Manager or designee within five business days or by a date mutually agreed upon between the Contractor and the Contract Manager or designee.
  - 4.3.2 The Contract Manager or designee will provide artwork to the Contractor via Adobe Creative Cloud Suite Software, per request.
  - 4.3.3 The Contract Manager or designee will provide marking(s) for hole placement in City's artwork provided, as applicable.
  - 4.3.4 The Contractor shall provide digital color proofs via e-mail, for each individual request prior to print and fabrication, to the Contract Manager or designee within five (5) business days of project request. No signs shall be fabricated or printed without prior written approval from the Contract Manager or designee, and receipt of confirmation delivery order (DO) issued by the City.
  - 4.3.5 The Contractor shall provide an additional, corrected proof, upon request by the Contract Manager or designee, at no additional charge when any alterations are necessary due to Contractor's error.
  - 4.3.6 The Contractor shall provide production lead time for the sign, cling, banner, or miscellaneous sign installation, and special requirements needed onsite (lift, surface prep or repairs needed, etc.), to the Contract Manager or designee, prior to sign, cling or banner installation.
- 4.4 Transportation and Parking**
- 4.4.1 The Contractor shall provide all transportation required to deliver products and/services. The Contractor shall park its vehicles in areas designated by the City at the Contractor's expense, if any. All vehicles shall be clearly marked with the Contractor's or subcontractor's name on both sides of each vehicle. Magnetic signs



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are acceptable.

**4.5 Personnel Uniforms and Identification Badges**

- 4.5.1 The Contractor's personnel shall wear uniforms with the Contractor's name clearly displayed on the shirt, company issued photo identification badges, and personal protective equipment while performing work on City property.

**4.6 Project Estimate Process**

The Contractor shall:

- 4.6.1 Acknowledge receipt of a sign, cling, banner or miscellaneous sign project request, "Notification" within two (2) business days by responding via email to the Contract Manager or designee.
- 4.6.2 Arrange a site visit with the Contract Manager or designee, if applicable or at the Contract Manager's or designee's request to inspect the installation site conditions where the sign, cling, banner or miscellaneous sign will be installed before submitting their written Project Estimate ("Estimate") to the Contract Manager or designee, to ensure all required tasks are included in their estimate for a successful sign, cling or banner installation and the requested installation method can be successfully achieved.
- 4.6.3 Verify the existing site dimensions at each cling and/or banner installation locations and provide the Contract Manager or designee with the on-site dimensions for the location. The Contractor shall be responsible for ensuring that the cling and/or banner are the correct dimension.
- 4.6.4 Submit a written fixed-price Estimate via email of the total cost of work, within three (3) business days after the initial meeting/site visit or upon request by the Contract Manager or designee. Each Notification will have a pre-determined fixed-price Estimate.
- 4.6.5 Provide a written fixed-price Estimate, in accordance with the established prices in the Pricing Submittal. The fixed-price Estimate shall include at a minimum:
- 4.6.5.1 An itemized Estimate of materials needed to fabricate (and install, as requested) signs, cling or banner less the percent discount per Category A of the Pricing Submittal.
- 4.6.5.2 An itemized Estimate of the labor needed for installation (as requested by the City). The Estimate shall indicate the total number of labor hours per employee needed for installation services.
- 4.6.5.3 An itemized Estimate of any rental equipment needed, including percent markup. A description and the location the work to be performed and any required permit fees (as applicable).
- 4.6.5.4 An estimated project schedule (including proofing, production lead time, printing, delivery, installation details, and equipment rental needs, etc.)

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- 4.6.5.5 Estimated delivery date for signs, cling, banner, or miscellaneous sign and associated hardware and accessories (as applicable).
- 4.6.6 Understand that if alternative products are available to meet the sustainability goals of the City, these shall be submitted with the Contractor's Estimate as an additional or alternative fixed price Estimate.
- 4.6.7 Understand that the submission of a fixed-price Estimate shall be evidence that the Contractor is familiar with the nature and extent of the work, inspected the surrounding conditions, and understands the equipment, materials, and labor required to complete the work. No increase in price or variation to conditions shall be permitted based on the claim of ignorance, negligence, or false representation.
- 4.6.8 Understand that the Contract Manager or designee will review the fixed-price Estimate and if in agreement, will issue a written notice to proceed in the form of a DO issued by the City.
- 4.6.9 Acknowledge receipt of the DO by sending an email confirmation to the Contract Manager or designee and schedule a date and time for the services to begin.
  - 4.6.9.1 Understand if the Contract Manager or designee does not agree with the fixed-price Estimate as presented, the Contract Manager or designee will contact the Contractor to discuss and resolve. Once in verbal agreement, the Contractor shall submit a revised fixed-price Estimate for approval to the Contract Manager or designee in one (1) business day or at a time mutually agreed to between the Contractor and the Contractor Manager or designee.
  - 4.6.9.2 Understand the City reserves the right to accept or reject the revised fixed-price Estimate.
  - 4.6.9.3 Understand the acceptance of revised fixed-price Estimate will be confirmed with the Contractor's receipt of a City delivery order (DO) from the City.
  - 4.6.9.4 Acknowledge receipt of the confirmation DO by contacting the Contractor Manager or designee by email or phone and within two (2) business days to schedule and confirm start date for installation at a time mutually agreed to between the Contractor and Contract Manager or designee.
- 4.6.10 Complete the work within the time mutually agreed upon date specified in writing between the Contractor and the Contract Manager or designee or as stated in the written fixed-price Estimate.
- 4.6.11 Request an Estimate change for additional time, in writing, if the Contractor determines that the products or services being performed cannot be completed as specified in the fixed-price Estimate. The Contractor shall not increase the original, fixed price Estimate for any Contractor requested time extension due to delays caused by the Contractor. The Contractor and the Contract Manager or designee shall mutually agree to a new date for completion of work. Under no circumstances

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shall the Contractor leave services unfinished without prior written approval of the Contract Manager or designee.

- 4.6.12 Understand it is the responsibility of the Contractor to discuss or request alternative installation date changes with the Contract Manager or designee in writing.
- 4.6.13 Understand any deviation to the installation date shall be at the discretion of City, if the installation date conflicts with the operations of City. The Contract Manager or designee will notify the Contractor in writing of an approved alternative installation date, if deemed necessary.

**4.7 SAFETY REQUIREMENTS**

The Contractor shall:

- 4.7.1 Not require any person to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health or safety. Contractor shall comply with all provisions of the OSHA.
- 4.7.2 Be familiar with and enforce all Federal, State, Local and City regulations and requirements as applicable.
- 4.7.3 Ensure the Contractor's personnel wear appropriate personal protection equipment.
- 4.7.4 Ensure the Contractor's personnel operating equipment or handling materials provided through this Contract have been trained on safe operation.
- 4.7.5 Ensure the Contractor's personnel follow and apply safety practices prevailing in their applicable industry.
- 4.7.6 Block off and mark all work areas with appropriate safety signs and safety barricades and bollards to protect the public from injury.
- 4.7.7 Post safety warnings as necessary to ensure safe operations.
- 4.7.8 Provide all personal protection equipment and safety equipment, employee training, necessary for safety of the services provided under this Contract. Any costs associated with meeting this requirement shall be included in the cost of the material bid and not charged separately.
- 4.7.9 Coordinate the timing and transportation of equipment or potentially hazardous materials to the work area. If transportation through the interior of a facility is required, the Contractor shall take every precaution to ensure public safety. Under no circumstances shall the Contractor transport equipment or materials through the interior of a facility without prior coordination with the Contract Manager or designee.
- 4.7.10 Immediately notify the Contract Manager or designee upon detection of an existing or potentially hazardous conditions while performing services under this Contract.
- 4.7.11 Comply with the latest 29 CFR 1910, as revised or amended from time to time to protect the life and health of employees and other persons; to prevent damage to

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property, materials, supplies, and equipment; and to avoid work interruptions.  
General Industry Standards

[https://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARD  
S&p\\_toc\\_level=1&p\\_keyvalue=1910](https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARD&p_toc_level=1&p_keyvalue=1910)

- 4.7.12 Understand that the Contractor's compliance with OSHA and other applicable laws and regulations for the protection of employees is exclusively the obligation of Contractor, and the City assumes no liability or responsibility for Contractor's compliance or noncompliance with such responsibilities.
  - 4.7.13 Comply with all OSHA reporting requirements for record keeping and reporting of all accidents resulting in death, injury, occupational disease, or adverse environmental impact. The Contractor shall provide a verbal report to the City immediately, and no more than one (1) business day, of the occurrence. The Contractor shall cooperate with the City, providing written documentation and any information required for their records.
  - 4.7.14 Comply with any statutory requirements for clean air, clean water, toxic substances control, pollution control, resource conservation and recovery. All environmental protection matters or questions shall be coordinated with the City.
  - 4.7.15 Be responsible for the enforcement of all safety requirements for any work performed under the Agreement. If the Contractor fails or refuses to promptly comply with safety requirements, the Contract Manager or designee may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such order shall be made the subject of a claim for extension of time or for excess costs or damages to Contractor.
- 4.8 **Custom Interior and Exterior Sign Fabrication and Installation Services**

**Types of Signs:**

- 4.8.1 The Contractor shall fabricate and install, at a minimum, the following types of signs. Please refer to Attachment A below for a visual representation of current signs. Attachment A does not constitute an all-inclusive list of signs utilized by City.
  - 4.8.1.1 ADA Direction Signs (with or without braille)
  - 4.8.1.2 ADA Tactile signs with braille
  - 4.8.1.3 Suspension Signs
  - 4.8.1.4 Wayfinding signs
  - 4.8.1.5 Directional Signs
  - 4.8.1.6 Directory Signs
  - 4.8.1.7 Parking Garage and Parking Signs
  - 4.8.1.8 Safety / Regulatory Signs

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- 4.8.1.9 Information Signs (i.e. Service Yard Rules, Metal Detector, Restricted Access, etc.)

**Materials:**

The Contractor shall:

- 4.8.2 Provide signs and sign hardware made of a wide variety of materials, such as, but not limited to, commercial grade aluminum with UV and chemical resistant laminate, brushed, rustproof and reflective aluminum, heavy-duty plastic, acrylic, flush, raised and braille lettering which meets all ADA requirements.
- 4.8.3 Provide all required mounting hardware and materials to properly, safely and securely mount the wayfinding signs and the wayfinding sign components. All hardware shall be high quality, long lasting, vandal resistant, tamper-resistant, corrosion-resistant and suitable for long term use in exposed exterior installations (as applicable).
- 4.8.4 Ensure all hardware for exterior applications, or for applications where signs will be exposed to high moisture conditions, shall be of non-magnetic stainless steel, or of other non-magnetic corrosion-resistant material accepted by Contract Manager or designee.
- 4.8.5 Where interior signage is installed on glass, provide white film on opposite side.
- 4.8.6 Have or have access to the following sign materials and finishes available or attainable to complete work under this contract:
- 4.8.6.1 Aluminum
  - 4.8.6.2 Steel
  - 4.8.6.3 Acrylic Sheet
  - 4.8.6.4 Polycarbonate Sheet
  - 4.8.6.5 Reflective
  - 4.8.6.6 Weatherproof or weather resistant
  - 4.8.6.7 UV coated
  - 4.8.6.8 Various Mounting Hardware

**Fabrication:**

The Contractor shall:

- 4.8.7 NOT perform sign fabrication on City property.
- 4.8.8 Provide all signs fabricated to have a neat and clean appearance. All signs shall be rigid and structurally sound. Sign materials, design, sizes, and thickness shall be in accordance with the ACCD artwork provided.

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- 4.8.9 Tactile signs shall be constructed for durability and be vandal proof utilizing any one of the following methods: thermoforming, compression-molding, injection-molding, or CAD cut acrylic

**Colors / Surface Finish:**

The Contractor shall:

- 4.8.10 Match Pantone colors, surface finish and graphics provided by the Contract Manager or designee.
- 4.8.11 Provide signs that match the letters, symbols, logos and other elements as provided in the artwork.
- 4.8.12 In the event the Contractor's signs do not match the requested product specifications, the Contractor shall reproduce the sign until the final product desired is achieved, at no additional cost to the City.
- 4.8.13 Understand colors utilized on signs will vary from facility to facility. The Contract Manager or designee will indicate colors needed upon request for a sign estimate.
- 4.8.14 Understand the escalator panel graphics shall be 2nd surface printing, face-mounted to 0.25" thickness flame-polished edge clear acrylic panels.
- 4.8.15 Understand all acrylic paneled signage including escalators are to be 2nd surface printing, in which the RTA – Cut Vinyl: Black & White Text and Graphics will be printed over the front of the acrylic areas, except for ADA wall plates or if requested differently by the Contract Manager or designee.

**Replacement of Existing Signs and Associated Hardware Requirements:**

- 4.8.16 The Contractor shall not use existing hardware on signs being replaced unless requested in writing by the Contract Manager or designee prior to the work commencing.
- 4.8.17 Installation of signs may require the Contractor to prep surfaces as deemed necessary. If the level of surface preparation is beyond the scope/abilities of the Contractor, the Contractor shall notify the Contract Manager or designee so that alternate arrangements can be made to properly prepare/repair surfaces at the site of signage installation and/or adjacent to the installation location.

**New Sign and New Sign Hardware Requirements:**

- 4.8.18 The Contractor shall provide all signs, hardware and installation services, as requested per sign type. The Contractor's hardware shall match the existing hardware in appearance and functionality or as requested by the Contract Manager or designee. All hardware is subject to Contract Manager or designee inspection and approval prior to installation.
- 4.8.19 The Contractor shall adhere to the printing specifications within this Scope of Work or per written specification requirements provided to the Contractor by the Contract Manager or designee.

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**4.9 Custom Interior and Exterior Cling, Banner, and Miscellaneous Sign Fabrication and Installation Services**

Types of Clings, Banners, and Miscellaneous Signs

4.9.1 **Types of Clings:** Please refer to Attachment A for a visual representation of current signs. Attachment A does not constitute an all-inclusive list of signs utilized by City. The Contractor shall be able to provide, at a minimum, the following types of clings:

- 4.9.1.1 Vinyl Decals or Stickers
- 4.9.1.2 Static Clings
- 4.9.1.3 Low Tack Adhesive Clings
- 4.9.1.4 Exterior Weather Resistant Clings
- 4.9.1.5 Fabric Clings
- 4.9.1.6 Wall or Column Wraps
- 4.9.1.7 Perforated Adhesive Vinyl

4.9.2 **Types of Banners:** The Contractor shall be able to provide, at a minimum, the following types of banners:

- 4.9.2.1 Pull-up Banners
- 4.9.2.2 Retractable Banners
- 4.9.2.3 Suspended/Hanging Street Banners
- 4.9.2.4 Exterior Fence Banners
- 4.9.2.5 Flags
- 4.9.2.6 Pole Banners

4.9.3 **Types of Miscellaneous Signs:** The Contractor shall be able to provide, at a minimum, the following types of miscellaneous signs:

- 4.9.3.1 Easel Sign
- 4.9.3.2 Magnetic
- 4.9.3.3 Sandwich Board
- 4.9.3.4 Polyvinyl Chloride (PVC)

4.9.4 **Hardware and Accessories:**

The Contractor shall:

- 4.9.4.1 Provide mounting hardware, mounting components, and accessories that are compatible with the conditions at each of the installation locations.
- 4.9.4.2 Provide all the materials, fasteners, adhesives, structures, brackets, blocking, miscellaneous steel, embed plates, and all other structural and

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mounting hardware necessary for the proper fabrication and installation of clings, banners, and miscellaneous signs.

- 4.9.4.3 Understand that all required hardware and accessories that shall be high quality, long lasting, vandal resistant, tamper-resistant, corrosion-resistant and suitable for long term use in exposed exterior installations (as applicable).
- 4.9.4.4 Provide all required hardware and accessories to properly, safely and securely mount cling, banner, and miscellaneous sign components.
- 4.9.4.5 Provide all hardware or accessories for exterior applications, or for applications where clings, banners, and miscellaneous signs will be exposed to high moisture conditions, which shall be of non-magnetic stainless steel, or of other non-magnetic corrosion-resistant material accepted by the Contract Manager or designee.
- 4.9.4.6 Provide hardware and accessories in various thickness, depending on the size of the cling, banner, or miscellaneous sign and location to include, but not be limited to:
  - 4.9.4.6.1 quick release banner straps
  - 4.9.4.6.2 stainless steel strap clamping buckles
  - 4.9.4.6.3 stainless steel metal bandings
  - 4.9.4.6.4 wall mount supports
  - 4.9.4.6.5 posts
  - 4.9.4.6.6 post accessories
  - 4.9.4.6.7 post bases
  - 4.9.4.6.8 framesets
  - 4.9.4.6.9 tethers
  - 4.9.4.6.10 retractable frames
  - 4.9.4.6.11 stands
  - 4.9.4.6.12 cases
  - 4.9.4.6.13 ropes
  - 4.9.4.6.14 plastic zip ties
  - 4.9.4.6.15 banner stands
  - 4.9.4.6.16 grommet
  - 4.9.4.6.17 brackets; including but not limited to:
    - wall mount brackets
    - post mount brackets



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- ceiling mount brackets
- lighted bracket
- one-way iron straight arm brackets
- two-way iron straight arm brackets
- flush wall mount brackets

4.9.5 **Materials** - The Contractor shall provide clings, banners, and miscellaneous signs made of a wide variety of materials, such as, but not limited to:

**Clings:**

- 4.9.5.1 Adhesive vinyl
- 4.9.5.2 Static
- 4.9.5.3 Poplin fabric
- 4.9.5.4 Photo Tex Adhesive Fabric
- 4.9.5.5 Scrim vinyl
- 4.9.5.6 Weatherproof or weather resistant
- 4.9.5.7 Slip and scuff resistant
- 4.9.5.8 Cleanable surface
- 4.9.5.9 UV coated

**Banners:**

- 4.9.5.10 Polyester
- 4.9.5.11 Mesh
- 4.9.5.12 Vinyl
- 4.9.5.13 Fabric
- 4.9.5.14 Canvas
- 4.9.5.15 Perforated
- 4.9.5.16 Color fade resistant
- 4.9.5.17 Weatherproof or weather resistant
- 4.9.5.18 UV coated

**Miscellaneous Signs:**

- 4.9.5.19 PVC Foam Board
- 4.9.5.20 UV printing
- 4.9.5.21 Plasticated frames

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- 4.9.5.22 Vinyl
- 4.9.5.23 Plastic pipes
- 4.9.5.24 Magnetic backing
- 4.9.5.25 Weather resistant

**4.9.6 Fabrication:**

The Contractor shall:

- 4.9.6.1 NOT perform any cling, banner, or miscellaneous sign fabrication on City property.
- 4.9.6.2 Provide all clings, banners, and miscellaneous signs fabricated to have a neat and clean appearance. Cling and banner materials, design, sizes, and thickness shall be in accordance with the City's artwork provided.

**4.9.7 Colors and Surface Finish:**

The Contractor shall:

- 4.9.7.1 Provide clings, banners, and miscellaneous signs that match the letters, symbols, logos and other elements provided in the City's artwork.
- 4.9.7.2 Match pantone colors and graphics provided by the City.
- 4.9.7.3 Understand colors utilized on clings, banners, and miscellaneous signs will vary from facility to facility. The Contract Manager or designee will indicate colors needed upon request for an estimate.
- 4.9.7.4 Reproduce the cling, banner, or miscellaneous sign in the event the Contractor's cling or banner does not match the requested product specifications or the version approved by the Contract Manager or designee, until the final product desired is achieved, at no additional cost to the City.
- 4.9.7.5 In the event the Contractor's clings, banners, or miscellaneous signs do not match the requested product specifications, the Contractor shall reproduce the sign until the final product desired is achieved, at no additional cost to the City.

**4.9.8 Replacement of Existing Clings, Banners, Hardware and Accessories:**

- 4.9.8.1 The Contractor shall not use existing hardware or accessories on clings, banners, and miscellaneous signs being replaced unless requested in writing by the Contract Manager or designee prior to work commencing.

**4.9.9 Replacement of Existing Clings**

- 4.9.9.1 The Contractor shall provide all clings, banners, miscellaneous signs, and installation services as requested by the Contract Manager or designee, per cling and banner type.

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- 4.9.9.2 The Contractor's clings, banners, and miscellaneous signs shall be smooth in appearance and functionality or be provided as per written specification. All clings and banners are subject to Contract Manager or designee inspection and approval prior to installations.
  - 4.9.9.2.1 Cling, banner, and miscellaneous sign material may vary in type of material and thickness depending on the location and the size of the cling and banner.
  - 4.9.9.2.2 Installation of clings, banners, and miscellaneous signs may require the Contractor to prep surfaces as deemed necessary.
  - 4.9.9.2.3 The Contractor shall provide all clings, banners, and miscellaneous signs in accordance with artwork provided by the Contract Manager or designee.
  - 4.9.9.2.4 The Contractor shall adhere to the printing specifications as indicated on artwork per written specification requirements provided to the Contractor by the Contract Manager or designee.

**4.10 Changes to Fixed-Price Estimate**

- 4.10.1 The Contractor shall acknowledge and understand that the fixed-price Estimate is the maximum amount the City will pay for the service or product(s), regardless of increases in labor, equipment rentals or materials initiated by the Contractor. Contractor changes to the approved Estimate shall not increase the total dollar amount on the fixed-price Estimate.
- 4.10.2 The Contractor shall immediately notify the Contract Manager or designee in writing (by email) if additions, deletions, and/or revisions to a job assignment are needed. Within one (1) business day of verbal notification, the Contractor shall submit a written Estimate Change Request to the Contract Manager or designee. The City reserves the right to reject any changes to the project Estimate requested by the Contractor. Under no circumstances shall Contractor proceed with changes to the project Estimate without approval from the Contract Manager.
- 4.10.3 The Estimate Change Request shall include the following:
  - 4.10.3.1 A description of the change or addition in the work and the reason for the change/addition, explaining the benefits of the change/addition
  - 4.10.3.2 The adjustment in the project time, if any.
- 4.10.4 If the City requests to change an Estimate due to a change in the scope of work that would increase the number of labor hours required or the amount of materials required, the Contractor shall amend the original fixed-price Estimate and, upon approval and acceptance of the amended Estimate, shall be reimbursed for the changes.

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**4.11 Contractor's Equipment**

The Contractor shall:

- 4.11.1 Ensure all equipment used by the Contractor is in good operating condition and shall meet or exceed OSHA industry standards.
- 4.11.2 Ensure any motorized or mechanical equipment such as lifts, booms or scaffolds are inspected and approved by the Contract Manager or designee before use.
- 4.11.3 Clean non-marking tires before entry into the facility. In addition, the City may require a covering be laid on the floor to protect it from the equipment.
- 4.11.4 Be responsible for any damage resulting from tire burns, battery leaks, oil or hydraulic leaks, scrapes or scratches to City property.
- 4.11.5 Not use gasoline, natural gas, diesel, or propane-powered equipment inside a facility without the written permission of the Contract Manager or designee.
- 4.11.6 Understand the City may stop work at any time if inferior equipment (such as leaking solvents, safety risk, creating hazardous conditions, damaging City property, etc.) is in use by the Contractor. The City shall have the sole and final authority in determining if Contractor's equipment is inferior
- 4.11.7 Obtain prior written approval from the Contract Manager or designee prior to renting any lift equipment. Under no circumstances shall the Contractor rent lift equipment without such prior approval.
- 4.11.8 With prior written approval from the Contract Manager, may charge the City for the cost of lift rentals.
- 4.11.9 If the Contract Manager or designee does not provide prior written approval for the equipment rental, the Contractor shall either rent or purchase the necessary equipment at its own expense. The Contractor shall not be reimbursed for rental costs which do not have the Contract Manager's or designee's prior written approval.
- 4.11.10 Understand the Contractor's charges for the rental of lift equipment shall be a markup to the Contractor's cost in accordance with the Pricing Submittal(s). Markups shall not exceed ten percent (10%) of Contractor's rentals cost. All line-item charges for rentals will be verified by the City.
- 4.11.11 Submit copies of the rental agreement and receipts which clearly indicate the full cost paid by the Contractor, to be reimbursed for the cost of rental equipment with the invoice.
- 4.11.12 Be responsible for any loss or damage to rented or owned equipment used while performing services under this contract. The City shall not charge the City for expenses incurred by the Contractor for loss or damage to rented or Contractor-owned equipment.
- 4.11.13 Not charge the City if the Contractor elects to purchase tools and equipment (rather than rent) used to perform services under this Contract.

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**4.12 Sustainability**

The City prefers sustainable products and services that:

- 4.12.1 Conserve natural resources including water, energy, and raw materials throughout the product life cycle.
- 4.12.2 Minimize environmental impacts such as water and air pollution during usage.
- 4.12.3 Eliminate or reduce toxins that create hazards to workers, citizens, wildlife, and the environment.
- 4.12.4 Support up-cycling and recycling efforts as well as utilize products with high recycled content.
- 4.12.5 Encourage vendors to reduce environmental impacts in their production and distribution systems.
- 4.12.6 Support worker health, safety, and fair wages.
- 4.12.7 Consider total cost of ownership during the product's useful life, including operation, supplies, maintenance, and disposal cost.

**4.13 Reports and meetings**

- 4.13.1 The Contractor shall attend meetings scheduled by the City. Notice of any such meeting(s) may be given by Contract Manager or designee, to the Contractor either orally or in writing and will designate the time, date, location, Contractor attendees, and the purpose of the meeting.
- 4.13.2 The Contractor shall maintain a project log for each project, organized by date (with the most recent date on top).
- 4.13.3 The project log shall be submitted with each invoice.
- 4.13.4 The project log shall list the following information for each visit:
  - 4.13.4.1 Physical location of sign, cling and/or banner order.
  - 4.13.4.2 Signature of the attending Contractor's representative.
  - 4.13.4.3 Date, start time, and duration of visit.
  - 4.13.4.4 Specific information regarding work performed, including signs, cling(s), banner(s), miscellaneous sign(s), hardware, and accessories to be provided on order.
  - 4.13.4.5 Delivery Order number assigned to project.
  - 4.13.4.6 List of items which may require special attention on future visits, if applicable.

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**4.14 Warranty**

**Custom Cling, Banner, and Miscellaneous Sing Warranty:**

- 4.14.1 The Contractor shall provide a written warranty for all clings, banners, miscellaneous signs, hardware, accessories, labor and workmanship upon completion of each job. The warranty shall be guaranteed for a minimum of one (1) year from completion date and shall be warranted against any malfunctions or defects in clings and products and against faulty services.

**Custom Sign Banner Warranty:**

The Contractor shall:

- 4.14.2 Provide written three-year full replacement warranty to the City that all signage will be free of defects due to workmanship and materials including, but not limited to, fading, peeling, delamination, and installation. With no additional cost to the City, repair all defects that develop during warranty period and all damage to other Work due to such defects. NOTE: Additional warranties apply to specific sign types and products, as specified herein.
- 4.14.3 Submit three-year written warranty, signed by the Contractor and Installer, warranting that the architectural signage finishes will not develop excessive fading or excessive non-uniformity of color or shade and will not crack, peel, pit or corrode or otherwise fail as a result in defects, within the warranty period, make necessary repairs or replacement at the convenience of the City.
- 4.14.3.1 "Excessive Fading": A change in appearance which is perceptible and objectionable as determined by the Designer when visually compared with the original color range standards.
- 4.14.3.2 "Excessive Non-Uniformity": Non-Uniform fading during the period of the guarantee, to the extent that adjacent panels have a color difference greater that the original acceptance range of color.
- 4.14.3.3 "Will Not Pit or Otherwise Corrode": No Pitting or other type of corrosion discernible from a distance of 10'- 0", resulting from the natural elements in the atmosphere at the project site.

**4.15 Completion**

The Contractor shall:

- 4.15.1 Notify the Contract Manager or designee via phone or in person upon completion. The Contract Manager or designee will perform a walk-through to review all work prior to payment.
- 4.15.2 Provide the Contract Manager with text images of the site where the cling, banner, or miscellaneous sign has been installed, if the Contract Manager or designee is not available.
- 4.15.3 Be responsible for cling, banner, or miscellaneous sign damaged during delivery or installation. Damaged or unacceptable cling(s) or banner(s) shall

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be replaced, by the Contractor, at no additional cost to the City.

- 4.15.4 Damaged or unacceptable clings, banners, or miscellaneous signs shall be replaced within 7 calendar days or at a time mutually agreed upon by the Contract Manager or designee and Contractor.
- 4.16 **Contract close-out**
  - 4.16.1 The Contractor shall submit its final invoice(s) in accordance with the City's Terms and Conditions. The City reserves the right to withhold payment of final invoices in the event Contractor fails to comply with the items of Contract Close-Out or if the Contractor owes the City any monies, invoice credits, reimbursements, or payments.
  - 4.16.2 The Contractor shall coordinate a meeting two (2) months before the anniversary contract date as requested by the City, in person or via a teleconference to discuss (at least, but not limited to) pending sign, cling, banner, hardware or accessory orders not delivered or installed, and the anticipated completion dates.

**5.0 DELIVERY, INSTALLATION, AND SERVICE LOCATIONS**

**Delivery Services**

The Contractor shall:

- 5.1 Deliver and install all clings, banners, and miscellaneous signs on-site.
- 5.2 Before each delivery, each cling, banner, and miscellaneous sign shall be tagged or labeled with installation location and identifying number. Labeling shall be on both the cling, banner and protective covering and shall be removed without damage to the cling or banner at the time of installation.
- 5.3 Deliver is to be made within Insert number of calendar days in words and 14 calendar days after the order is placed (either verbally or in writing).
- 5.4 Provide all the mounting hardware, mounting components materials, fasteners, adhesives, structures, brackets, blocking, miscellaneous steel, embed plates, and all other structural and mounting hardware that are compatible with the conditions at each installation location necessary for the proper fabrication and installation of the signs.
- 5.5 Provide signs and sign hardware with the ability to be installed to various surfaces in a variety of methods, such as, but not limited to:
  - 5.5.1 Drywall
  - 5.5.2 Wallpaper
  - 5.5.3 Limestone
  - 5.5.4 Brick
  - 5.5.5 Granite
  - 5.5.6 Concrete
  - 5.5.7 Metal & steel

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- 5.5.8 Glass
- 5.5.9 Fabric surfaces
- 5.5.10 Wood
- 5.5.11 Adhesive
- 5.5.12 Wall mounted / face mounted
- 5.5.13 Protruding / Stand off
- 5.6 Provide sign hardware including, but not be limited to:
  - 5.6.1 Brushed chrome finish hugger stud-mounts
  - 5.6.2 Aluminum
  - 5.6.3 Steel or stainless
  - 5.6.4 Flat edge or radius grain
  - 5.6.5 Hardware in various thicknesses and length depending on the size and weight of the sign and its designated location.
  - 5.6.6 Cap locking mechanism
- 5.7 Provide installation services upon request by the Contract Manager or designee.
- 5.8 Provide a working installer supervisor onsite during each installation process to monitor quality control.
- 5.9 Understand all signage shall be installed as requested by the Contract Manager or designee through the Project Estimate Process.
- 5.10 Escalator panels shall be installed directly onto existing Escalator Pylon structures into recessed box panels in specified areas, affixed with 3M VHB tape.
- 5.11 Stop work and immediately notify the Contract Manager or designee if the Contractor identifies insufficient installation site conditions. The Contract Manager or designee will coordinate with the Contractor to resolve deficiencies and notify the Contractor to resume work.
- 5.12 Be responsible for the proper preparation and prepping of surfaces including, protection of all non-movable items or equipment, and the proper application of all materials on new sign locations. Understand the Contract Manager or designee shall inspect and approve Contractor's surface preparation on new sign locations prior to sign installation.
- 5.13 Use tarps, drop cloths, etc. to protect work or other property wherever such covering is necessary.
- 5.14 Avoid disconnecting electronic equipment such as computers, fax machines, telecommunication equipment, and appliances such as but not limited to refrigerators. The Contract Manager or designee shall be responsible for coordinating City equipment disconnections, as necessary.



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- 5.15 Arrange and coordinate the delivery and setup of rented lift or equipment onsite per installation. Lift and equipment must be removed immediately by the Contractor after each job is completed. Storing equipment lift onsite will not be the responsibility of the City. The Contractor must make storage arrangements for lift, if lift rental exceeds one (1) business day.
- 5.16 Be responsible for immediate clean-up of work area to remove all debris, materials and/or equipment when job is finished, or daily if multiple day installation is required.
- 5.17 Understand cleanliness of the work area shall be subject to the Contract Manager or designee's inspection and approval.
- 5.18 Request additional time in accordance with the Project Estimate Process if the Contractor determines that the services being performed cannot be completed as specified in the Estimate. The Contractor and the Contract Manager or designee shall mutually agree to a new date for completion of work. Under no circumstances shall the Contractor leave services unfinished without prior approval from the Contract Manager or designee.
- 5.19 Immediately provide any signs or hardware removed or replaced during services for verification purposes, upon request by the Contract Manager or designee.
- 5.20 Notify the Contract Manager or designee in by phone immediately upon completion of each scheduled sign installation.
- 5.21 Perform a walk-through with the Contractor's installer (if applicable) and Contract Manager or designee to review signs installed prior to departing the facility for the day. The Contract Manager reserves the right to request photographic evidence of all work performed in lieu of a walk-through. Upon request of photographic evidence of the work completed, the Contractor shall provide photographs, cataloged by descriptive labels describing what the picture is of, which direction the picture was taken, the location of the picture, and any other pertinent information.
- 5.22 Be responsible for signage damaged during delivery or installation. Damaged or unacceptable signs shall be replaced, by the Contractor, at no additional cost to the City.
  - 5.22.1 Damaged or nonconforming signs shall be replaced within seven (7) calendar days or at a time mutually agreed upon by the Contract Manager or designee and Contractor.
- 5.23 Reproduce the sign or installation hardware, in the event the Contractor's sign does not match the requested product specifications or version approved by the Contract Manager or designee, until the final product desired is achieved, at no additional cost to the City.

**Installation Services**

The Contractor shall:

- 5.24 Provide installation services upon request by the Contract Manager or designee.

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- 5.25 Be responsible for prepping areas where clings, banners, and miscellaneous signs will be placed, at the Contract Manager's or designee's request.
- 5.26 Provide mounting hardware, mounting components, and accessories, materials, fasteners, adhesives, structures, brackets, blocking, miscellaneous steel, and all other structural hardware that are compatible with the conditions at each of the installation locations and necessary for the proper installation and fabrication of clings and banners.
- 5.27 Inspect the site where the cling(s), banner(s), or miscellaneous sign(s) will be installed, before submitting their written cling or banner order estimate to the Contract Manager or designee, to ensure all required tasks are included in the Contractor's installation schedule.
- 5.28 The Contract Manager or designee will view the surface preparation performed by the City and determine if acceptable to proceed with the installation.
- 5.29 The Contractor shall, before start of work or upon stopping work, if necessary, immediately notify the Contract Manager or designee, if the surface preparation performed by the City is not suitable for cling, banner, or miscellaneous sign installation by the Contractor.
- 5.30 The Contract Manager or designee will coordinate with the Contractor to resolve deficiencies and notify the Contractor to resume work.
- 5.31 Be responsible for the proper preparation and prepping of surfaces including, protection of all non-movable items or equipment, and the proper application of all materials on cling, banner, or miscellaneous sign locations, at the Contract Manager's or designee's request. Understand the Contract Manager or designee shall inspect and approve Contractor's surface preparation on cling, banner, miscellaneous sign locations prior to cling or banner installation.
- 5.32 Use tarps, drop cloths, etc. to protect work or other property wherever such covering is necessary.
- 5.33 Avoid disconnecting electronic equipment such as computers, fax machines, telecommunication equipment, and appliances, such as, but not limited to, refrigerators. The Contract Manager or designee shall be responsible for coordinating City equipment disconnections, as necessary.
- 5.34 Coordinate installation date and time with the Contract Manager or designee on each cling, banner, and miscellaneous sign order. If the schedule conflicts with events held at ACCD, the Contractor and Contract Manager or designee will identify, in writing, a mutually agreeable alternative installation date.
- 5.35 Immediately provided any clings, banners, miscellaneous signs, hardware, or accessories removed or replaced during services for verification purposes, if requested by the Contract Manager or designee.

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- 5.36 If no installation services are required, provide Contract Manager or designee and estimated delivery date for cling(s), banner(s), miscellaneous sign(s) hardware and accessories ordered, within three (3) business days of receipt of City's request notification.

**6.0 CITY'S RESPONSIBILITIES**

The City will:

- 6.1 Assign a Contractor Manager who will oversee/monitor contract activities on behalf of the City and will serve as the primary point of contact when the Contractor needs to project information.
- 6.2 Create the purchase order (DO) for each project.
- 6.3 Check all orders and deliveries for accuracy and must meet the cling(s), banner(s), and miscellaneous sign(s) specifications upon delivery. Delivery will be refused if the requirements are not met.
- 6.4 Notify the Contractor in writing in the event there is any change in the assignment of the City's Contract Manager.

**7.0 Specific Invoice Requirements**

The Contractor shall:

- 7.1 Only invoice for labor hours worked on project site. Non-billable hours for personnel shall include, but not be limited to: sick time, vacation, personal leave, time at lunch, time spent picking up materials off-site and transportation time to arrive at job site.
- 7.2 Only invoice for rental equipment for actual time performing services on project. The City will not pay for equipment rental charges which exceed the fixed-price estimate, unless otherwise agreed upon in writing by the Contract Manager or designee.
- 7.3 Provide the City with an itemized invoice that contains, at a minimum, the following:
- 7.3.1 Location/address where signs were delivered and/or installed.
- 7.3.2 Beginning and end date(s) of installation service (if applicable).
- 7.3.3 Itemized total of labor hours worked (installation services only).
- 7.3.4 The Contractor's unique Estimate number.
- 7.3.5 Proof of all approved rental equipment charges with each invoice, itemized per project performed for the City as indicated on the Estimate.
- 7.4 The City's preference is to have invoices emailed to the below address:

City of Austin	
Department	<b>Building Services</b>
Email	<a href="mailto:bsdapinvoices@austintexas.gov">bsdapinvoices@austintexas.gov</a>
Department	<b>Austin Energy</b>
Email	<a href="mailto:fminvoices@austinenergy.com">fminvoices@austinenergy.com</a>

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SCOPE OF WORK  
CITYWIDE CUSTOM SIGNS, CLINGS, BANNERS, AND MISCELLANEOUS SIGNS  
SOLICITATION NO.: RFP 5000 JRN3047**

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For questions regarding your invoice/payment please contact the City Contract Manager.