

**City Council Questions and Answers for  
Thursday, March 31, 2016**

These questions and answers are related to the  
Austin City Council meeting that will convene at 10:00 AM on  
Thursday, March 31, 2016 at Austin City Hall  
301 W. Second Street, Austin, TX



**Mayor Steve Adler**  
**Mayor Pro Tem Kathie Tovo, District 9**  
**Council Member Ora Houston, District 1**  
**Council Member Delia Garza, District 2**  
**Council Member Sabino Pío Renteria, District 3**  
**Council Member Gregorio Casar, District 4**  
**Council Member Ann Kitchen, District 5**  
**Council Member Don Zimmerman, District 6**  
**Council Member Leslie Pool, District 7**  
**Council Member Ellen Troxclair, District 8**  
**Council Member Sheri Gallo, District 10**

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## **QUESTIONS FROM COUNCIL**

1. Agenda Item # 5: Authorize execution of a construction contract with SANTA CLARA CONSTRUCTION, LTD for the Southeast Allandale Neighborhood Water and Wastewater Improvements project in the amount of \$3,816,832.50 plus a \$267,178.28 contingency, for a total contract amount not to exceed \$4,084,010.78.
  - a. QUESTION: 1) How are the projects for the Austin Water Utility Renewing Program prioritized? 2) Can staff provide a priority list of Austin Water Utility Renewing Program? 3) What is the total budget for this program for the last 3 fiscal years? COUNCIL MEMBER TROXCLAIR'S OFFICE
  - b. ANSWER: See attachment.
2. Agenda Item # 10: Authorize execution of a construction contract with MUNIZ CONCRETE & CONTRACTING, INC., for ADA Sidewalk and Ramp Improvements 2016 Group # 18 City Wide Indefinite Delivery/Indefinite Quantity in the initial amount of \$2,000,000 for an initial term of 18 months with two 12-month extension options of \$1,000,000 for a total contract amount not to exceed \$4,000,000.
  - a. QUESTION: 1) How are the projects under this contract prioritized and ultimately selected. 2) In an Indefinite Quantity/Indefinite Quality contract, I would suspect to see projects from every Council district. Why are there no projects that will be funded with this contract in District's 5-8? COUNCIL MEMBER ZIMMERMAN'S OFFICE
  - b. ANSWER: See attachment.
3. Agenda Item # 11: Authorize award and execution of a construction contract with MATOUS CONSTRUCTION, LTD, for the Davis Water Treatment Plant Treated Water Discharge System project, in the amount of \$43,710,000 plus a \$2,185,500 contingency, for a total contract amount not to exceed \$45,895,500.
  - a. QUESTION: 1) What is being done? 2) How much water does Davis Water Treatment Plant supply? 3) What is the capacity of WTP # 4? 4) Since WTP

# 4 was built, has AWU done a study to see how much it would cost to update the total water system to be able to decommission Davis Water? If so, what is the cost? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: See attachment.

4. Agenda Item # 13: Authorize the use of the Competitive Sealed Proposal method for solicitation of a proposal for the construction of a multi-purpose meeting space and associated tasting kitchen at the Austin Convention Center to be named InVision Studios.

a. QUESTION: What is the construction budget for the InVision Studios project? COUNCIL MEMBER TROXCLAIR'S OFFICE

b. ANSWER: The general estimate is \$1.5 million.

5. Agenda Item # 16: Approve an ordinance amending City Code Chapter 2-2 relating to revision of campaign finance forms.

a. QUESTION: 1) Part 8 repeals Section 2-2-25; why is this being repealed? 2) Which current City Council Members were required to turn in 2-2-25 with their January 2015 Form C/OH? 3) Which current City Council Members turned in 2-2-25 for their January 2015 Form C/OH and what date was it turned in? 4) Part 15 repeals Section 2-2-42; why is this being repealed? 5) Which current City Council Members were required to turn in 2-2-42 with their January 2015 Form C/OH? 6) Which current City Council Members turned in 2-2-42 for their January 2015 Form C/OH and what date was it turned in? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: See attachment.

6. Agenda Item # 18: Authorize award, negotiation, and execution of an agreement with CATHOLIC CHARITIES OF CENTRAL TEXAS, to provide housing stability services to households at risk of homelessness in an amount not to exceed \$740,000, for a 12-month term beginning April 1, 2016, with four 12-month renewal options, for a total contract amount not to exceed \$3,700,000.

a. QUESTION: What other agency submitted a response to the Rental Assistance RFA? COUNCIL MEMBER RENTERIA'S OFFICE

b. ANSWER: The other agency that submitted a response to the Rental Assistance RFA was Easter Seals of Central Texas.

7. Agenda Item # 19: Approve negotiation and execution of amendments to agreements with 13 social service agencies to increase funding for self-sufficiency social services in an amount not to exceed \$2,282,238 for a total combined amount not to exceed \$40,319,844 for a 37-month term from September 1, 2015 through September 30, 2018, with three 12-month extension options in an

amount not to exceed \$13,439,948 per extension option, for a total combined amount not to exceed \$80,639,688.

- a. QUESTION: Please provide an outline of the internal and public process and timeline involved with developing and implementing the 2014 Request for Application (RFA) process. Please also provide an explanation of the policy decision to implement 37-month contracts with three 12-month extension options including stakeholder feedback that factored into that decision.  
COUNCIL MEMBER GARZA'S OFFICE

- b. ANSWER: See attachment.

- 8. Agenda Item # 23: Approve an ordinance extending the expiration date of Ordinance No. 20141120-056 relating to requirements for non-peak hour concrete installation within portions of the Central Business District and Public zoning districts; and declaring an emergency.

- a. QUESTION: 1) Who from the industry has City Staff engaged prior to any new proposed ordinance language? 2) Is City Staff committed to engaging with them again before any propose any new language? COUNCIL MEMBER ZIMMERMAN'S OFFICE

- b. ANSWER: City staff has been meeting with representatives from Texas Aggregates & Concrete Association, Austin Chapter or the Associated General Contractors and Beck Group Construction since the code amendments were originally proposed. If requested by City Council, City staff would be agreeable to have an additional meeting with developer and neighborhood stakeholders regarding the proposed ordinance prior to Council's consideration of the ordinance in late April or early May.

- 9. Agenda Item # 29: Authorize award and execution of a 36-month contract with WOODS MAINTENANCE SERVICES, INC., to provide graffiti removal services, in an amount not to exceed \$270,000, with three 12-month extension options in an amount not to exceed \$90,000 per extension option, for a total contract amount not to exceed \$540,000.

- a. QUESTION: How soon after graffiti is reported does APD recommend it be removed? COUNCIL MEMBER ZIMMERMAN'S OFFICE

- b. ANSWER: Per the solicitation documents, the Contractor shall respond to a job assignment within 24 hours of notification by an authorized City employee, except for weekends or holidays; however, this exemption does not apply if a response is specifically requested City Contract Manager.

- 10. Agenda Item # 30: Authorize negotiation and execution of a contract through the Houston-Galveston Area Council with TOTER INCORPORATED for refuse and recycling containers in an amount not to exceed \$886,870.



- a. QUESTION: Why didn't the City go out for bid on this contract? What are the details of the last 2 contracts to purchase containers for ARR? COUNCIL MEMBER TROXCLAIR'S OFFICE
  - b. ANSWER: 1) After a thorough review of various containers available on the market, staff determined the containers made by Toter Inc. best met the City's operational requirements; were more durable, more impact resistant and fully compatible with the City's vehicles. As this is a commodity purchase, using a cooperative contract allowed the City to take advantage of volume-based prices the City could not achieve itself. 2) The last two contracts for these refuse and recycling containers have been through the HGAC cooperative contract with Toter Inc.
11. Agenda Item # 32: Authorize award and execution of a 36-month contract with BRANDY P MILLER, PH.D., P.C. to provide psychological examinations for public safety cadets in an amount not to exceed \$279,750, with three 12-month extension options in an amount not to exceed \$93,250 per extension option, for a total contract amount not to exceed \$559,500.
- a. QUESTION: What percentage of the participants that Dr. Miller has given the exam on behalf of the City of Austin since 2011 have passed? COUNCIL MEMBER ZIMMERMAN'S OFFICE
  - b. ANSWER: The City does not track this information, however, the Vendor estimates generally around 90% pass and 10% fail.
12. Agenda Item # 37: Authorize negotiation and execution of a 24-month contract with GRUENE ENVIRONMENTAL COMPANIES, LP, or one of the other qualified offeror to Request for Proposal NST0409, for the purchase of environmental spill response services, in an amount not to exceed \$1,280,000, with three 12-month extension options, in an amount not to exceed \$640,000 per extension option, for a total contract amount not to exceed \$3,200,000.
- a. QUESTION: 1) How many spills have required Environmental Spill Response Services in each of the past 5 years? 2) What was the annual spend on Environmental Spill Response Services in each of the past 5 years? 3) Who held the previous contract and what were the terms of that contract? 4) Is Austin Energy the only City of Austin entity that contracts for Environmental Spill Response Services? If not, what other entities; how many spills in each of the past 5 years have they had; what was the annual spend in each of the past 5 years for these services; who has the current contracts; what are the terms of the contracts? COUNCIL MEMBER ZIMMERMAN'S OFFICE
  - b. ANSWER: See attachment.
13. Agenda Item # 38: Authorize ratification of an amendment to the contract with USIC LOCATING SERVICES LLC, for underground utility locating services, to increase the contract authorization for the current contract period in an

amount not to exceed \$350,000, for a revised total contract amount not to exceed \$2,249,750.

a. QUESTION: 1) Please provide a link to the existing contract. 2) Who is held responsible if an underground utility is not properly located? 3) In each of the past 5 years, how many times has USIC located underground utilities for Austin Energy? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: See attachment.

14. Agenda Item # 41: Authorize negotiation and execution of three contracts through the Texas Local Government Purchasing Cooperative (BuyBoard) for light duty vehicles with CALDWELL COUNTRY CHEVROLET DBA BABY JACK II AUTOMOTIVE, LTD in an amount not to exceed \$1,106,108, GRAPEVINE DODGE CHRYSLER JEEP, LLC DBA GRAPEVINE DCJ, LLC in an amount not to exceed \$1,373,878, and SILSBEE FORD, INC. in an amount not to exceed \$2,459,840, for a total amount not to exceed \$4,939,826.

a. QUESTION: By Department, how many these vehicles will the user be allowed to take home with them instead of returning to a City of Austin facility? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: Comparing the list of take-home units currently reported to Fleet Services to the units being purchased in this RCA, no vehicles being replaced are currently used in the take-home capacity.

c. QUESTION: Can you provide more information about why more vehicles the city is purchasing aren't hybrid or electric? COUNCIL MEMBER KITCHEN'S OFFICE

d. ANSWER: The operational requirements of the department is the first consideration in determining the type of unit to be purchased. Many of these vehicles being purchased require the transportation of multiple employees along with their equipment/tools. The Ford Escape which was a mid-sized hybrid unit purchased in the past to meet these needs, is no longer available. Where possible, the department downsized from larger SUVs or trucks to an equinox, which is E85 capable. These units meet the requirements for a mid-sized unit. The remaining vehicles did not have a hybrid or electric model available that met the operational needs of the department. All vehicles purchased are alternative fuel capable.

15. Agenda Item # 44: Authorize negotiation and execution of a 24-month contract with UNISYS CORPORATION to provide for the migration of legacy systems into the Application Management and Data Automation (AMANDA) case management software system, expansion of online services for citizens via the public-facing AMANDA Portal, integration between AMANDA and other systems, and improvement in internal processes for all departments using the AMANDA system in an amount not to exceed \$2,410,000, with three 12-month

extension options in an amount not to exceed \$1,175,000 each, for a total contract amount not to exceed \$5,935,000.

a. QUESTION: Which specific Zucker recommendations will this contract close out? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: See attachment.

16. Agenda Item # 48: Approve an ordinance authorizing negotiation and execution of an Advanced Funding Agreement with the Texas Department of Transportation for bike stations; and amending the Fiscal Year 2015-2016 Austin Transportation Department Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) to accept \$908,500 in grant funds from the Texas Department of Transportation; amending the Austin Transportation Department Capital Budget (Ordinance No. 20150908-002) to transfer in and appropriate \$908,500 from the Austin Transportation Department Operating Budget Special Revenue Fund for bike stations; and amending the Austin Transportation Department Capital Budget (Ordinance No. 20150908-002) to accept and appropriate a donation of \$241,500 from Bike Share of Austin also for bike stations.

a. QUESTION: 1) Please provide the "Advanced Funding Agreement" showing the 18 proposed locations. 2) Is there any City of Austin money used for maintenance? If so, how much? 3) If/when the grant funds expire; who will own the docks, map modules, bicycles, and kiosks? 4) How many bicycles will be purchased through this grant? 5) Is there any fee associated with using these bicycles? If so, what are the fees? COUNCIL MEMBER ZIMMERMAN'S OFFICE


b. ANSWER: 1) Please see attached Advance Funding Agreement and map depicting locations. 2) No City of Austin money is used for maintenance. The City's non-profit vendor, Bike Share of Austin, maintains the equipment on a daily basis. 3) The City of Austin will own all docks, map modules, bicycles and kiosks. 4) 125. 5) Use of the bike share system requires either an annual membership of \$80, a monthly membership of \$11 (plus a one-time \$15 fee), a 3-day access pass for \$15 or a 24-hour pass for \$8. With a membership or pass, the bicycles may be ridden for up to 30 minutes for free and \$4.33 every additional 30 minutes thereafter.


17. Agenda Item # 49: Authorize negotiation and execution of a 12-month interlocal agreement with the Capital Area Council of Governments to provide funding for clean air programs in an amount not to exceed \$80,000.

a. QUESTION: What are the quantifiable goals/metrics from each of the 6 Tasks? COUNCIL MEMBER ZIMMERMAN'S OFFICE

b. ANSWER: Please see the attached table.

## END OF REPORT - ATTACHMENTS TO FOLLOW

 *The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

 *For assistance, please call 512-974-2210 or TTY users route through 711.*



### Council Question and Answer

Related To	Item #5	Meeting Date	March 31, 2016
Additional Answer Information			
<p><b>QUESTION:</b> 1) How are the projects for the Austin Water Utility Renewing Program prioritized? 2) Can staff provide a priority list of Austin Water Utility Renewing Program? 3) What is the total budget for this program for the last 3 fiscal years? COUNCIL MEMBER TROXCLAIR'S OFFICE</p>			
<p><b>ANSWER:</b></p> <p>1) Austin Water has launched the “Renewing Austin Program” in 2011 to systematically renew or upgrade Austin’s aging water lines and to keep pace with the infrastructure demands of a rapid growing city. The focus of this ongoing program is to replace and upgrade aging water distribution infrastructure to ensure the reliability and quality of Austin’s water supply and to minimize the associated water main breaks and leaks for better water conservation and services. Austin Water prioritizes Renewing Austin projects using a systematic approach based historical data and criteria including review of water line break history, pipe material, pipe size, pipe age, distribution improvement needs, existing street conditions and opportunities with other related capital improvement projects.</p> <p>2) Austin Water is aiming to continue replacing over 10 miles of water mains per year focusing on cast iron and small diameter pipes with high break history. The following projects are currently under planning and design or construction for the upcoming year:</p>			
<b>CIP ID</b>	<b>Project Name</b>	<b>Status</b>	
2231.093	RA - Southwest Allandale NWSU – Polygon 206B	Planning	
2231.094	RA - Austin Heights NWSU - Polygon 167B & 162	Bid/Award	
2231.109	RA - East Allandale White Rock NWSU - Polygon 225A	Planning	
2231.134	Palma Plaza WW Reroute	Planning	
2231.157	Elroy Rd Water Rehabilitation Ph 3 (FM812/Maha)	Construction	
2231.159	Plaza Saltillo Water Rehab Phase 1	Design	
2231.162	RA-NW Brentwood Neighborhood Water System Upgrades -	Bid/Award	
2231.185	Plaza Saltillo Water Rehab Phase 2	Planning	
2231.192	RA-Southeast Allandale NWSU - Polygon 206A	Bid/Award	
2231.203	FM 812 (Elroy Loop )	Planning	
2231.216	2231.216 Nelray and Evans WW Improvements	Construction	
2231.217	UT Campus Area Utility Improvements	Planning	
2231.232	RA - Concordia and SW Cherrywood NWSU -	Planning	
2231.233	RA - NE Brentwood / Arcadia Street NWSU -	Planning	
2231.234	RA - North Rosedale / Lawnmont NWSU -	Planning	
2231.235	RA - SW Brentwood - Houston St.Area NWSU -	Planning	
2231.236	Morrow and Gault	Design	
2231.237	RA - Exposition Blvd Wtr Line & W W Force Main Rehab - W. 35th to Enfield	Design	
2231.238	RA - Bryker Woods / Greenlee & Dormarion Area NWSU	Planning	
2231.239	RA - Tarrytown - Hillview-Clearview Area NWSU -	Planning	

2231.240	RA - Old Enfield - Niles-Newfield Area NWSU -	Planning
2231.244	RA - Cherico/Sellers Water Line Replacement	Construction
2231.245	RA - Rosewood Avenue Water Line Improvements - Navasota to Hargrave	Planning
2231.246	RA - Kellam Road Water Line Replacement	Planning
2231.248	RA - Garwood Street Water Line Replacement	Construction
2231.260	Jim Hogg Ave to Arroyo Seco-CRS	construction
2231.269	Sunset Lane Water Line Extension-CRS	Construction
3212.057	TXDOT -- FM 973@COLORADO	Construction
3212.079	TXDOT -- SH 71 - US 183 to FM 973	Construction
3212.128	TXDOT -- SH 71-Southwest PKWY to 290	Construction
3212.131	TravCty -- Frate Barker - Brodie Lane to Manchaca Road	Construction
3212.132	Congress - North Bluff to Foremost	Construction
3212.133	TXDOT -- FM 969 (Phase I): Decker Lane to FM 973	Construction
3212.136	TXDOT -- US 183 Bergstrom Expressway (US 290 to SH 71)	Construction
3212.137	TXDOT -- SH 71: East of US 183 to Onion Creek (Toll Road)	Construction
3212.14	TXDOT - IH 35 Water Line Relocation	Design
3212.141	TXDOT-Loop 1 Water Line Relocation	Design
3212.143	Readjustment of Water Line Appurtenances on Slaughter Lane	Design
3212.144	Relocation of Water Line and Appurtenances on Neenah Road	Design
3212.146	Forest North, Pearson Ranch, Bayswater Gardens, Lakeline Blvd W&WW Lines	Design
3212.147	Forest North Phase 2 Water and Wastewater Line Relo	Design
3212.148	Pond Springs Road Water and Wastewater Lines and Appurtenance Relocation	Planning
3212.149	Anderson Mill Zone Water Line Relocation	Planning
5401.004	E. 51st St.Improvements	Planning
5403.003	Rio Grande 24th to 29th	Construction
5873.012	Redbud Trail (2012 bond)	Planning
6598.037	TXDOT -- US 290 at FM 1826 & Convict Hill	Construction
6598.039	TXDOT -- 290 @71-Wm Cannon, Joe Tanner	Construction
6755.002	Todd Lane from Ben White to St. Elmo	Construction
6935.018	FM 969: Decker Lane (FM 3177) to Hunters Bend Road	Planning
6935.022	Springdale/290 Improvements	Design
6935.039	Cameron Rd : Gregg ln to School	Design
6935.051	Hearn Street and W. 7th Water Line Improvements	Design
7678.001	Justin Lane from Burnet to Lamar	Design
TBD	Hether	Planning
TBD	Treadwell	Planning
TBD	Post Oak	Planning
TBD	Tejas	Planning
TBD	Periwinkle	Planning
TBD	Belford	Planning
TBD	Barbara	Planning
TBD	Gloucester	Planning
TBD	Harmon	Planning

3) The following is the budget for the Renew Austin program for the past three years:

FY16 CIP Plan Budget 20.29 M

FY15 CIP Plan Budget \$21.00M

FY14 CIP Plan Budget \$25.20M



## Council Question and Answer

Related To	Item #10	Meeting Date	March 31, 2016
Additional Answer Information			

**QUESTION:** 1) How are the projects under this contract prioritized and ultimately selected. 2) In an Indefinite Quantity/Indefinite Quality contract, I would suspect to see projects from every Council district. Why are there no projects that will be funded with this contract in District's 5-8? COUNCIL MEMBER ZIMMERMAN'S OFFICE

**ANSWER:**

1) The sidewalk program typically relies on the Sidewalk Master Plan to help set priorities on those projects that will be implemented. However, many other factors affect how projects are ultimately selected, such as constructability, opportunities to leverage funding, future development, coordination with other entities, etc. We try to be efficient in the way we do work to produce a connected network. When the contract was being developed it was not clear how much of the quarter cent funding would be allocated to sidewalk projects. Now that a significant portion of those funds have been allocated to sidewalks, and Council has expressed a desire for expedited delivery, it is anticipated that some of those quarter cent projects will be completed with this contract.

2) The Map is labeled "Potential Locations" due to the nature of IDIQ contracts. The map is only intended to provide examples of the type and extents of projects that might be assigned. Some of the quarter cent funding is in Districts 5 through 8 and we will re-prioritize based on the approval of the quarter cent projects. Some of the factors that resulted in this particular map having an uneven distribution across Council Districts include:

- Anticipated funding sources: The map was prepared prior to final decision making regarding quarter cent funds; it is now anticipated that the contract will be used to complete some of the quarter cent projects. At the time the map was developed anticipated funding included "named" projects such as the IH35 corridor improvements and a fairly large fee-in-lieu project. (As you may know fee-in-lieu is neighborhood/location specific)
- This contract only represents one-third (1/3) of typical annual sidewalk program spending.
- Approximately one-third (1/3) of sidewalk work is done with in house crews and doesn't appear before Council.

For a more comprehensive overview of the sidewalk projects constructed please visit see the quarterly reports on the Sidewalk Program website <http://www.austintexas.gov/page/sidewalk-improvement-projects>





### Council Question and Answer

Related To	Item #11	Meeting Date	March 31, 2016
------------	----------	--------------	----------------

### Additional Answer Information

**QUESTION:** 1) What is being done? 2) How much water does Davis Water Treatment Plant supply? 3) What is the capacity of WTP #4? 4) Since WTP #4 was built, has AWU done a study to see how much it would cost to update the total water system to be able to decommission Davis Water? If so, what is the cost? COUNCIL MEMBER ZIMMERMAN'S OFFICE

**ANSWER:**

1) The Work includes furnishing all tools, labor, materials, equipment, and miscellaneous items necessary for the construction of the "Davis Water Treatment Plant Treated Water Discharge System" project. In general, this Contract includes: construction of a new Medium Service Pump Station (MSPS) including five (5) distribution pumps and one (1) filter backwash pump complete with all related electrical and controls systems, demolition and relocation of existing water piping and electrical ductbanks, demolition of the existing clearwell drain pump station, demolition of the existing MSPS and associated piping, and installation of four (4) new motors on the water distribution pumps located at the High Service Pump Station. All associated items of work contained in the Contract documents and work as shown on plans will also be completed.

2) Davis Water Treatment Plant (WTP) has a rated capacity of 118 million gallons per day (MGD). Last Year (FY15) Davis WTP supplied over 17 Billion gallons to Austin Water (AW) Customers. The average daily treatment from Davis last year was 47.5 MGD with a daily peak of 93.5 MGD.

3) The rated capacity of WTP#4 is 50 MGD. The next phase expansion would increase the capacity to 75 MGD and the facilities are expandable to a capacity of 300 MGD, which would require major improvements including additional major treated water discharge transmission system improvements.

4) No, Austin Water has not done a Davis Decommissioning study. The Davis Water Treatment Plant is key and integral part of Austin Water's long range plan. The Davis WTP has served as the main treatment plant for the central, north, and northwest portions of the system for decades. Existing major transmission mains convey water from the Davis WTP to various parts of the City. The long-range water distribution network plan relies on the Davis WTP serving primarily central and north Austin and providing water to the east as the City and water distribution system grows.

For example, last year, the peak pumpage day for the whole AW water system was 207 MGD and the peak usage was 199 MGD. Had AW not had Davis WTP, the total system treatment capacity would have been 215 MGD. This water pumpage and usage is 95% and 92%, respectively, of the system treatment capacity while on Stage II Water Restrictions. The ability to do this assumes everything functioning perfectly and that AW can move any water in the system to match the demands.

A study like the one referenced to decommission Davis WTP would require a high level of complexity. The study would need to assess the design, and construction of additional treatment capacity, transmission mains, pump stations and reservoirs to continue to provide water to all parts of the City in each of the nine major pressure zones through a wide range of demands. Consideration would need to be given to a wide range of factors including energy recovery and reliability of the water distribution system for our customers.



### Council Question and Answer

Related To	Item #16	Meeting Date	March 31, 2016
Additional Answer Information			

**QUESTION:** 1) Part 8 repeals Section 2-2-25; why is this being repealed? 2) Which current City Council Members were required to turn in 2-2-25 with their January 2015 Form C/OH? 3) Which current City Council Members turned in 2-2-25 for their January 2015 Form C/OH and what date was it turned in? 4) Part 15 repeals Section 2-2-42; why is this being repealed? 5) Which current City Council Members were required to turn in 2-2-42 with their January 2015 Form C/OH? 6) Which current City Council Members turned in 2-2-42 for their January 2015 Form C/OH and what date was it turned in? COUNCIL MEMBER ZIMMERMAN'S OFFICE

**ANSWER:**

1) The Clerk's Office has recommended that Section 2-2-25 be repealed since the data is collected on the Texas Ethics Commission Reports (Form C/OH, Section 5, Contributions Balance, Schedules F1, Political Expenditures Made from Political Contributions, Schedule F2, Unpaid Incurred Obligations, Schedule K, Interest, Credits, Gains, Refunds, and Contributions Returned to Filer).

2) An officeholder filing a January 15 year-end contribution and expenditure report shall provide specific information listed in Chapter 2-2-25 for the previous calendar year for each checking, savings, or other financial institution account.

3) The following Council Members filed the ATX 4 form as part of the January 2015 report :

Mayor Adler (filed 1/15/15)  
 CM Casar (filed 1/15/15; 10/14/15)  
 CM Gallo (filed 1/15/15)  
 CM Garza (filed 1/15/15)  
 CM Houston (filed 3/26/15)  
 CM Kitchen (filed 10/19/15)  
 CM Pool (filed 1/14/15)  
 CM Renteria (filed 1/16/15)  
 MPT Tovo (filed 1/15/15)  
 CM Troxclair (filed 1/15/15)  
 CM Zimmerman (filed 10/14/15)

4) The Clerk's Office has recommended that Section 2-2-42 be repealed since the data is collected on the Texas Ethics Commission Reports (Form C/OH, Section 6, Schedule E, Loans and Schedule F1, Political Expenditures made from political contributions).

5) An officeholder filing a reconciliation report as part of their January 15 contributions and expenditure report shall file the ATX 3 form to provide specific information listed in Chapter 2-2-42.

6) The following Council Members filed the ATX 3 form as part of the January 2015 report::

Mayor Adler (filed 1/15/15)  
 CM Casar (filed 10/14/15)  
 CM Houston (filed 3/26/15)  
 CM Pool (filed 1/14/15)

MPT Tovo (filed 1/15/15)

CM Troxclair (filed 1/15/15)

CM Zimmerman (filed 10/14/15)



### Council Question and Answer

Related To	Item #19	Meeting Date	March 31, 2016
Additional Answer Information			

**QUESTION:** Please provide an outline of the internal and public process and timeline involved with developing and implementing the 2014 Request for Application (RFA) process. Please also provide an explanation of the policy decision to implement 37-month contracts with three 12-month extension options including stakeholder feedback that factored into that decision. COUNCIL MEMBER GARZA'S OFFICE

#### ANSWER:

##### 1) Summary:

The Department has conducted two large solicitations in 2010 and 2014. The Social Services RFA solicitation process takes about two-three years to complete. Existing agencies are provided a one year notice their funding is ending. The process begins with research, planning, conducting community meetings and meetings with other funders. For each solicitation a framework is developed with community input, HHSD Director, City Management and Council approval. Once all approvals are received for the framework staff began working with Purchasing and Law to develop the RFA. The information below provides timeline the process the Department completed for 2014 Social Services RFA process.

#### Response:

**January 2012– March 2013:** Austin/Travis County Health and Human Services Department (HHSD) began working on Social Service Request for Application (RFA) solicitation. Staff began conducting research and meeting with community partners to develop the framework.

**January 2013:** Engaged City Purchasing office to coordinate the RFA process

**March 2013 – May 2013:** Held meetings with community partners to review RFA framework: Community Advancement Network (CAN) Issue Areas, Early Childhood Commission, One Voice Central Texas, Ready by 21, St. David's, Travis County and United Way.

**May 18, 2013:** Obtained City Manager's Office (CMO) approval of proposed process

**From May 2013- January 2014 monthly meeting were held with the Public Health and Human Services Committee to obtain approval.**

**May 21, 2013:** Presented proposed RFA process to Public Health and Human Services Committee (PHHS)

**June 18, 2013:** Presented proposed RFA process to PHHS

**August 20, 2013:** Presented proposed RFA process to PHHS

**October 15, 2013:** Presented proposed RFA process to PHHS & obtained approval for full Council presentation

**November 30, 2013:** Presented proposed RFA scope of work to PHHS

**December 3, 2013:** Presented proposed RFA scope of work to PHHS for approval

**December 6, 2013:** Obtained CMO approval for proposed RFA process

**December 9, 2013:** Presented proposed RFA evaluation process and funding strategy to PHHS

**December 12, 2013:** Presented proposed RFA timeline and framework to Council

**December 16, 2013:** Presented proposed RFA evaluation process and funding strategy to PHHS

**January 21, 2014:** Presented proposed RFA evaluation process and funding strategy to PHHS for approval

**January 23, 2014:** Presented full approved RFA process to Council

**January 27 & 31, 2014:** RFA pre-solicitation meetings held with potential applicants to discuss and receive feedback of the RFA timeline, scope of work, evaluation process and funding strategy.

**February 24, 2014:** Release RFA

**March 5 & 19, 2014:** RFA pre-bid meetings held with potential applicants to review the RFA documents and answer questions about the information requested in the RFA

**April 24, 2014:** RFA closed

**May – June 2014:** Evaluated RFA responses; evaluation teams consisted of 39 subject matter experts from the City of Austin HHSD, Neighborhood Housing and Community Development, Parks and Recreation, & Office of Telecommunications and Regulatory Affairs, Travis County, United Way, and Local Foundations & Professional Organizations.

**September 2, 2014:** Presented RFA funding recommendations to PHHS

**September 16, 2014:** Presented RFA funding recommendations to PHHS & discussed adding \$2,000,000 in funding to RFA based on additional funding allocated by City Council during FY15 budget adoption process

**September 22, 2014:** Presented RFA funding recommendations to PHHS

**September 30 – October 3, 2014:** Help pre-positioning meetings with 33 RFA Applicants to discussed lower funding request

**October 8, 2014:** Presented RFA revised funding recommendations to PHHS based on pre-positioning meetings

**October 13, 2014:** PHHS presented revised RFA funding recommendations

**October 21, 2014:** PHHS approved RFA funding recommendations on first reading

**October 31, 2014:** PHHS approved RFA funding recommendations to move on to full Council for approval

**November 2014:** Council authorized award, negotiation, and execution of 37-month contracts with three 12-month extension options as recommended by PHHS on October 31, 2014

**Request:**

Please also provide an explanation of the policy decision to implement 37-month contracts with three 12-month extension options including stakeholder feedback that factored into that decision.

**Response:**

During the planning phase for the 2014 Social Service RFA, HHSD collected feedback from stakeholders indicating a multi-year base contract would afford service providers more stability in providing the social services. Staff reviewed other standard contracts for services by other funders including local, state and federal funding sources. Staff consulted with Purchasing to determine what is allowable for City contracts. Staff provided the results of the research to the PHHS committee and they recommended HHSD to issue contracts with a 36-month base term or a three year with three 12-month renewal options. Currently HHSD's standard practice when issuing a solicitation for social services is for a 5 to 6 year total contract period. This practice allows the agencies receiving funding to create long term plans for resource allocations including staff, office space, and client services.

During the course of the 2014 RFA process, HHSD consulted with the City Purchasing Office and Law Department regarding the appropriateness of the Council to authorize contracts which wouldn't take effect until the following fiscal year. It was determined that Council must authorize contracts which would utilize funds in the fiscal year in which they have adopted the budget. In order to accomplish this, the base contract period was extended by 1 month to start in the FY15 fiscal year, thus creating 37-month base contracts with three 12-month extension options.





### Council Question and Answer

Related To	Item #37	Meeting Date	March 31, 2016
------------	----------	--------------	----------------

#### Additional Answer Information

**QUESTION:** 1) How many spills have required Environmental Spill Response Services in each of the past 5 years? 2) What was the annual spent on Environmental Spill Response Services in each of the past 5 years? 3) Who held the previous contract and what were the terms of that contract? 4) Is Austin Energy the only City of Austin entity that contracts for Environmental Spill Response Services? If not, what other entities; how many spills in each of the past 5 years have they had; what was the annual spend in each of the past 5 years for these services; who has the current contracts; what are the terms of the contracts? COUNCIL MEMBER ZIMMERMAN'S OFFICE

#### ANSWER:

1) 2011 - 194  
2012 - 169  
2013 - 136  
2014 - 152  
2015 - 149

2) 2011 - \$290,193  
2012 - \$254,320  
2013 - \$699,520  
2014 - \$403,947  
2015 - \$351,151

3) Gruene Environmental held the previous contract which had similar terms, two-year initial contract with three, 12 month extension options.

4) No, Austin Energy is not the only City entity that has a contract for environmental spill response services. Austin Energy's environmental spill response services contract will handle specialized oil and chemical spills associated with high voltage electrical equipment and enables them to meet all regulatory requirements.

Austin Resource Recovery also has an environmental spill response services contract.

Austin Resource Recovery's current contract with TAS Environmental Services LP is for 36 months initial contract with, three 12 month extension options. This contract provides for spill response, cleanup, remediation, and restoration at any location that has resulted from a City vehicle rollover, fire, spillage into a storm drain, and spills estimated over five gallons. This contract is used when City staff/resources cannot restore the site to pre-spill condition.

Austin Resource Recovery did not begin tracking until the latter part of 2011.

	<u>Spills</u>	<u>Gallon Spilled</u>
2011	7	10
2012	200	277
2013	272	481
2014	288	617
2015	270	445

Austin Resource Recovery did not track annual spend between 2011 – 2013.

2014 – \$4,621.67

2015 – \$505.00

2015 - \$1,950.27





### Council Question and Answer

Related To	Item #38	Meeting Date	March 31, 2016
Additional Answer Information			

**QUESTION:** 1) Please provide a link to the existing contract. 2) Who is held responsible if an underground utility is not properly located? 3) In each of the past 5 years, how many times has USIC located underground utilities for Austin Energy? COUNCIL MEMBER ZIMMERMAN'S OFFICE

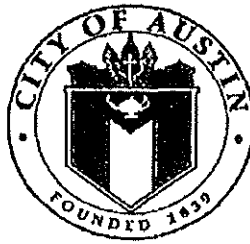
**ANSWER:**

1) See attached.

2) Currently USIC is the contractor responsible for locating underground electric facilities on behalf of Austin Energy. Locates follow established Texas Administrative Code rules. The purpose of the locate is to identify and mark a protection tolerance or buffer zone around the location of underground electric facilities, so that excavation can be performed without damaging the underground facilities. If damage occurs inside the marked tolerance or buffer zone, then the excavating individual or contractor is responsible for damage. If the location of the underground electric facility was incorrectly marked, then the responsible locating contractor is responsible for damage.

3) The following figures represent the number of tickets dispatched to USIC for underground electric locates:

2011-2012	22,102 (tracking initiated January, 2012 - estimated total is 27,627)
2012-2013	30,174
2013-2014	28,996
2014-2015	39,728
2015-2016	22,314 (partial – through end of Feb. 2016)



Amendment No. 5  
to  
Contract No. NA110000034  
for  
Underground Utility Locating Service Agreement  
between  
USIC Locating Services Inc.  
and the  
City of Austin

1.0 The City hereby amends the above referenced contract to increase available funding to cover the unanticipated increase in use of this contract in an amount not to exceed \$58000.00 effective upon execution of this amendment.

2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 03/15/2011 – 03/14/2013	\$713,500.00	\$713,500.00
Amendment No. 1: 1.1 Edit Scope of Work 03/04/2013 1.2 Option 1-Extension 03/01/2013-03/03/2014	\$0.0 \$356,750.00	\$1,070,250.00
Amendment No. 2: Option 2- Extension 03/01/2014-03/03/2015	\$356,750.00	\$1,427,000.00
Amendment No. 3: Option 3- Extension 03/01/2015-03/03/2016	\$356,750.00	\$1,783,750.00
Amendment No. 4: Administrative Increase	\$58,000.00	\$1,841,750.00
Amendment No. 5: Administrative Increase	\$58,000.00	\$1,899,750.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA)

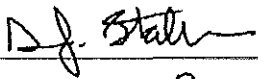
Revised 8/4/2014

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

5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

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

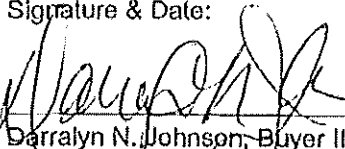
Signature & Date:

 11/24/2015  
Printed Name: DARIN STARBAUM  
Authorized Representative

USIC Locating Services, Inc  
13085 Hamilton Crossing Blvd, Ste. 200  
Carmel, Indiana 46032

[ericmoody@usicllc.com](mailto:ericmoody@usicllc.com)  
317-575-7800

Signature & Date:

 12/2/2015  
Darralyn N. Johnson, Buyer II  
City of Austin Purchasing Office

Signature & Date:

 12/2/2015  
Nicole Turner, Supervising Senior Buyer  
City of Austin Purchasing Office



Amendment No. 4  
to  
Contract No. NA110000034  
for  
Underground Utility Locating Service Agreement  
between  
USIC Locating Services Inc.  
and the  
City of Austin

1.0 The City hereby amends the above referenced contract to increase available funding to cover the unanticipated increase in use of this contract in an amount not to exceed \$58,000.00 effective upon execution of this amendment.

2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 03/15/2011 – 03/14/2013	\$713,500.00	\$713,500.00
Amendment No. 1: 1.1 Edit Scope of Work 03/04/2013 1.2 Option 1-Extension 03/01/2013-03/03/2014	\$0.0 \$356,750.00	\$1,070,250.00
Amendment No. 2: Option 2- Extension 03/01/2014-03/03/2015	\$356,750.00	\$1,427,000.00
Amendment No. 3: Option 3- Extension 03/01/2015-03/03/2016	\$356,750.00	\$1,783,750.00
Amendment No. 4: Administrative Increase	\$58,000.00	\$1,841,750.00

3.0 MBE/WBE goals were not established for this contract.

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

Revised 8/4/2014

5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

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

Signature & Date:



09/10/2015

Printed Name: DARIN STALBAUM  
Authorized Representative

USIC Locating Services, Inc  
13085 Hamilton Crossing Blvd, Ste. 200  
Carmel, Indiana 46032

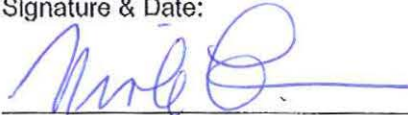
[ericmoody@usicllc.com](mailto:ericmoody@usicllc.com)  
317-575-7800

Signature & Date:



Darralyn N. Johnson, Buyer II  
City of Austin Purchasing Office

Signature & Date:



Gage Loots, Corporate Purchasing Manager (NR)  
City of Austin Purchasing Office  
Nicole Turner, Senior Buyer Supervisor



Amendment No. 3  
to  
Contract No. NA110000034  
for  
Underground Utility Locating Service Agreement  
between  
USIC Locating Services Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this final extension option for the subject contract. This extension option will be effective March 15, 2015 to March 14, 2016. No options will remain.
- 2.0 The total contract amount is increased by \$356,750.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 03/15/2011 – 03/14/2013	\$713,500.00	\$713,500.00
Amendment No. 1: 1.1 Edit Scope of Work 03/04/2013 1.2 Option 1 – Extension 03/01/2013 – 03/03/2014	\$0.00 \$356,750.00 \$356,750.00	\$1,070,250.00
Amendment No. 2: Option 2 – Extension 03/15/2014 – 03/14/2015	\$356,750.00	\$1,427,000.00
Amendment No. 3: Option 3 – Extension 03/15/2015 – 03/14/2016	\$356,750.00	\$1,783,750.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

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

Sign/Date: Tim Seelg 01/30/2015

Printed Name: Tim Seelg \_\_\_\_\_  
Or other Authorized Representative

USIC Locating Services, Inc.  
13085 Hamilton Crossing Blvd. Ste. 200  
Carmel, Indiana 46032

[ericmoody@usicllc.com](mailto:ericmoody@usicllc.com)  
317-575-7800

Sign/Date: Debbie DePaul 01/21/15

Debbie DePaul  
Contract Compliance Supervisor  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



Amendment No. 2  
to  
Contract No. NA110000034  
for  
Underground Utility Locating Service Agreement  
between  
USIC Locating Services Inc.  
and the  
City of Austin

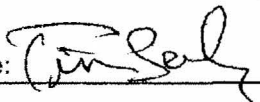
- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective March 15, 2014 to March 14, 2015. One option will remain.
- 2.0 The total contract amount is increased by \$356,750.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 03/15/2011 – 03/14/2013	\$713,500.00	\$713,500.00
Amendment No. 1: Option 1 – Extension 03/04/2013 – 03/03/2014 Edit scope of work 03/04/2013	\$356,750.00 \$0.00	\$1,070,250.00
Amendment No. 2: Option 2 – Extension 03/15/2014 – 03/14/2015	\$356,750.00	\$1,783,750.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

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

Sign/Date:

 02/28/2014

Printed Name: Eric Moody  
Or other Authorized Representative

USIC Locating Services, Inc.  
13085 Hamilton Crossing Blvd. Ste. 200  
Carmel, Indiana 46032

[ericmoody@usicllc.com](mailto:ericmoody@usicllc.com)  
317-575-7800

Sign/Date:



Debbie DePaul  
Contract Compliance Supervisor  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



**Amendment No. 1  
to  
Contract No. NA110000034  
for  
Underground Utility Locating Services  
Between  
USIC Locating Services, Inc.  
and the  
City of Austin, Texas**

1.0 The City hereby amends the referenced contract to exercise the extension option. Effective March 04, 2013, the term for the extension option will be March 04, 2013 through March 03, 2014 and there are two remaining options.

2.0 The City hereby amends the referenced contract to **replace and/or add language to existing sections** in the Scope of Work (Section 0500). Effective March 03, 2013, the sections listed below will read as follows:

**1.1 LOCATE** shall be defined as a Notice of Excavation received from Austin Energy by the Excavator for the purpose of clearing/identifying and/or marking the location of AE underground facilities within a distance of 1,000 feet of any continuous linear dig area.

**2.4.5** The Contractor shall report any personnel or operational changes in writing to AE. Any badges assigned to personnel no longer assigned to this contract will be returned to AE within fourteen (14) business days to the operations primary contact.

**5.0 RESPONSE TIME**

Normal locating service hours and working days for the Contractor's shall be from 6:30 a.m. to 3:30 p.m., Monday through Friday except for those holidays observed by The City of Austin.

**6.3** The Contractor will have 10 days to complete a Damage Investigation Report and give to AE.

3.0 The City hereby amends the referenced contract to **add the following sections** to the Scope of Work:

**1.8 PROBLEM LOCATE** means an underground facility. The presence of which is known, but cannot be field located with reasonable accuracy.

**6.3.1** Contractor Supervisor will meet AE Operations point of contact at damage site within three (3) hours of being notified by AE to assess damages.

**6.3.2** Damage Investigation Report will include:

**6.3.2.1** Fact Based Investigation (FBI) report

**6.3.2.2** Pictures of initial locate

**6.3.2.3** Pictures of damage site including visible signs of location marks relative to damage facility

4.0 The City hereby amends the referenced contract to remove Section 4.2 of the Scope of Work.

5.0 The total contract amount is recapped below:

Term	Contract Amount for the term	Total Contract Amount
Basic Term: 03/15/2011- 03/14/2013	\$713,500.00	\$713,500.00
Amendment No. 1: Option 1 and add/replace language in Scope of Work 03/15/2013 – 03/14/2014	\$356,750.00	\$1,070,250.00

6.0 MBE/WBE goals were not established for this contract.



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

8.0 All other terms and conditions remain the same.

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

Signature & Date: Tim Seelig 03/08/2013  
Printed Name: Tim Seelig  
Authorized Representative

Signature & Date: Terry Nicholson 3/28/13  
Terry Nicholson, Senior Buyer  
City of Austin  
Purchasing Office

Reviewed and Approved

Rosemary Ledesma 3/28/13  
~~Shawn Willett~~ Rosemary Ledesma  
Corporate Purchasing Manager  
Supervising Senior Buyer City of Austin  
City of Austin  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
USIC Locating Services, Inc. ("Contractor")  
for  
Underground Utility Locating Services**

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

This Contract is between USIC Locating Services, Inc. having offices at Carmel, IN 46032 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number IFBSMH0022.

**1.1 This Contract is composed of the following documents:**

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bid (IFB), SMH0022 including all documents incorporated by reference
- 1.1.3 USIC Locating Services, Inc. Offer, dated August 17, 2010, including subsequent clarifications

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

- 1.2.1 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications

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

**1.4 Term of Contract.** The Contract will be in effect for an initial term of twenty-four (24) months and may be extended thereafter for up to three (3) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.5 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$713,500 for the initial Contract term and \$356,750 for each extension option as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be

altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

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

**CITY OF AUSTIN**

Printed Name of  
Authorized Person:

Gage Loots

Signature:

Title:

Buyer II

Date

March 14, 2011



**Financial and Administrative Service Department**  
**Purchasing Office**  
721 Barton Springs Road, Austin, Texas, 78704

March 14, 2011

USIC Locating Services, Inc.  
Attn: Doug Kenyon  
13085 Hamilton Crossing Blvd., Ste. 200  
Carmel, IN 46032

Dear Doug:

The Austin City Council approved the execution of a contract with your company for Underground Utility Locating Services in accordance with the referenced solicitation.

Responsible Department:	Austin Energy
Department Contact Person:	Susan Stepanski
Department Contact Email Address:	Susan.Stepanski@austinenergy.com
Department Contact Telephone:	512-505-7079
Project Name:	Underground Utility Locating Services
Contractor Name:	USIC Locating Services, Inc.
Contract Number:	NA110000034
Contract Period:	03/15/2011 - 03/14/2013
Dollar Amount	\$713,500.00
Extension Options:	Three 12-Month Options
Requisition Number:	RQM 1100 10071200499
Solicitation Number:	IFBSMH0022
Agenda Item Number:	18
Council Approval Date:	03/03/2011

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact Eddie Washington, Contract Manager at 512-322-6075.

Sincerely,

Gage Loots  
Buyer II  
Purchasing Office  
Finance and Administrative  
Service Department

cc: S. Stepanski, AE  
P. Chappo, AE  
E. Washington, AE



ADDENDUM  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS

INVITATION FOR BID NO: SMH0022 ADDENDUM NO. 3 DATE OF ADDENDUM: AUGUST 20, 2010

This addendum is to incorporate changes to the following solicitation document:

- 1) Q: Would Austin Energy be willing to send the vendor an e-mail with duplicate ticket information on it for tracking and billing purposes?  
**A: It is possible to run reports out of KorTerra for tickets completed. Austin Energy will not be sending an e-mail with duplicate ticket information.**
- 2) Q: Do photos taken of the locates need to be sent through the KorTerra System??  
**A: Photos do not need to be sent through KorTerra.**

All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, Addendum #3 is hereby incorporated and made a part of the above referenced Solicitation.

APPROVED BY: Shawn M. Harris  
Shawn M. Harris, Supervising Senior Buyer  
Purchasing Office, 512-505-7351

ACKNOWLEDGED BY:

USIC Locating Services Inc. [Signature] 8/20/10  
SUPPLIER AUTHORIZED SIGNATURE DATE

RETURN ONE (1) COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH BID OR PRIOR TO BID OPENING. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR OFFER.



ADDENDUM  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS

REQUEST FOR PROPOSAL NO: SMH0022 ADDENDUM NO. 2 DATE OF ADDENDUM: AUGUST 13, 2010

This addendum is to incorporate changes to the following solicitation document:

- 1) Q: Will Vendor be required to access energized equipment to locate, such as an electrician?  
**A: No, the Vendor will not be required to access any AE energized equipment to locate.**
- 2) Q: Will Austin Energy staff be locating the downtown Austin territory during the course of this agreement?  
**A: Yes, Austin Energy staff will be locating the downtown network territory.**
- 3) Q: Is Vendor required to purchase Korterra licenses and utilize their software, or are they just required to interface with Korterra?  
**A: The vendor is required to use Korterra. Korterra does offer KorWeb to DigTEss for free to members.**
- 4) Q: If we are allowed to interface with Korterra, what data fields does Austin Energy want access to?  
**A: There will be no interface with Korterra**
- 5) Q: How will tickets be distributed to Vendor, via FTP or email?  
**A: AE will distribute tickets through Korterra**
- 6) Q: Is a secure communication with AE mandatory? FFTP communications are not secure.  
**A: Any connection with AE will need to be secure.**
- 7) Q: Paragraph 2.4 Section 0500 regarding "The Contractor's locators should have 3 years experience working on energized conductors and equipment..." Do the Locators actually access the electrical tubs and conductors?  
**A: Contractors will not have to actually access electrical tubs or conductor; they will need to clamp on.**

All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, Addendum #2 is hereby incorporated and made a part of the above referenced Solicitation.

APPROVED BY: Shawn M. Harris  
Shawn M. Harris, Supervising Senior Buyer  
Purchasing Office, 512-505-7351

ACKNOWLEDGED BY:

USIC Locating Services, Inc. [Signature] 8/20/10  
SUPPLIER AUTHORIZED SIGNATURE DATE

RETURN ONE (1) COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH PROPOSAL OR PRIOR TO BID OPENING. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR OFFER.



**INVITATION FOR BID ADDENDUM  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS**

**INVITATION FOR BID SMH0022 ADDENDUM NO. 1 DATE August 12, 2010**

This addendum is to incorporate changes to the following solicitation document:

1.0 Change Bid Opening Time and Date to read:

**BID DUE PRIOR TO: 2:00 PM ON AUGUST 24, 2010  
BID OPENING TIME & DATE: 2:00 PM ON AUGUST 24, 2010**

All other terms and conditions remain the same.

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

**APPROVED BY:** Shawn M. Harris  
Shawn M. Harris, Supervising Senior Buyer  
Purchasing Office, 512-505-7315

**ACKNOWLEDGED BY:**

USIC Locating Services, Inc. [Signature] 8/12/10  
SUPPLIER AUTHORIZED SIGNATURE DATE

**RETURN ONE (1) COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, PRIOR TO BID OPENING OR WITH YOUR SEALED BID. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR OFFER.**

# CITY OF AUSTIN, TEXAS

## Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

**SOLICITATION NO:** SMH0022

**COMMODITY/SERVICE DESCRIPTION:** Annual Agreement for Underground Utility Locating Services

**DATE ISSUED:** July 19, 2010

**PRE-BID CONFERENCE TIME AND DATE:** August 6<sup>th</sup> at 10:00 AM

**REQUISITION NO.:** RQM-1100-10071200499

**LOCATION:** Town Lake Center, 721 Barton Springs Road Austin, Texas 78704 Room #416

**COMMODITY CODE:** 96291

**This is not mandatory but is HIGHLY RECOMMENDED**

**FOR CONTRACTUAL AND TECHNICAL ISSUES CONTACT:**

**BID DUE PRIOR TO:** 2:00 PM on August 17, 2010

Ms. Shawn M. Harris

**COMPLIANCE PLAN DUE PRIOR TO:** N/A

**BID OPENING TIME AND DATE:** 2:00 PM on August 17, 2010

Supervising Senior Buyer  
**Phone:** (512) 505-7351

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 310, AUSTIN, TEXAS 78701

*It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.*

*All Contractors and Subcontractors must be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture must be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto <https://www.cityofaustin.org/purchase> and follow the directions.*

### SUBMIT 1 ORIGINAL AND 5 SIGNED COPIES OF RESPONSE

#### SOLICITATION TO:

USIC Locating Services, Inc., 13085 Hamilton Crossing Blvd., Ste. 200, Carmel, IN 46032

  
Signature of Person Authorized to Sign Offer

Tim Seelig, Sr. VP of Business Development  
Signer's Name and Title: (please print or type)

**FEDERAL TAX ID NO.** [REDACTED] **Date:** August 12, 2010

**Company Name:** USIC Locating Services, Inc.

**Address:** 13085 Hamilton Crossing Blvd., Ste. 200

**City, State, Zip Code:** Carmel, IN 46032

**Phone No.** (317) 575-7800 **Fax No.** (317) 663-0708

#### **BELOW INFO MUST MATCH THE NAME AND ADDRESS ON INVOICE AND IN COMPANY PROFILE WITH CITY**

**Company "Remit To" Name:** USIC Locating Services, Inc.

**Remit to Address:** PO Box 713359

**City, State, Zip Code:** Cincinnati, OH 45271-3359

**Email Address:** accountsreceivable@usicinc.com

#### Table of Contents



SECTION NO.	TITLE	PAGES
0100, 0200, 0300	See <a href="http://www.ci.austin.tx.us/purchase/standard.htm">http://www.ci.austin.tx.us/purchase/standard.htm</a> *	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	7
0500	SPECIFICATIONS	4
ATTA	ATTACHMENT A, UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY ACT	17
ATTB	ATTACHMENT B, CITY OF AUSTIN UTILITY SERVICE AREA MAP	1
0600	BID SHEET	1
0800	NON-DISCRIMINATION CERTIFICATION	1
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	1
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT	2
0815	LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION	1
0820	LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION	1
0825	WORK PLACE CONDITIONS AFFIDAVIT	N/A
0830	BUY AMERICAN ACT CERTIFICATE	N/A
0835	NONRESIDENT BIDDER PROVISIONS	1
0900	NO GOALS UTILIZATION PLAN	2
1000	"NO OFFER" RESPONSE FORM	1

All other Sections may be viewed at: <https://www.cityofaustin.org/purchase> by clicking the link to "Vendor Self Service (VSS)", sign in if registered, register, or use public access to follow the links to "Business Opportunities" and "Search for Solicitation."

**RETURN FOLLOWING DOCUMENTS WITH BID/PROPOSAL/QUOTE/RESPONSE/SUBMITTAL\*\***

- Cover Page                      Offer Sheet
- Section 0600                    Bid Sheet(s)
- Sections 0800 - 0835        Certifications and Affidavits (return all applicable Sections)
- Section 0900                    No Goals Utilization Plan, if applicable

**\*\* See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.**

**NOTES:**

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

**\* INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: <http://www.ci.austin.tx.us/purchase/standard.htm>.

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the below address. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

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

P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

**Notes:** Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered. Unless authorized in the Solicitation, telegraphic or facsimile Offers will not be accepted.

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

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

1. **CONTRACTOR'S OBLIGATIONS.** The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM.** Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE 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 or Supplemental Terms and Conditions, 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 purchase release 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 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.
4. **SHIPMENT UNDER RESERVATION PROHIBITED:** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.
5. **TITLE & RISK OF LOSS:** Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION:** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK:** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other

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

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.

**10. WORKFORCE**

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

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

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

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

- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

**13. PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
- i. delivery of defective or non-conforming deliverables by the Contractor;
  - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.
14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

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

deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- B. 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.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

**20. WARRANTY – TITLE:** 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.

**21. WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples

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

furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

- A. Recycled deliverables shall be clearly identified as such.
- B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
- C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
- D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
- E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

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

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
- C. If the Contractor is unable or unwilling to perform its 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.

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

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** 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. 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. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **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.
30. **DELAYS:**
- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of

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

delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

**A. Definitions:**

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

- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised 6/01/98).

**A. General Requirements.**

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.



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

- 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 Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:

Attn: (Add Buyer's Name)

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

- vii. 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.
- viii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- ix. 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.
- x. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- xi. 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.
- xii. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- xiii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

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

- xiv. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

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

33. **CLAIMS**: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.
34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City 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. 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.
37. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will

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

substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. **OWNERSHIP AND USE OF DELIVERABLES:** The City shall own all rights, titles, and interests throughout the world in and to the deliverables.
- A. **Patents.** As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. **Copyrights.** As to any deliverables containing copyrightable 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 38 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 works 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) 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-made-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 obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.
39. **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.
40. **ADVERTISING:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

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

41. **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.
42. **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.
43. **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.
44. **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.
45. **ASSIGNMENT-DELEGATION:** The Contract shall be binding upon and enure 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.
46. **WAIVER:** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
47. **MODIFICATIONS:** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
48. **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.

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

**49. DISPUTE RESOLUTION:**

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

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

51. **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.

52. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4

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

Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

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

53. **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.

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

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

55. **EQUAL OPPORTUNITY**

- A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification and has submitted a copy of the Contractor's employment non-discrimination policy. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

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

- A. Definitions. As used in this paragraph --

- i. "Component" means an article, material, or supply incorporated directly into an end product.
- ii. "Cost of components" means -

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of

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

components does not include any costs associated with the manufacture of the end product.

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

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office at least five (5) days prior to bid opening date. Submissions may be made via email to: shawn.harris@austinenergy.com, or via fax at (512) 322-6490.

2. **PRE-BID CONFERENCE** 10:00 AM on August 6, 2010 at Town Lake Center, Room #416; 721 Barton Springs Road Austin, TX 78704 Please note that attendance is NOT mandatory but is STRONGLY RECOMMENDED.

3. **INSURANCE**

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

B. **Specific Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract and during any warranty period. These insurance coverage's are required minimums and are not intended to limit the responsibility or liability of the Contractor.

i. **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$ \$500,000 bodily injury each accident, \$500,000 bodily injury by disease policy, limit and \$500,000 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 WC 420304
- (b) Thirty (30) days Notice of Cancellation, Form WC 420601

ii. **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverage's A and B.

(1) The policy shall contain the following provisions:

- (a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
- (b) Independent Contractor's Coverage.
- (c) Products/Completed Operations Liability for the duration of the warranty period.
- (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).

(2) The policy shall also include these endorsements in favor of the City of Austin:

- (a) Waiver of Subrogation, Endorsement CG 2404
- (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205
- (c) The City of Austin listed as an additional insured, Endorsement CG 2010

iii. **Professional Liability Insurance.** Professional Liability coverage, with a minimum limit of \$750,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or



**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

omission arising out of interpreting maps and other documentation provided for the performance of underground utility locating services under this contract.

If coverage is written on a claims made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.

- iv. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage.
    - (1) The policy shall include these endorsements in favor of the City of Austin:
      - (a) Waiver of Subrogation, Endorsement TE 2046A
      - (b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A
      - (c) The City of Austin listed as an additional insured, Endorsement TE 9901B.
  - v. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
- C. The Contractor shall provide a Certificate of Insurance with the types and amounts of coverage and the endorsements required herein within 14 calendar days of notification of award, unless otherwise specified.
- D. The Certificate of Insurance, and annual updates shall contain the solicitation number and the Buyers name and shall be mailed to the following address:

City of Austin Purchasing Office  
Attn: Shawn Harris  
721 Barton Springs Road  
Austin, Texas 78704

**4. TERM OF CONTRACT**

- A. The Contract shall be in effect for a period of 24 months and may be extended thereafter for up to three (3) additional 12-month periods, subject to the approval of the Contractor and the City Manager or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).

**5. QUANTITIES**

Quantities shown in the Bid Form will be used only as a basis for bid evaluation and shall in no way suggest, imply, or guarantee that City of Austin will require all or any of the quantities used in this Solicitation, or that City of Austin will employ the forces of the Contractor on a continuous bases during the term of the Contract. Contractor further agrees to provide underground cable locating services on an ON CALL / AS REQUIRED basis. Usage will be on an as needed basis and specified by City of Austin at the time of each request. There shall be no minimum usage quantities.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

**6. LOCATING REQUIREMENTS**

Location:	Days and Time:
City of Austin Utility Service Area (Attachment-B)	M-F 6:30 a.m. – 3:00 p.m.
	After hours-as required

- A. Days and Time represents the normal hours the City will electronically communicate via KorTerra with the Contractor. Contractor normal hours of operation shall be between 6:30 a.m. and 3:00 p.m., or as agreed to by the City.
- B. Normal locating is to be made within 48 hours after the order is placed. After-hour request times constitute an Emergency request and will bill according to the contract agreement.
- C. The Contractor shall confirm the quantity of all orders received and completed, using the KorTerra Ticket Management System.
- D. The City will electronically interface with the Contractor during the City's normal business hours via KorTerra for auditing tickets and job status.
- E. Unless requested by the City, locating shall not be made on City of Austin recognized legal holidays (see paragraph 52 in Section 0300).

**7. INVOICES (reference paragraph 12 in Section 0300)**

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.
- B. City shall be billed for each locate (or locates) performed by the Contractor on a weekly basis. Each locate request shall be identified in the invoice.
- C. Billing shall be at the rates provided in the attached Bid Sheet for work completed Sunday through Saturday of each week.
- D. Contractor shall initiate all billing to the City.
- E. City will be reimbursed for locates if required to mark a site for an Excavator of a previously issued ticket to the contractor in which no markings were found after contractor has recorded the ticket as being completed..
- F. City shall not be billed for turn back tickets (problem locates, duplicate tickets).

**8. LIVING WAGES AND BENEFITS**

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, 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. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees 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.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
  - i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
  - ii. time and date of week when employee's workweek begins;
  - iii. hours worked each day and total hours worked each workweek;
  - iv. basis on which employee's wages are paid;
  - v. regular hourly pay rate;
  - vi. total daily or weekly straight-time earnings;
  - vii. total overtime earnings for the workweek;
  - viii. all additions to or deductions from the employee's wages;
  - ix. total wages paid each pay period; and
  - x. date of payment and the pay period covered by the payment.
- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
  - i. the employee's name and job title;
  - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
  - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

- G. The Department's 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 identified in paragraph D above to verify compliance with this provision.

**9. NON-SOLICITATION**

- A. During the term of the contract, and for a period of six (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. In the event that 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 (1) year of the employee's annual compensation; or (ii) 100 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 (6) 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. In the event that a breach of Paragraph (c) occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) 100 percent of the employee's annual compensation while employed by the Contractor.

**10. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID)**

- A. Contractors are required to obtain a certified criminal background report with fingerprinting (referred to as the "report") for all persons performing on the contract, including all Contractor, Subcontractor, and Supplier personnel (for convenience referred to as "Contractor's personnel").
- B. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four to six week delay for receipt of a Federal report.].
- i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver's license or photo ID card;
  - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver's license or photo ID card; or
  - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

- C. Contractor shall obtain the reports at least 30 days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor's personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver's license or photo ID card.
- D. Contractor shall provide the City Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor's personnel to determine those appropriate for execution of the work and for presence on the City's property. A list of all Contractor Personnel requiring access to the City's site shall be attached to the affidavit.
- E. Upon receipt by the City of Contractor's affidavit described in (D) above and the list of the Contractor's personnel, the City will provide each of Contractor's personnel a contractor ID badge that is required for access to City property that shall be worn at all times by Contractor's personnel during the execution of the work.
- F. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's reports. 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 ten (10) calendar days of the receipt of notification of denial.
- G. Contractor's personnel will be required to wear the ID badge at all times 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, without regard 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.
- H. 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.
- I. Contractor is not required to obtain reports 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 at least one of Contractor's personnel at all times while at the work site.
- J. The Contractor shall retain the reports and make them available for audit by the City during regular business hours (reference paragraph 17 in Section 0300, entitled Right to Audit).

**11. CONTRACT MANAGER**

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor on all contract related matters:

Eddie Washington, Contract Administrator  
Austin Energy  
Town Lake center  
721 Barton Springs Road  
Austin, TX 78704  
(512) 322-6075

**OPERATIONS**

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS (IFB)  
SMH0022**

The following persons are designated as the point of contact for all technical and operational locating matters:

Primary

Susan Stepanski, Distribution Construction Coordinator  
Austin Energy  
2412 Kramer Lane  
Austin, TX 78758  
(512) 505-7079

Secondary

Prudence Chappo, AE Distribution GIS Supervisor  
Austin Energy  
301 West Avenue  
Austin, TX 78703  
(512) 505-7689

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

**AUSTIN ENERGY  
UNDERGROUND UTILITY LOCATING SERVICES  
SMH0022**

**1.0 DEFINITION OF TERMS**

- 1.1 **LOCATE** shall be defined as a Notice of Excavation received from Austin Energy by the Excavator for the purpose of clearing/identifying and/or marking the location of AE underground facilities in the area of a proposed excavation.
- 1.2 **UNDERGROUND FACILITIES** shall include any and all underground structures and facilities owned by AE.
- 1.3 **CLOSING OUT** is the term used to describe the completion of a Notice of Excavation.
- 1.4 **MARKING (S)** is the application of water soluble paint, flags, or stakes to clearly identify on a horizontal plane and at each divergence from a straight line the location of the AE underground facilities in accordance to AE specifications.
- 1.5 **REASONABLE ACCURACY** refers to marking within an 18 inch tolerance on either side of the underground facilities.
- 1.6 **LOCATABLE UNDERGROUND FACILITY** means an AE underground facility, the presence of which can be determined by AE facility records and/or can be field marked with reasonable accuracy by using devices designed to respond to the presence of such AE underground facilities.
- 1.7 **DAMAGE TO AE FACILITIES** means the penetration of any protective coating, sheath, housing, raceway, or other protective part of an AE underground facility, the partial or complete severance of an underground facility, or the rendering of any underground facility partially or completely inoperable.

**2.0 SCOPE OF THE WORK**

The City of Austin Electric Utility Department, dba Austin Energy, seeks contract services in locating underground electrical facilities. The contractor shall furnish all equipment, labor, materials and qualified personnel, necessary or appropriate to safely and effectively provide underground utility locating services as requested by Austin Energy, hereinafter referred as AE.

- 2.1 For the purpose of safeguarding underground and sub-surface facilities from excavation damage, the contractor will receive and respond as required to all Excavation Notices directed to AE through Texas811 Notification Center or any other source in accordance with the current Texas Underground Facility Damage Prevention and Safety Act (Attachment-A).
- 2.2 The contractor shall include painting, flagging, or staking in accordance with AE specifications.

- 2.2 The Contractor shall provide personnel, vehicles, all tools and materials required for the safe and proper performance of this agreement.
- 2.3 The Contractor shall be equipped with two-way communication equipment to facilitate field communications.
- 2.4 The Contractor's locators should have at least three (3) years of experience working on energized conductors and equipment such as encountered with electrical distribution construction and/or maintenance. Locators shall have at least one year of experience working on energized underground electrical distribution conductors and facilities.
  - 2.4.1 Locators shall have the ability to work in weather and environmental extremes including temperatures well in excess of 100 degrees F, rain, ice, snow, and wind.
  - 2.4.3 Locators shall be capable of walking for long periods of time, over long distances and rough terrain during the course of a workday.
  - 2.4.4 Locators shall have the ability to communicate and interact effectively with AE personnel, other contractors, and the public.
  - 2.4.5 The Contractor will report any personnel or operational changes in writing to AE.

### **3.0 MATERIALS**

- 3.1 AE shall provide to the Contractor sufficient set of electronic and/or hardcopy records of AE underground facilities and all other necessary maps and information available as required for the proper performance of this agreement.
- 3.2 All maps and information furnished by AE shall remain the property of AE and shall be returned to AE upon termination or expiration of this agreement. All maps and information shall be properly safeguarded and shall not be disclosed to persons not approved by AE.
- 3.3 All maps will be distributed electronically and will require Adobe PDF for viewing.
- 3.4 Contractor is responsible for requesting updated electronic and or hardcopy records of AE underground facilities quarterly or as agreed upon by AE

### **4.0 TECHNICAL SPECIFICATION**

Contractor must use KorTerra Utility Industry Application, ticket management in order to interface with AE's locate request.

- 4.1 Contractor will allow secure communication from a device with the AE enterprise to connect to their internal KorTerra ticket dispatch system. This connection will utilize an encrypted transport such as IPSEC, SSL, SSH, SCP, or other agreed upon protocol. AE will always initiate the connection to push locating requests and pull for job completion status.



- 4.2 A single locate shall constitute the clearing and/or identification of markings of AE facilities within a distance of 1,000 feet of any continuous linear dig area.

## **5.0 RESPONSE TIME**

Normal locating service hours and working days for the Contractor's shall be from 6:30 a.m. to 3:00 p.m., Monday through Friday except for those holidays observed by The City of Austin.

- 5.1 The Contractor shall maintain staffing levels to meet the following requirements:

5.1.1 Forty-eight (48) hour response time to complete routine locating requests. Such request will be sent electronically through KorTerra Utility Industry Application.

5.1.2 One (1) hour response time for emergency locating requests during normal business hours.

5.1.3 Two (2) hour response time for emergency locate requests outside of normal business hours including all weekends and holidays. (Contractor staffing shall be adequate to handle AE's "on-call" after normal working hour's responsibilities if so requested by AE.

5.1.4 AE shall notify the contractor through KorTerra for all emergency requests.

## **6.0 PERFORMANCE OBJECTIVES**

Minimum performance standards shall comply with the regulations and requirements under this agreement and those set-forth under the current State of Texas law governing Underground Utility Damage and Safety Prevention Act.

- 6.1 Contractor shall respond to and complete all Normal requests within forty-eight (48) hours, and Emergency locating requests within two (2) hours.

- 6.2 The Contractor shall include, but not be limited to, the receipt, recording, positive response and closing out of Notices of Excavation concerning AE facilities.

- 6.3 The Contractor will have 3 days to complete documentation for a Damage Investigation Report and give to AE.

- 6.4 The Contractor shall keep a record for up to two (2) years of each Notice of Excavation indicating the time and date a mark-out was made, the type of facility marked, and the name of the contractor personnel notified for the locate. At the end of every year, the records for the year prior to the preceding year will be returned to AE for storage.

- 6.5 All markings shall be in accordance with the American Public Power Association (APPA) Color Codes and AE specifications.

6.5.1 Markings will include AE initials for company identifier. The identifier initials are to be placed at the beginning and at the end of the proposed work site.

- 6.5.2 Marks are to be approximately 12" in length.
  - 6.5.3 Changes in direction are to be clearly indicated at the point where the change in direction occurs with an arrow indicating the path of the facility.
  - 6.5.4 Marks will be placed on all permanent structures such as riser pipe, pull box lids and transformer slabs so that there is evidence that it has been marked.
  - 6.5.5 All marks shall extend a reasonable distance beyond the bounds of the requested work area.
  - 6.5.6 Structures such as manholes or vaults that are physically larger than surface indications are to be marked as to define the parameters of the structure.
  - 6.5.7 Refresh Marks – Always mark a new line, do not go over existing marks.
  - 6.5.8 When there are no facilities within the work area as described on the locate ticket, mark "AE-CLR" in a location that can be observed by the excavator. When the excavator has white lined the work area, mark "AE-CLR" in or as near as practicable to the white lined area.
  - 6.5.9 The Contractor shall contact AE for a problem locate.
- 6.6 The Contractor must have representation at the monthly Central Texas Damage Prevention Meeting.

**BID SHEET**  
**CITY OF AUSTIN**  
**UNDERGROUND UTILITY LOCATING SERVICES FOR AUSTIN ENERGY**

**BID NO.** IFBSMH0022

**RX NO.** RQM 1100 10071200499

**DATE:** AUGUST 10, 2009

**BUYER:** SHAWN HARRIS

**Special Instructions:** Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the bid.

**UNDERGROUND UTILITY LOCATING SERVICES** per ticket rate shall reflect all charges, based upon point to point locating.

ITEM NO.	Estimated Annual Quantity	Unit	ITEM DESCRIPTION	Unit Price	Extended Amount
1	25,000	Per Ticket	Normal Response, during normal business hours (6:30 am - 3:00 pm Monday-Friday)	\$12.50	\$312,500.00
2	1,500	Per Ticket	After Hours / Emergency Request	\$29.50	\$44,250.00
				<b>TOTAL</b>	<b>\$356,750.00</b>

\_\_\_\_ Offeror shall check if Offeror is a foreign person/entity (organized, chartered or incorporated under the laws of any county other than the US or its possessions, or owned or controlled by a foreign person/entity, or not a citizen/national of the U.S.)

If yes, name country: \_\_\_\_\_ This information is required for Federal reporting purposes.

COMPANY NAME: USIC Locating Services, Inc.

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

PRINTED NAME: Tim Seelig, Sr VP of Business Development EMAIL ADDRESS: timseelig@usicinc.com



USIC LOCATING  
SERVICES, INC.

## Executive Summary

### INFRASTRUCTURE PROTECTION PROFESSIONALS

There's more to locating than "putting paint on the ground." In fact, we start with a firm understanding that we're here to not only protect your organization's infrastructure, but also to improve your business results.

To us, locating is a true profession that requires a career-minded commitment from each and every USIC employee.

It also requires an unwavering dedication to leading edge technology. Perhaps above all, it requires a focus on quality and excellence that extends well beyond the language of any contract. It is a bond that we have with you – our valued customer. We are always seeking the best way to serve *your* unique needs.

At the core of that bond is a promise we make and keep: to understand your organization's infrastructure better than anyone else can. Through that unique knowledge, we are able to elevate our value far beyond the practice of locating and into every related area of your business.

This is how an industry leader *should* view the profession of locating.

### How the Act of Locating Becomes Art

It is true that just about anyone, given the proper training, can learn the mechanics of locating in just a few short weeks. But if a trainee isn't ready to move well beyond the basics, his or her career at USIC will be short-lived.

It takes commitment and desire to take the next step and master the *art*. When skill becomes art, there is a level of expertise few can claim, a depth of customer knowledge few can attain and a unique business value that no competitor can match.

To achieve this level of leadership, we begin with the basics...

### Managing the Fundamentals of Locating Better Than Anyone Else

One way to think about the basics of our business is to imagine a stool with four legs. If one were missing or broken, the whole thing would collapse. This is how we look at the four fundamentals of locating. Each 'leg' is as important as the other. If one is missing, then the entire system simply doesn't perform like it should.

Every day, with every locate, we concentrate on making the four fundamentals work together flawlessly. As a result, we're more efficient—and you're better assured of both cost effectiveness *and* superior service.



**USIC LOCATING  
SERVICES, INC.**

**1. Safety Management:**

'Safety First' is one of the most critical fundamentals. Our Locators are continuously trained on new and better ways to be both safe *and* productive. The result: a strong record of safe performance, day in and day out.

**2. Quality Assurance and Damage Protection:**

What does it take to be a leader in the locating industry? At the center is a commitment to quality and damage protection that is, quite simply, unprecedented. That's why we lead our industry in infrastructure protection, with as few as one damage per 3,000 locates.

**3. On-time Performance:**

Our goal is be 100% on-time all day, every day. It is what you would expect from a professional locating company; and it is what we strive for on every locate.

**4. Productivity:**

Through our density model (multiple customers at one job site mean the lowest total cost of infrastructure protection for you), we spend less time driving and more time locating. That makes everything we do on your behalf more efficient and cost effective.

## **Growing Our Knowledge of Your Business and Our Value to You**

At USIC, we share a common goal -- to improve your business results. That is, after all, why so many companies choose to outsource a task as critical as locating.

When performed properly by qualified professionals, locating provides more than peace of mind. It is a springboard for confidently moving your business forward, secure in the knowledge that the protection of your organization's infrastructure is in qualified hands.

To provide this level of protection, we strive to understand your infrastructure and business objectives as if we were literally on-staff with you. From that strong foundation of commitment, we then seek every available means for adding value to your bottom line.

As our partnership with you continues, we'll be in a unique position to develop even more ways—beyond locating itself—to help you achieve your business goals.

## **The Best, Career-minded Professionals**

It isn't easy becoming an USIC Locator. In fact, only one in 10 applicants qualify for our training program, and not every one makes it to graduation. We demand excellence from our employees, because that is what our customers demand of USIC. For those ready to step up to the challenge, there is no better place to work. At USIC, we build careers.



**USIC LOCATING  
SERVICES, INC.**

Once the initial training is over, we continue to advance our Locators' skills through mentorship programs, continuous education, supervisor ride-alongs and much more.

We continually assess the progress of our Locators, for two important reasons. First, we want to ensure that every Locator is doing everything possible to live up to the commitments we make to our customers. Second, we are nurturing management potential. You may be surprised to learn that 80% of our Supervisors were once Locators.

We attract the best talent in the business, and we keep them.

### **Delivering Total Value to your Organization, Every Day**

USIC's density model is at the heart of our business model and how we create even greater value for *all* stakeholders. Through unprecedented economies of scale, we're able to increase our efficiency and lower your total cost of infrastructure protection.

How do we do it? Because we're able to serve multiple customers from a single job site, we can spend more time locating and less time driving. It's that simple, and the advantages are clear.

### **Leading the Way into the Future of Locating, and Beyond**

USIC is here to improve *your* business results.

Beyond locating itself, we can leverage our unparalleled knowledge of your business infrastructure to create even more opportunities to add value for *all* of your stakeholders. We look forward to learning more about your specific needs and how our business approach can enhance your bottom line.

***The City of Austin***

***In Partnership With***

***USIC***



USIC LOCATING  
SERVICES, INC.

## Technology Advantage

### TICKET MANAGEMENT SYSTEM

Ticket management at USIC is accomplished through technology and discipline. The workflow process begins with ticket receipt from the One Call center. We utilize diverse paths of ticket reception to ensure we receive each and every ticket that is transmitted to USIC. In addition, the hardware for our ticket management system is housed off site in a hosting center that is secured via hand imprint and card swipe access and is also built to meet military specifications.

This robust and advanced system has functionality built-in to carry out several tasks critical to ensuring that locate tickets are assigned to a technician with the time capacity to meet the start date and time requirements.

- Collection of Data Fields on Ticket - This gives us the ability to collect customer-specific information such as contractor, address information, caller information, logistic information and start dates and times. By having this information available, we can do "ad-hoc" reporting against our database and provide direct value to our customers through our Customer Portal<sup>SM</sup> application.
- Ticket Routing - USIC's ticket management system implements AutoRoute that ensures tickets are routed to the correct technician within 3 seconds of the ticket being received into the system. USIC also applies strict policies and procedures to ensure routing rules are kept accurate.
- Remote Dispatch Application - We released the first version of our in-house built remote dispatch system in 1999. Throughout the past six years, with significant input from the end-users, it has been constantly upgraded with new features to support operations and corporate reporting. We use this system to realize efficiency gains in workforce management and also to ensure we are billing our customers with the utmost integrity.
- Load Balance - Our Area Supervisors have real time access to tickets being received from the One Call center or our customers' in-house screening centers. Prior to release to the individual technicians, our area supervisors have the ability to review the type and quantity of tickets distributed to his/her locators and reassign the tickets so as to balance the workload within their areas of responsibility. From this site, our area supervisors can also manage past due tickets and view ticket volumes that assist them in predictive load management.



**USIC LOCATING  
SERVICES, INC.**

- **Wireless Technology** – Our technicians are equipped with wireless technology which increases our ability to effectively manage the work flow, meet on-time performance targets and protect our customers' facilities. These accomplishments are achieved as a result of several process improvements, such as the elimination of the lag time from ticket transmission time to locator download the following day or the improved receipt of ticket information versus the verbal transfer of information by dispatchers.
- **Electronic Ticket Clearout Information** -- Since all of our technicians are equipped with durable laptop computers, they have the capability to enter the information regarding the locate field visit electronically. This information facilitates our invoicing processes as well as provides us with the means to produce a variety of customer and internal reports to assist us with the management of the business.
- **Universal Photo Management** – Our technicians are required to photograph every locate completed for our customers. Several pictures are taken to “tell the story” of the locate once it is completed. Pictures have become a valuable resource in recovering the significant expense incurred by excavator damage. For an additional fee, all photographs can be made available via our Customer Portal<sup>SM</sup>.

## **CUSTOMER PORTAL**

USIC provides a web-based application (Customer Portal<sup>SM</sup>) for our customers. The Customer Portal<sup>SM</sup> provides our customers with unlimited, on-line access to their real-time data and more importantly, a variety of customer reports that depict our performance specific to them. Some of the types of reports that are offered to customers are as follows:

- Ticket Lookup
- Invoice Lookup
- On-Time Performance results (additional fee)
- Quality Tracking (additional fee)
- Site Conditions (additional fee)

## **SUMMARY**

USIC fully understands that technology plays an important role in our ability to serve our customers. From the investment of secure ticket management systems to the equipment our technicians utilize each and every day, USIC is committed to leveraging our resources to ultimately ensure that our customers' infrastructure is protected. USIC Locating Services, Inc. offers technology value not offered by competing vendors.





**USIC LOCATING  
SERVICES, INC.**

### **America's Number One Locating Service**

USIC Locating Services, Inc., a subsidiary of United States Infrastructure Corporation, is America's leading provider of utility infrastructure locating services. We've combined the two most respected brands in the utility locating industry, SM&P Utility Resources and Central Locating Services (CLS), to form the market leader in underground utilities locating and marking services.

Our proven technologies, techniques and technicians take the burden off organizations just like yours. That's why USIC today leads the industry in:

- Safety
- Volume
- Accuracy
- Timeliness
- Customer Satisfaction

Backed by more than 3,000 highly-trained utility locating technicians, we already protect the assets of over 90% of the Fortune 500 utility and telecommunications companies throughout 20 states. And, we bring our services to construction, excavation, commercial and residential sites alike.

### **Trained. Experienced. Focused.**

Every one of our technicians is trained on the most advanced locating equipment and technologies available. And each one has received technical and safety training in locating:

- Gas
- Electric
- Telecommunications
- Fiber Optics
- CATV
- Water and Sewer

Because USIC focuses solely on locating services, we have the scale, experience and expertise to offer our technicians the best in training, tools and leadership.

### **Prevent Damage Today. Save Money Tomorrow.**

We understand what's most important to you: reducing damages and eliminating service interruptions. We work hard to ensure our locates are accurate and timely. We share another priority with you too: safety. We've made safety another vital cornerstone of our business.

The quality of both our people and our services translates into dramatic cost savings for you by reducing your in-house labor expense, lowering your risk and capitalizing on USIC's ability to leverage expense by locating for multiple customers at the same job site.

### **Our Mission: Your Satisfaction**

On-time, accurate service is as vital to USIC as it is to you. So is our commitment to continue investing in the technologies that will make our service level even stronger, technologies that include:

- Ticket Mapping
- Audit Applications
- Performance Dashboards
- GPS Technology
- Post Locate and Pre-excavation Photography of Job Sites

And we continue to bring a proactive approach to our services and support, helping to assure potential problem areas are discovered and dealt with before they become costly concerns to you.

To find out more about the proven services USIC delivers, please call your local USIC representative today at 1-800-575-5594, visit us at [www.USICinc.com](http://www.USICinc.com) or email us at [sales@usicinc.com](mailto:sales@usicinc.com).



# WE PROTECT WHAT MATTERS MOST:

YOUR INFRASTRUCTURE AND YOUR CUSTOMERS



**CITY OF AUSTIN  
PURCHASING OFFICE  
REFERENCE SHEET**  
**Please Complete and Return This Form with the Offer**

**SOLICITATION NUMBER:** IFB SMH0022

**OFFEROR'S NAME:** USIC Locating Services, Inc.

**DATE:** 08/12/10

The Offeror shall furnish, with the Offer, the following information, for at least insert # recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

- |    |                           |   |                             |
|----|---------------------------|---|-----------------------------|
| 1. | Company's Name            | AEP   |                             |
|    | Name and Title of Contact | Curtis Proske - Manager of Distribution Systems |                             |
|    | Present Address           | 539 N Carancahua                                |                             |
|    | City, State, Zip Code     | Corpus Christi, Texas 78401                     |                             |
|    | Telephone Number          | ( 361 ) 881-5436                                | Fax Number ( 361 ) 881-5630 |
|    | Email Address             | crproske@aep.com                                |                             |
|    |                           |   |                             |
| 2. | Company's Name            | GVEC  |                             |
|    | Name and Title of Contact | Sean Alvarez - Operations Manager               |                             |
|    | Present Address           | 825 E. Sarah Dewitt Dr.                         |                             |
|    | City, State, Zip Code     | Gonzales, Texas 78629                           |                             |
|    | Telephone Number          | ( 830 ) 857-1224                                | Fax Number ( 830 ) 857-1224 |
|    | Email Address             | salvarez@gvec.org                               |                             |
|    |                           |   |                             |
| 3. | Company's Name            | MVEC  |                             |
|    | Name and Title of Contact | Vince Macias                                    |                             |
|    | Present Address           | 1 3/4 Mile W. Hwy 84                            |                             |
|    | City, State, Zip Code     | Mercedes, Texas 78570                           |                             |
|    | Telephone Number          | ( 866 ) 225-5683                                | Fax Number (     )          |
|    | Email Address             | vmacias@magicvalley.coop                        |                             |
|    |                           |   |                             |
| 4. | Company's Name            | AT&T Services, Inc.                             |                             |
|    | Name and Title of Contact | Scott Nylund, Senior Contract Manager           |                             |
|    | Present Address           | 530 McCullough                                  |                             |
|    | City, State, Zip Code     | San Antonio, TX 78215-2104                      |                             |
|    | Telephone Number          | ( 210 ) 886-3369                                | Fax Number (     )          |
|    | Email Address             | sn1312@att.com                                  |                             |
|    |                           |   |                             |
| 5. | Company's Name            | Ameren Services                                 |                             |
|    | Name and Title of Contact | Al Bangert                                      |                             |
|    | Present Address           | 1901 Chouteau Ave.                              |                             |
|    | City, State, Zip Code     | St. Louis, Missouri, 63166-6149                 |                             |
|    | Telephone Number          | ( 314 ) 554-2134                                | Fax Number ( 314 ) 554-2448 |
|    | Email Address             | abangert@ameren.com                             |                             |



UNITED STATES  
INFRASTRUCTURE  
CORPORATION

### Resume of Experience

Technician	Employee ID	Yrs of locating Experience	Yrs of Locating Electric
John Czuhajewski	117303	11 yrs	5 yrs
Kenneth Leddy	120174	8 yrs	5 yrs
Jeremy Lynch	117028	8 yrs	5 yrs
<b>John Reid -Supervisor</b>	118688	9 yrs	4 yrs
Charles Ewing	130437	6 yrs	4 yrs
<b>Ernie Alvarado - Supervisor</b>	120736	8 yrs	4 yrs
Dylan Caskey	124613	3 yrs	3 yrs
Reuben Hand	123138	5 yrs	3 yrs
Roberto Resendez	124275	3 yrs	3 yrs
Tim Bergen	116782	11 yrs	3 yrs
Cruz Dominguez	117307	8 yrs	3 yrs
Jose Riojas	120173	5 yrs	3 yrs
Rod Selby	126062	10 yrs	2 yrs
Michael Wardlow	125709	2 yrs	2 yrs
Joshua Easley	129358	2 yrs	2 yrs
Adrian Fuentes	130336	1 yr	1yr
Logan Moore	130339	1 yr	1 yr
Jared Young	129873	1 yr	1 yr
Bennie Phillips	130249	1 yr	1 yr
Louis Branton	130436	10 months	8 months
Norman Becker	131225	2 months	2 months
Michael Shields	131226	2 months	2 months

**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NONDISCRIMINATION CERTIFICATION**  
**SOLICITATION NO. IFB SMH0022**

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

**Chapter 5-4 of the Code of the City of Austin (Discrimination in Employment by City Contractors) requires that at all times while acting as a Contractor (as defined under Chapter 5-4) a Contractor must agree:**

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

**Please check one of the following:**

- ☒ Our firm's nondiscrimination policy conforms to the requirements of City Code, Chapter 5-4-2-B, items (1) through (7) and will be sent to the City upon request.
- ☐ Our firm does not have an established nondiscrimination policy and will adopt the City's minimum standard shown below. Our firm will send the adopted policy on company letterhead to the City upon request.

**Minimum Standard Nondiscrimination in Employment Policy:**

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

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

Employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting violation of this policy. Furthermore, any employee, supervisor or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

**Sanctions:**

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

Contractor's Name: USIC Locating Services, Inc.

Signature of Officer or  
Authorized  
Representative:



Date:

8/12/10

Printed Name:

Tim Seelig

Title

Sr. VP Business Development



USIC LOCATING  
SERVICES, INC.

## USIC EMPLOYMENT NON-DISCRIMINATION POLICY

### EQUAL EMPLOYMENT OPPORTUNITY POLICY

#### **4.2 Equal Employment Opportunity (EEO) Policy**

Our policy of equal employment opportunity is founded on a basic belief in respect for the individual. We are committed to this employment policy to ensure equal employment opportunities for all applicants and employees, and to further our commitment not to discriminate on the basis of sex, race, religion, color, national origin, age, disability, citizenship status, or veteran status, or any other basis protected by federal, state or local law (hereinafter "Protected Classifications").

Any Manager or Supervisor who is aware of conduct which may be in violation of this EEO Policy but fails to report that conduct to the designated personnel will be subject to discipline up to and including discharge.

Management will promptly investigate all incidents of unlawful discrimination and will take appropriate corrective action. Any employee who believes that a violation of USIC's EEO Policy has occurred has the responsibility to report the alleged violation immediately to your supervisor, your District Manager, your Regional Director, Associate Counsel, any Human Resource Manager or any representative of management. To that end, please note the following contact phone numbers:

- A. USIC's Corporate Office (Human Resource Department): (800) 575-5594, then press 2
- B. Associate Counsel: (317) 575-7866

USIC is committed to promptly investigating any reports that a violation of the EEO Policy has occurred. If USIC determines that a violation of the EEO Policy has occurred, USIC will take prompt remedial action.

No retaliation will be taken against any employee who reports a violation of USIC's EEO Policy, and all reports will be handled as confidentially as possible.

**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**  
**SOLICITATION NO. IFB SMH0022**

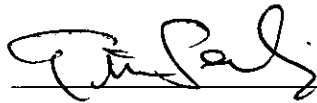
The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: USIC Locating Services, Inc.

---

Signature of Officer  
or Authorized  
Representative:



Date: 8/12/10

Printed Name: Tim Seelig

---

Title: Sr. VP of Business Development

---

**CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT  
SOLICITATION NO. IFB SMH0022**

**FOR  
Agreement for Underground Utility Locating**

**State of Texas**

**County of Travis**

**The undersigned "Affiant" is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:**

The term "**Offeror**", as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
  - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
  - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
  - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;



**CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT**

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7<sup>th</sup>) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:  
<http://www.ci.austin.tx.us/cityclerk/coi.htm>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a member of the City Council, a member of a City Board, or any other official, employee or agent of the City, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

OFFEROR'S EXPLANATION:

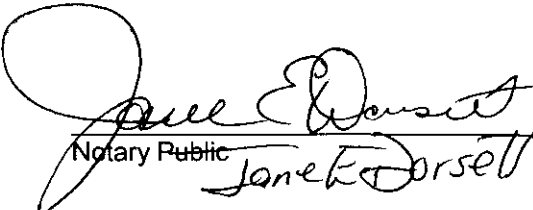
Contractor's Name: USIC Locating Services, Inc.

Printed  
Name: Tim Seelig

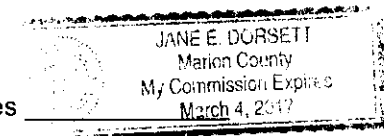
Title Sr. VP of Business Development

Signature of Officer or Authorized Representative: 

Subscribed and sworn to before me this 11<sup>th</sup> day of August, 2010.

  
Notary Public Jane E. Dorsett

My Commission Expires



**CITY OF AUSTIN, TEXAS**  
**LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION**  
*(Please duplicate as needed)*

**SOLICITATION NO. IFB SMH0022**

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title
John Czuhajewski	Technician
Kenneth Leddy	Technician
Jeremy Lynch	Technician
Charles Ewing	Technician
John Reid	Supervisor
Ernie Alvarado	Supervisor
Dylan Caskey	Technician
Reuben Hand	Technician
Roberto Resendez	Technician
Tim Bergen	Technician
Cruz Dominguez	Technician
Jose Riojas	Technician

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

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

Contractor's Name: USIC Locating Service, Inc.

Signature of Officer  
or Authorized  
Representative:



Date:

8/12/10

Printed Name:

Tim Seelig

Title

Sr. VP Business Development

**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number: TBD	Description of Services: Insert Description
Contractor Name: Insert Contractor's Name	

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title: Insert Employee's Title	
Signature of Employee	Date
Type or Print Name Insert Employee's Name	

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Printed Name)

**City of Austin, Texas**  
**NONRESIDENT BIDDER PROVISIONS**  
**SOLICITATION NO. IFB SMH0022**

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

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

Answer: Non-resident bidder

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

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

Answer: No Which State: Indiana

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

Answer: \_\_\_\_\_

Bidder's Name: USIC Locating Services, Inc.

Signature of Officer or  
Authorized  
Representative:



Date: 8/12/10

Printed Name: Tim Seelig

Title: Sr. VP of Business Development

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS FORM**

SOLICITATION NUMBER: IFB SMH0022

PROJECT NAME: Agreement for Underground Utility Locating

The City of Austin has determined that no goals are appropriate for this project. Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Bidder/Proposer does not perform the service with its own workforce or if supplies or materials are required and the Bidder/Proposer does not have the supplies or materials in its inventory, the Bidder/Proposer shall contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Bidder/Proposer must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?

No   X   If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.

Yes        If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

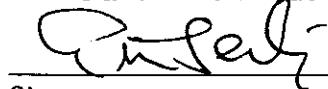
I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

USIC Locating Services, Inc.

Company Name

Tim Seelig, Sr. VP of Business Development

Name and Title of Authorized Representative (Print or Type)



Signature

8/12/10  
Date

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS UTILIZATION PLAN**  
*(Please duplicate as needed)*

SOLICITATION NUMBER: IFB SMH0022

PROJECT NAME: Agreement for Underground Utility Locating

**PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone		Fax Number	
Name of Contact Person			
Is company City certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>		

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

\_\_\_\_\_  
Name and Title of Authorized Representative (Print or Type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Provide a list of all proposed subcontractors/subconsultants/suppliers that will be used in the performance of this Contract. **Attach Good Faith Efforts documentation if non MBE/WBE firms will be used.**

<b>Sub-Contractor/Consultant</b>	
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED
Vendor ID Code	
Contact Person	Phone Number:
Amount of Subcontract	\$
List commodity codes & description of services	

<b>Sub-Contractor/Consultant</b>	
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED
Vendor ID Code	
Contact Person	Phone Number:
Amount of Subcontract	\$
List commodity codes & description of services	

**FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:**

Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.

Reviewing Counselor \_\_\_\_\_ Date \_\_\_\_\_ Director/Deputy Director \_\_\_\_\_ Date \_\_\_\_\_



### Council Question and Answer

Related To	Item #44	Meeting Date	March 31, 2016
Additional Answer Information			

**QUESTION:** Which specific Zucker recommendations will this contract close out? COUNCIL MEMBER  
.ZIMMERMAN'S OFFICE

**ANSWER:**

1) One primary focus for the new contract with Unisys will be to continue expanding the capabilities of the public-facing Austin Build+Connect Portal and improvement of internal processes for all departments using the AMANDA application. To date, 20 trade permit types have been made available online through the portal. In 2015, these permits accounted for 60% of the 18,000+ standalone permits that were mostly issued by fax requests. Future work will include the addition of more permit types for all departments using AMANDA and support of online applications for electronic plan review.

Unisys will assist with many of the original Zucker draft recommendations as noted below by supplementing the resources for both CTM and DSD and providing design consultation.

- 
- 81. Post daily inspection schedules online  
An online route, rather than a schedule, can be created using ArcGIS and integrated into the Austin Build+Connect portal.  
In addition to notifying the contractor approximately one hour before an inspector arrives will included in the design, new interactive maps will be created so contractors can see the inspectors schedule for the day
  - 139. Work on changes to AMANDA to support managing Current Planning
  - 162. Add functionality for Historic Preservation applications
  - 230. Implement a new system wide fee structure so AMANDA will accurately handle all fees and department finance staff are able to update the fee schedules for the new fiscal year prior to the last day of the existing fiscal year
  - 233. Configure AMANDA for autofill and automatic emails  
Design consultation will be needed to accomplish this recommendation.
  - 261. Integrate variance and waiver data into AMANDA
  - 262. Redesign the AMANDA functions for the Arborist and allow Tree Permits available online
  - 353/404. Develop a mobile solution to enhance field inspections
  - 403. Integrate AMANDA 6.1 with EDIMS software
  - 410/411. Complete ProjectDox integration with AMANDA and the Austin Build+Connect portal

422/423. Improve the GIS integration with AMANDA to auto-populate information for staff and online applicants.

-----

In February of this year, Zucker completed the, “Analysis of Partnering City Departments.” Zucker made numerous recommendations to bring more departmental processes into AMANDA. Below is a list of recommendations, for which Unisys could be utilized to augment City staff and deliver needed services more quickly.

**All Departments**

2. All departments to aggressively participate in CodeNext. Once CodeNext is adopted, modifications to AMANDA will be necessary.

**Austin Code Department**

13. Development Services and Austin Code to have access in AMANDA regarding code enforcement complaints
14. Use AMANDA to confirm if a building permit is in response to a code enforcement violation
15. Both Development Services and Austin Code to have access to complaint information in AMANDA

**Austin Energy**

28. Solar installation inspections to be recorded in AMANDA

**Austin Fire Department**

36. Revise AMANDA to allow Fire to track receipt and approval of revised site plans
38. Use AMANDA to track inspection requests and record results

**Austin Water**

52. Inspection of Right-of-Way to be included in AMANDA
53. On-site sewage facility to be included in AMANDA
54. Tap construction process to be in AMANDA

**Economic Development Department/Austin Center for Events**

71. Configure AMANDA to receive, pay for, review, and issue Live Music Permits

**Health and Human Services Department**

75. Development Services and Travis Health to pursue greater use of AMANDA
77. Integrate Food Enterprise inspection with Development Services Building Division process

**Neighborhood Housing and Community Development**

85. Add Neighborhood housing and Community Development as standard reviewer for Affordability projects in AMANDA

**Office of Real Estate Services**

87. Integrate Chapter 14-11 processes into the AMANDA system

**Parks and Recreation Department**

89. Include formal notification requirements at start of construction to Parks and Recreation Department through AMANDA platform



STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT  
FOR A TRANSPORTATION ALTERNATIVES PROGRAM PROJECT  
MPO-Selected Off-System**

This Advance Funding Agreement for a Transportation Alternatives Project (“**Agreement**”) is made between the State of Texas (“**State**”), acting through the Texas Department of Transportation, and City of Austin (“**Local Government**”), acting through its duly authorized officials.

**BACKGROUND**

Local Government prepared and submitted to State or Metropolitan Planning Organization (“**MPO**”) a nomination form for consideration under the Transportation Alternatives Program (“**TAP**”) for the project, which is briefly described as Bike Share Expansion (“**Project**”).

Federal law establishes federally funded programs for transportation improvements to implement its public purposes.

Federal law, 23 USC § 134 and 49 USC § 5303, requires that State and MPOs develop transportation plans and programs for urbanized areas of Texas.

Tex. Transp. Code §§ 201.103 and 222.052 establish that State shall design, construct, and operate a system of highways in cooperation with local governments.

Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds.

The Texas Transportation Commission (“**Commission**”) passed Minute Order Number 114335 (“**MO**”) dated August 27, 2015 awarding funding for projects in the 2015 TAP Program Call of the Capital Area MPO, including Project.

The rules and procedures for TAP are established in 23 USC § 213, and 43 Tex. Admin. Code Subchapter 11.F.

The governing body of Local Government has approved entering into this Agreement by resolution or ordinance dated \_\_\_\_\_, which is attached to and made a part of this Agreement as Attachment A.

Therefore, State and Local Government agree as follows:

**AGREEMENT**

**1. Period of Agreement and Performance**

- 1.1.** Period of Agreement. This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided in Article 2.
- 1.2.** Period of Performance.

1. The Performance Period for each phase of work begins on the date specified in the Federal Project Authorization Agreement (“**FPAA**”) for that phase of work. Local Government may not begin work until issued the State Letter of Authority (“**SLOA**”) for that phase of work.
2. The Performance Period for each phase of work ends on the date specified in the FPAA for that phase of work.

## **2. Termination of the Agreement**

- 2.1.** This Agreement may be terminated by any of the following conditions:
  - a. By mutual written consent and agreement of all parties;
  - b. By any party with 90 days written notice; or
  - c. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- 2.2.** If the potential termination of this Agreement is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- 2.3.** If Local Government withdraws from Project after this Agreement is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State’s cost accounting system and with 2 CFR Part 200 recapture requirements.
- 2.4.** A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:
  - a. Local Government fails to satisfy any requirements of the program rules cited in 43 Tex. Admin. Code Subchapter 11.F.
  - b. The implementation of Project would involve significant deviation from the activities proposed in the nomination form and approved by the Texas Transportation Commission or MPO in consultation with State.
  - c. Local Government withdraws from participation in Project.
  - d. State determines that federal funding may be lost due to Project not being implemented and completed.
  - e. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
  - f. The associated FPAA is not issued by the end of the third federal fiscal year following the federal fiscal year for which the funds are authorized. Federal fiscal years run October 1 through September 30.
  - g. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.

- 2.5. State, at its sole discretion, may terminate this Agreement if State does not receive project invoice within 270 days of FPAA.

### **3. Amendments**

This Agreement may be amended due to changes in the work, the amount of funding required to complete Project, or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

### **4. Scope of Work, Use of Project, and Project Location**

- 4.1. The scope of work for Project (located as shown in Attachment B, Project Location Map) consists of: expansion of the City's current bicycle share system by 18 additional stations located from Lake Austin Blvd. at Enfield to Pleasant Valley Road to Mary Street to MLK Blvd.
- 4.2. Any project changes proposed must be submitted in writing by Local Government to State. Changes may also require an amendment to this Agreement and the approval of the FHWA, State, MPO, or the Commission. Any changes undertaken without written approval and amendment of this Agreement may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

### **5. Right of Way and Real Property Acquisition**

- 5.1. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to State before funds may be expended for the improvement of the right of way or real property. If Local Government is the owner of any part of Project site under this Agreement, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- 5.2. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC § 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR § 24.2(g). Documentation to support such compliance must be maintained and made available to State and its representatives for review and inspection.
- 5.3. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use to the real property required for development of Project. Evidence of title or right of use shall be acquired in the name of (1) State, if the real property is to be made part of the State Highway System, and (2) Local Government, otherwise. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.
- 5.4. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
- 5.5. Local Government shall determine property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so

determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by Local Government in performing this work may be eligible for reimbursement after Local Government has received written authorization by State to proceed with determination of real property values. State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values.

- 5.6.** For State-selected projects, Local Government shall not use eminent domain or condemnation to acquire real property for this TAP Project.
- 5.7.** Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary payments to appraisers for expenses incurred in order to assure good title.
- 5.8.** Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.
- 5.9.** If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this Agreement. The separate agreement between Local Government and the current property owner must establish that Project will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment as outlined in 43 Tex. Admin. Code § 11.317. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.
- 5.10.** Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- 5.11.** Local governments receiving federal funds must comply with 23 CFR Part 710 and 49 CFR Part 24, and with the procedures provided in Chapter 6 of the State's Local Government Project Policy Manual. Local Government agrees to monitor Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.
- 5.12.** Before the advertisement for bids, Local Government shall provide a certification to State that all real property has been acquired.

## **6. Utilities**

Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of

a delay resulting from Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. Unless specified in (1) the nomination form approved by State or MPO in consultation with State and (2) this agreement, Local Government will not be reimbursed with federal or state funds for the cost of required utility work. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. These costs may be eligible for TAP participation if: (1) the activity is required to complete Project; (2) the cost is incidental to Project; and (3) TAP funding is available. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

## **7. Environmental Assessment and Mitigation**

Development of Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- 7.1.** Local Government is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- 7.2.** Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share of Project unless specified in the nomination form and approved by State or MPO in consultation with State.
- 7.3.** Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment.
- 7.4.** Before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

## **8. Compliance with Texas Accessibility Standards and ADA**

All parties to this Agreement shall ensure that the plans for and the construction of Project subject to this Agreement are in compliance with the Texas Accessibility Standards ("TAS") issued by the Texas Department of Licensing and Regulation, under Tex. Gov't Code § 469.052. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) ("ADA").

## **9. Architectural and Engineering Services**

Architectural and engineering services for preliminary engineering will be provided by Local Government. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these services; and with Tex. Gov't Code Subchapter 2254.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. For State-selected projects, architectural and engineering services are not eligible for TAP reimbursement.

- 9.1.** The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be

developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.

- 9.2.** When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval. Local Government may also submit the plans to State for review any time prior to completion. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- 9.3.** When architectural and engineering services are provided by or through State, then the following applies:
- State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work as required to accomplish Project purposes. State will cooperate with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

## **10. Construction Responsibilities**

- 10.1.** Local Government shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- 10.2.** All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- 10.3.** All contract change order review and approval procedures must be approved by State prior to start of construction.
- 10.4.** Upon completion of Project, the party constructing Project will issue and sign a "Notification of Completion" acknowledging Project's construction completion.
- 10.5.** For federally funded contracts, the parties to this Agreement will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Subpart 635.B.
- 10.6.** Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to completion of Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

## **11. Project Maintenance**

- 11.1.** Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- 11.2.** Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this Agreement.
- 11.3.** Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- 11.4.** Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

## **12. Local Project Sources and Uses of Funds**

- 12.1.** A Project Budget Estimate and Source of Funds is provided as Attachment C, showing the total estimated development cost of Project. This estimate shows the itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs. To be eligible for reimbursement or as in-kind contribution, costs must have been included in the nomination form approved by the Texas Transportation Commission or MPO in consultation with State. State and the Federal Government will not reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- 12.2.** If Local Government will perform any work under this Agreement for which reimbursement will be provided by or through State, Local Government must complete training in Local Government Procedures Qualification for the Texas Department of Transportation before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on Project successfully completes and receives a certificate for the course. Local Government shall provide the

certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of Project. State in its discretion may deny reimbursement if Local Government has not designated a qualified individual to oversee Project.

- 12.3.** The Project budget and source of funds estimate based on the budget provided in the nomination form is included as Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal Transportation Alternative Program funds assigned by the Commission or MPO in consultation with State to Project. This Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the Transportation Improvement Program, Federal Project Authorization and Agreement (“FPAA”), or other federal documents.
- 12.4.** Local Government will be responsible for all non-federal participation costs associated with Project, including any overruns in excess of Project’s estimated budget and any operating or maintenance expenses.
- 12.5.** State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission or MPO in consultation with State. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to issuance of the SLOA are not eligible for reimbursement.
- 12.6.** Following execution of this Agreement, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment C for plan review. At least 60 days prior to the date set for receipt of the construction bids, Local Government shall remit its remaining local match as specified in Attachment C for State’s estimated construction oversight and construction cost.
- 12.7.** In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment C and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State’s written notification.
- 12.8.** Whenever funds are paid by Local Government to State under this Agreement, Local Government will remit a warrant made payable to the “Texas Department of Transportation.” The warrant will be deposited by State and managed by State. Funds may only be applied by State to Project.
- 12.9.** Upon completion of Project, State will perform an audit of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party. If after final Project accounting, any excess funds remain, those funds may be applied by State to Local Government’s contractual obligations to State under another advance funding agreement with approval by appropriate personnel of Local Government.
- 12.10.** In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State’s notification.
- 12.11.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed



changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.

- 12.12.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement or indirectly through a contract or subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- 12.13.** State will not pay interest on any funds provided by Local Government.
- 12.14.** State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this Agreement.
- 12.15.** Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- 12.16.** If Local government is an Economically Disadvantaged County (“EDC”) and if State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.

### **13. Notices**

- 13.1.** All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

<b>Local Government</b>	<b>State</b>
City of Austin	Director of Contract Services Office
Austin Transportation Department	Texas Department of Transportation
PO Box 1088	125 E. 11 <sup>th</sup> Street
Austin, TX 78703	Austin, TX 78701-2483

- 13.2.** All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

### **14. Legal Construction**

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**15. Responsibilities of the Parties**

Neither party is an agent, servant, or employee of the other party and each party is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**16. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by State shall remain the property of State. All data prepared under this Agreement shall be made available to State without restriction or limitation on their further use. All documents produced or approved or otherwise created by Local Government shall be transmitted to State in the form of photocopy reproduction on a monthly basis as required by State. The originals shall remain the property of Local Government.

**17. Document and Information Exchange**

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State. This requirement applies whether Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

**18. Compliance with Laws**

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, Local Government shall furnish State with satisfactory proof of this compliance.

**19. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**20. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR Part 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to Project.

**21. Procurement and Property Management Standards**

The parties shall adhere to the procurement standards established in 2 CFR Part 200 and with the property management standard established in 2 CFR Part 200.

**22. Inspection of Books and Records**

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to State, Local Government, and, if federally funded, the FHWA, and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the Agreement period and for four years from the date of completion of work defined under this Agreement or until any impending litigation or

claims are resolved. Additionally, State, Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

### **23. Civil Rights Compliance**

Local Government shall comply with the regulations of the U. S. Department of Transportation (“DOT”) as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled “Equal Employment Opportunity,” as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

### **24. Disadvantaged Business Enterprise Program Requirements**

- 24.1.** The parties shall comply with the Disadvantaged Business Enterprise (“DBE”) Program requirements established in 49 CFR Part 26.
- 24.2.** Local Government shall adopt, in its totality, State’s federally approved DBE program.
- 24.3.** Local Government shall set an appropriate DBE goal consistent with State’s DBE guidelines and in consideration of Local market, project size, and nature of the goods or services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- 24.4.** Local Government shall follow all other parts of State’s DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation’s Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address: [http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- 24.5.** Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. State’s DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- 24.6.** Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:  
  
*The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

### **25. Debarment Certifications**

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order

12549, "Debarment and Suspension." By executing this Agreement, Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

## **26. Lobbying Certification**

In executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- 26.1.** No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 26.2.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 26.3.** The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC § 1352 for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **27. Insurance**

- 27.1.** Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- 27.2.** For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

## **28. Federal Funding Accountability and Transparency Act Requirements**

- 28.1.** Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (“**FFATA**”) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and  
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.

- 28.2.** Local Government agrees that it shall:

- a. Obtain and provide to State a System for Award Management (“**SAM**”) number (Federal Acquisition Regulation (“**FAR**”) Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is <https://www.sam.gov/portal/public/SAM/>
- b. Obtain and provide to State a Data Universal Numbering System (“**DUNS**”) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
- c. Report the total compensation and names of its top five executives to State if:
  1. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
  2. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

## **29. Single Audit Report**

- 29.1.** The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.
- 29.2.** If threshold expenditures are met during Local Government's fiscal year, Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>. The expenditure threshold for fiscal years beginning prior to December 31, 2014 is \$500,000; the expenditure threshold for fiscal years beginning on or after December 31, 2014 is \$750,000.
- 29.3.** If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Audit Office as follows:
- We did not meet the \$\_\_\_\_\_ expenditure threshold and therefore, are not required to have a single audit performed for FY\_\_\_\_\_.*
- 29.4.** For each year Project remains open for federal funding expenditures, Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or Project has been formally closed out and no charges have been incurred within the current fiscal year.

## **30. Signatory Warranty**

CSJ: 0914-04-299  
District #: 14-Austin  
Code Chart 64#: 02100  
Project: Bike Share Expansion  
FHWA CFDA #: 20.205  
Not Research and Development

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Each party is signing this agreement on the date stated opposite that party's signature.

**CITY OF AUSTIN**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Marc A. Ott  
City Manager

**THE STATE OF TEXAS**

Date: \_\_\_\_\_

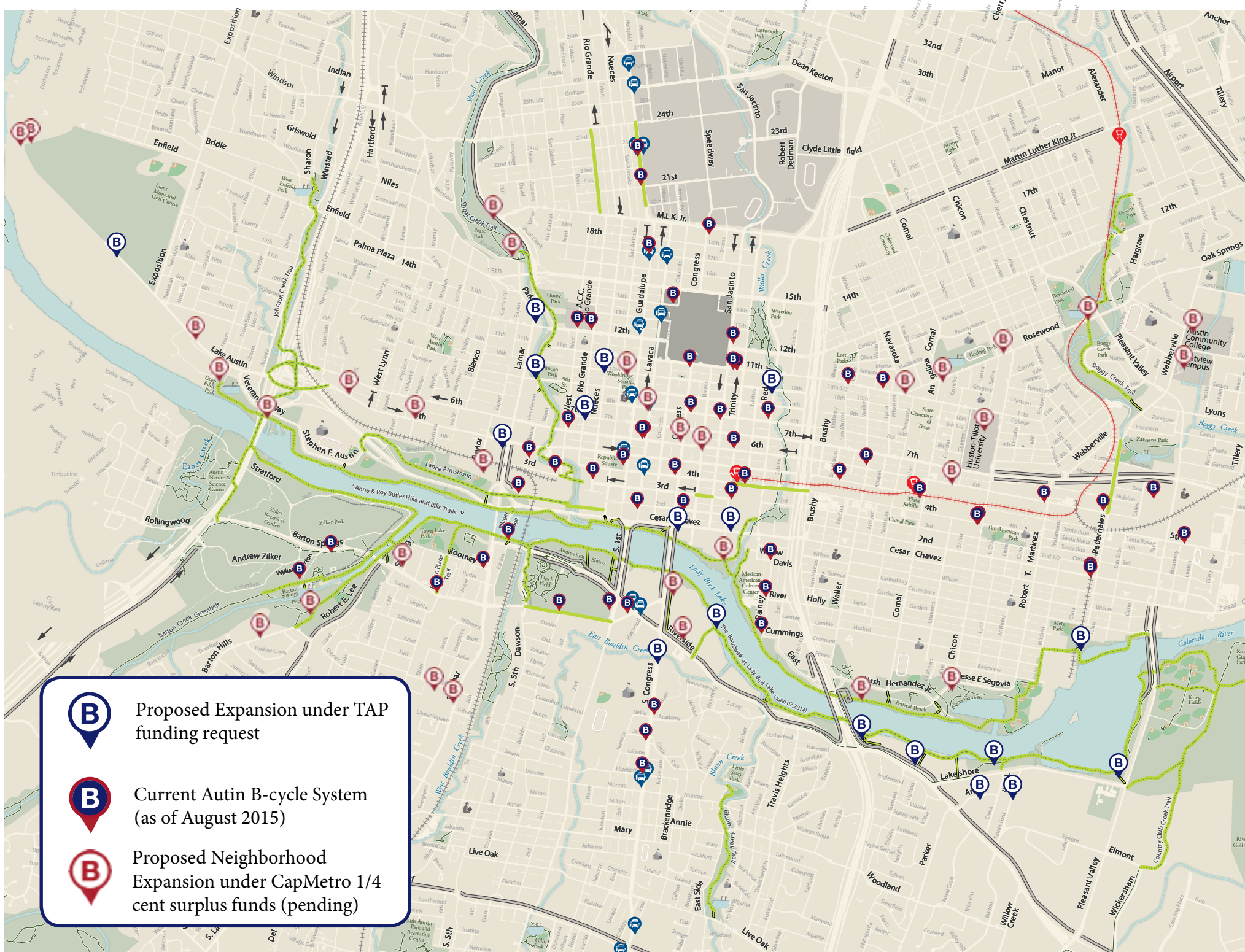
By: \_\_\_\_\_

Kenneth Stewart  
Director of Contract Services  
Texas Department of Transportation

**ATTACHMENT A**  
**RESOLUTION OF LOCAL GOVERNMENT**

**ATTACHMENT B**  
**PROJECT LOCATION MAP**





Proposed Expansion under TAP  
funding request



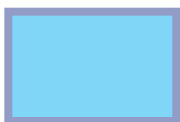
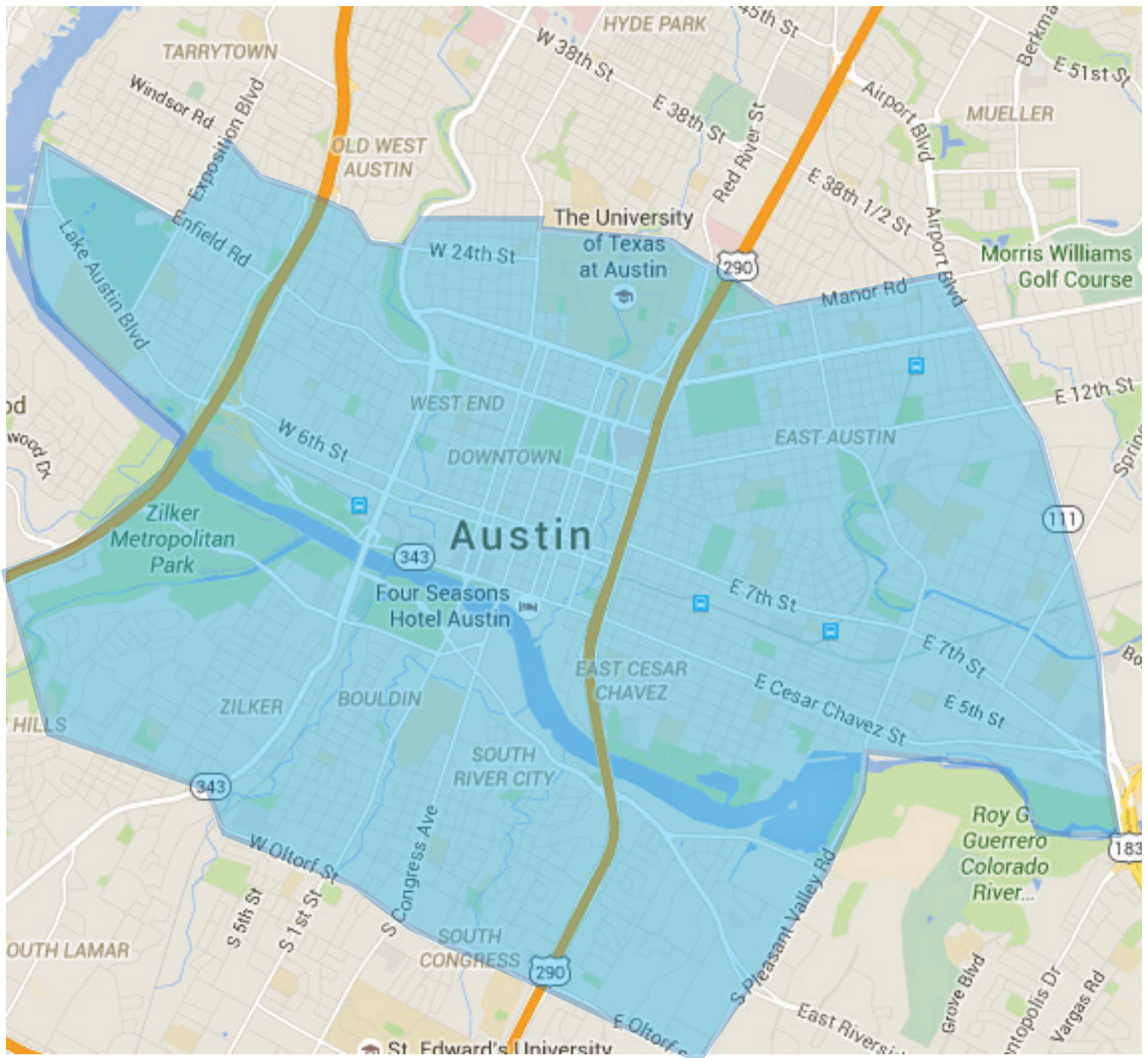
Current Austin B-cycle System  
(as of August 2015)



Proposed Neighborhood  
Expansion under CapMetro 1/4  
cent surplus funds (pending)



## Austin Bike Share Limits of Construction



## Bike Share Station Limits of Construction

CSJ: 0914-04-299 Fed. # STP: {enter STP}  
 Code Chart 64#: 02100  
 Project: Bike Share Expansion  
 FHWA CFDA #: 20.205  
 Not Research and Development

## ATTACHMENT C

### PROJECT ESTIMATE AND SOURCE OF FUNDS

(State or **LG**) Performs PE Work or Hires Consultant / (State or **LG**) Lets Project to Construction

Work Performed by Local Government ("LG")							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation <small>Includes additional percentage for TDC apportionment where applicable</small>		State Participation		Local Government (LG) Participation <small>Includes any EDC reduction where applicable</small>	
		%	Cost	%	Cost	%	Cost
Planning/Maps/Education/Non-CST	\$0	0%	\$0	0%	\$0	0%	\$0
Preliminary Engineering	\$50,000	0%	\$0	0%	\$0	100%	\$50,000
Environmental Cost	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities	\$0	0%	\$0	0%	\$0	0%	\$0
Construction	\$1,000,000	*%	\$788,500	0%	\$0	*%	\$211,500
In-kind donation Value <small>(Add to Total Project Cost - 20% Maximum value)</small>	\$0	0%	\$0	0%	\$0	0%	\$0
<b>Work by LG Subtotal</b>	<b>\$1,050,000</b>		<b>\$788,500</b>		<b>\$0</b>		<b>\$261,500</b>
Work Performed by the State (Local Participation paid up front by LG to TxDOT)							
Preliminary Engineering <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way <sup>3</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities <sup>2</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Construction <sup>2</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
<b>Work by State Subtotal</b>	<b>\$0</b>		<b>\$0</b>		<b>\$0</b>		<b>\$0</b>

- \* The locals are paying an overmatch for this project.

CSJ: 0914-04-299 Fed. # STP: {enter STP}  
 Code Chart 64#: 02100  
 Project: Bike Share Expansion  
 FHWA CFDA #: 20.205  
 Not Research and Development

Direct and Indirect State Costs Incurred for Review, Inspection, Administration & Oversight							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation <small>Includes additional percentage for TDC apportionment where applicable</small>		State Participation		Local Government (LG) Participation <small>Includes any EDC reduction where applicable</small>	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities <sup>1</sup>	\$0	0%	\$0	0%	\$0	0%	\$0
Construction <sup>2</sup>	\$150,000	80%	\$120,000	0%	\$0	20%	\$30,000
Direct State Costs Subtotal	\$150,000	80%	\$120,000	0%	\$0	20%	\$30,000
Indirect State Cost	\$60,270		\$0		\$60,270		\$0
TOTAL PARTICIPATION	\$1,260,270		\$908,500		\$60,270		\$291,500
In-kind Contribution Credit Applied						0%	\$0
<b>TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION</b>							<b>\$291,500</b>

The estimated total participation by Local Government is \$291,500, plus 100% of overruns.

Total estimated payment by Local Government to State is \$30,000.

<sup>2</sup> Local Government's payment of \$30,000 is due to State within 60 days prior to the Construction contract being advertised for bids.

<sup>3</sup> If ROW is to be acquired by State, Local Government's share of property cost will be due prior to acquisition.

The eligible percent of required local match is stated in the nomination and must be 20% or greater, unless In-Kind, EDC adjustments or TDCs are applied.

This is an estimate, the final amount of Local Government participation will be based on actual costs.

Maximum federal TAP funds available for Project are \$908,500.

Task	Activity(s)	Deliverable(s)	Performance Metric	Goal
1	Develop and Maintain an Air Central Texas Website	1.1: Approved website plan and a copy of a signed contract with vendor, 1.2: Documentation of website launch and any subsequent updates	Web Pages Created	20
			Updates to Website	5
			Number of Unique Visits to Website	750
2	Conduct and Coordinate Regional In-Person Air Quality Outreach and Education	2.1: Approved in-person outreach work plan; 2.2: Documentation of in-person outreach completed , including one copy of newsletter and listing of dates newsletter was published	Volunteer Hours	200
			Events	15
			People Reached at Events	4000
			Newsletters Distributed	8
			# of Newsletter Recipients	100
3	Conduct Electronic Air Quality Outreach and Education	3.1: Approved electronic outreach work plan; 3.2: Documentation of electronic outreach completed	Gross Impressions from Electronic Advertising	1,000,000.00
4	Provide Technical Assistance to Fleet Managers for Emission Reduction Grants	Deliverable 4.1: Copy of a signed contract with vendor; 4.2: Report on fleet outreach and technical assistance	Hours spent providing technical assistance to Fleet Managers	100
5	Conduct Targeted Outreach to Seniors to Help Reduce High Air Pollution Exposure	5.1: Approved senior outreach work plan; 5.2: Documentation of senior outreach completed	Number of seniors contacted	500
6	Regional Air Quality Awards and Recognition Program	6.1: Approved regional air quality awards work plan, 6.2: Awards ceremony event, 6.3: Documentation of regional air quality awards and press release announcing winners	Number of Attendees at Awards Program	40