



CITY OF AUSTIN, TEXAS
Purchasing Office
INVITATION FOR BID (IFB)
OFFER SHEET

SOLICITATION NO: CRR0207

COMMODITY/SERVICE DESCRIPTION: Citywide Shredding Services

DATE ISSUED: July 25, 2016

REQUISITION NO.: 16071400575

PRE-BID CONFERENCE TIME AND DATE: N/A

COMMODITY CODE: 96671

LOCATION: N/A

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

BID DUE PRIOR TO: Tuesday, August 9, 2016 at 2:00pm

Claudia Rodriquez
Senior Buyer

BID OPENING TIME AND DATE: Tuesday, August 9, 2016 at 2:15pm

Phone: (512) 974-3092

E-Mail: ClaudiaR.Rodriquez@austintexas.gov

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

LIVE BID OPENING ONLINE:

For information on how to attend the Bid Opening online, please select this link:

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

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

Address for US Mail (Only)	Address for Fedex, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # CRR0207	Purchasing Office-Response Enclosed for Solicitation # CRR0207
P.O. Box 1088	124 W 8 th Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

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

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

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.

SUBMIT 1 ORIGINAL AND 1 ELECTRONIC COPY (USB) OF YOUR RESPONSE

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

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

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	7
0500	SPECIFICATION	4
0600	BID SHEET – Must be completed and returned with Offer	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return	2
0800	NON-DISCRIMINATION CERTIFICATION	*
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE NO GOALS FORM – Complete & return	2
Exhibit A	HIPAA Business Associate Agreement	6

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

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

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

INTERESTED PARTIES DISCLOSURE

In addition, Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 “Certificate of Interested Parties” that is signed and notarized for a contract award requiring council authorization. The “Certificate of Interested Parties” form must be completed on the Texas Ethics Commission website, printed, signed and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: _____

Company Address: _____

City, State, Zip: _____

Federal Tax ID No. _____

Printed Name of Officer or Authorized Representative: _____

Title: _____

Signature of Officer or Authorized Representative: _____

Date: _____

Email Address: _____

Phone Number: _____

*** Completed Bid Sheet, section 0600 must be submitted with this Offer sheet to be considered for award**

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to ClaudiaR.Rodriguez@austintexas.gov by Monday, August 1, 2016 at 2:00pm.

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

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

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

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

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

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

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

- (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
- iv. **Professional Liability/Errors and Omissions Insurance:** The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement.

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.

- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

3. TERM OF CONTRACT:

- A. The Contract shall be in effect for an initial term of 36 months and may be extended thereafter for up to 3 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
- D. Prices are firm and fixed for the first 12 months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

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

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

5. DELIVERY REQUIREMENTS:

Location: See Purchase Order (DO)	Days: 20 Days

- A. Delivery is to be made within 20 calendar days after the order is placed (either verbally or in writing). All orders must be shipped complete unless arrangements for partial shipments are made in advance.
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 51 in Section 0300).

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

- A. Invoices shall contain a unique 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.

Invoices shall be mailed to the below address:

	City of Austin
Department	See Purchase Order (DO)
Attn:	
Address	
City, State Zip Code	

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

7. PUBLISHED PRICE LISTS:

- A. Offerors may quote using published price lists in the following ways:
 - i. Offerors may quote one discount from a Published Price List for all offered items to be covered in the Contract. The discount must remain firm during the life of the Contract.
 - ii. Offerors may quote their dealer cost, plus a percentage markup to be added to the cost. The percentage markup must remain firm during the life of the contract.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

- B. Two (2) copies of the list upon which the discounts or markups are based shall be submitted with the Offer. All price lists identified in the Offer shall clearly include the Offeror's name and address, the solicitation number, prices, title of the discount and number, and the latest effective date of the price list. If the Offer is based on a discount or markup on a manufacturer's price list, the price list must also include the manufacturer's name, the manufacturer's latest effective date, and the manufacturer's price schedule. All price lists submitted become part of the Offer.
- C. The price list may be superseded or replaced during the Contract term only if price revisions are the result of the manufacturer's official price list revision. Written notification from the Contractor of price changes, along with two (2) copies of the revised list must be submitted to the Buyer in the Purchasing Office with the effective date of change to be at least 30 calendar days (30 unless a different period is inserted) after written notification. The City reserves the right to refuse any list revision.
- D. The discounts or markups on equipment rental, material, supplies, parts, and contract services shall be fixed throughout the term of the Contract, and are not subject to increase.
- E. Failure to submit written notification of price list revisions will result in the rejection of new prices being invoiced. The City will only pay invoices according to the last approved price list.

8. LIVING WAGES:

- A. The minimum wage required for any Contractor employee directly assigned to this City Contract is \$13.03 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$13.03 per hour. 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.
- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's Contract Manager with the first invoice, individual Employee Certifications for all employees directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each employee directly assigned to the contract. The Employee Certification form is available on-line at https://www.austintexas.gov/financeonline/vendor_connection/index.cfm.
- E. Contractor shall submit employee certifications annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for employees added to the contract and/or to report any employee changes as they occur.
- F. 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 required in paragraph C above to verify compliance with this provision.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

9. PRE-AWARD

- A. Prior to awarding a Contract, the City reserves the right to visit the premises of any Offeror being considered for a Contract. The site visit will be made during the evaluation process to determine whether or not the Offeror has the appropriate facilities, equipment, inventory, licenses, registrations, permits, and qualified personnel to perform according to the Scope of Work (Section 0500). Offerors, who in the City's opinion, do not have the resources to perform, will not be considered for Contract award regardless of their Bid price. The Offeror shall furnish, or cause to be furnished, without additional charge, all reasonable assistance to the City to facilitate the site visit.
- B. In addition, in order to determine if the Offeror is responsible, the City reserves the right to review the Offeror's plan to comply with the requirement to make "Code Red" deliveries" as specified in the Scope of Work. Offerors who, in the City's opinion, do not have existing Agreements or resources in place will not be considered for Contract award regardless of their Bid price.

10. POST-AWARD

- A. The Contractor shall be required to attend a post award meeting with City personnel within ten (10) calendar days after Contract award. The purpose of the meeting is to discuss the terms and conditions of the contract, arrange bin deliveries and service schedules for each department.

The City may perform site visits during the term of the Contract to verify that the Contractor or the Contractor's Subcontractor maintains the appropriate facilities, equipment, inventory, licenses, registrations, permits, and qualified personnel to perform according to the Scope of Work (Section 0500). The Contractor, or the Contractor's Subcontractor shall furnish, or cause to be furnished, without additional charge, all reasonable assistance to the City to facilitate the site visit.

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

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

12. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

- A. Access to the City of Austin Department buildings by the Contractor, all subcontractors and their employees will be strictly controlled at all times by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the City of Austin facilities at least thirty (30) days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the City of Austin facility and security badges must be on display at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth, driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.
- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

13. **ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first 12 months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed ten percent (10%) for any single line item and in no event shall the total amount of the contract be automatically adjusted as a result of the change in one or more line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.

- i. The following definitions apply:

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

- (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
 - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
 - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
 - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
 - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- (1) Utilize final Compilation data instead of Preliminary data
 - (2) If the referenced index is no longer available shift up to the next higher category index.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 100%	
Database Name: Employment Cost Index	
Series ID: CIU2010000300000A	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: United States (National)	
Description of Series ID: Total compensation for Private industry workers in Service occupations, 12-month percent change	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal:1-4	

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

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

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

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

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

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

15. **CONTRACT MANAGER:** The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

Municipal Court: Lori Cruz ph# 512- 974-4633

Austin Police Department: Alberto Banda ph# 512-974-5273

HHSD: Kevin Waldrup ph# 512-972-5108

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

**Citywide Document Shredding Services
for the City of Austin
Scope of Work
Solicitation No. IFB CRR0207**

1.0 Introduction

The City of Austin, Texas, population is nearing 915,000, and is listed as the 11th largest city in the country according to the 2010 census. With over 50 City of Austin facilities supporting all City of Austin departments, the City of Austin requires secure and confidential document shredding services.

2.0 Purpose

The City of Austin (City) requires confidential/secure document shredding services for various City departments. There are two basic service requirements for this contract:

- 1) Off-site shredding service for various City locations
- 2) Bulk (on-site) shredding services for various City locations.

The documents collected for the shredding services may contain, but are not limited to the following materials: paper, binders, folders, films, photographs, blueprints, credit cards, microfiche, transparencies, computer disks, floppy disks and videos. The City reserves the right to add and/or remove departments, locations, and/or modify the quantity, locations and sizes of bins throughout the contract term.

3.0 Contractor Qualifications

- 3.1 The Contractor shall have a minimum of three (3) years on-going operating experience in providing document destruction services.
- 3.2 The Contractor's facility shall have the following minimum security measures in place:
 - 3.3.1 Security systems and perimeter monitoring equipment
 - 3.3.2 Strict ID badge/security access procedures
 - 3.3.3 Fire-suppression system
 - 3.3.4 Closed-circuit television surveillance of entrances and production lines with 24/7 recording
 - 3.3.5 Exterior fencing
- 3.3 The Contractor's staff handling City documents shall sign a confidentiality agreement.
- 3.4 The Contractor's staff handling City documents shall have all the applicable federal, state and local licensing requirements to operate the vehicles and equipment used in fulfilling the terms of the contract.
- 3.5 The Contractor's fleet shall meet all applicable Texas Department of Transportation (TXDOT) and United States Department of Transportation (USDOT) standards.
- 3.6 All personnel assigned to the project shall wear a uniform, necessary safety equipment, and company issued identification. Uniforms shall be alike and have the Contractor's name clearly displayed on the front of the shirt and seasonal outerwear.
- 3.7 The Contractor shall be a member of the National Association of Information Destruction (NAID).

**Citywide Document Shredding Services
for the City of Austin
Scope of Work
Solicitation No. IFB CRR0207**

- 3.8 The Contractor shall comply with the Health Insurance Portability and Accountability Act (HIPAA) rules and regulations (See Exhibit A – HIPAA Business Associate Agreement).
- 3.9 The Contractor's shredding equipment shall conform to acceptable industry methods and standards.

4.0 Contractor Responsibilities

4.1 General

The Contractor shall furnish all personnel, equipment, material, and services required to satisfy the City document destruction requirements.

- 4.1.1 The Contractor shall be required attend a city-coordinated Kick-Off Meeting with the Contract Managers or designee within ten (10) business days from the contract award date. **See section 0400- Post Award.**
- 4.1.1.1 The contractor shall supply and deliver all required bins within twenty (20) business days of the contract award, unless otherwise agreed to by the City Contract Manager or designee,
- 4.1.1.2 The Contractor shall be able to provide bins in the following sizes at a minimum:
- Large - 85-90 gallons capacity
 - Medium - 55-60 gallon capacity
 - Small - 25-30 gallon capacity
- 4.1.1.3 If the Contractor requires media items to be collected separately, additional lockable bins with wheels shall be provided at no cost to the City. The size, type, and placement of the media bins shall be mutually agreed upon between the Contractor and the City.
- 4.1.2 The Contractor shall supply each Contract Manager or designee with a master key to unlock all bins that are located at each City facility. If the Contractor replaces a bin, a new master key shall be provided upon placement of the bin if applicable. If a combination locking system is utilized on the bin, the combination shall be the same as other the bins at the City facility.
- 4.1.3 The Contractor shall repair and/or replace any damaged or worn locks and bins at no cost to City.
- 4.1.4 The Contractor shall provide the City Contract Manager or designee the Certificate of Destruction after each service. The certificate shall be attached to the invoice and shall include, at a minimum, the date of service and the amount (weight) of material shredded.
- 4.1.5 The Contractor shall ensure all City documents are secure during the file transfer

**Citywide Document Shredding Services
for the City of Austin
Scope of Work
Solicitation No. IFB CRR0207**

from City custody to the destruction vehicle to prevent the loss of any document.

- 4.1.6 The Contractor shall ensure all items are destroyed via a cross-cut shredding process, in which each document shall be cut in perpendicular (cross-cut) directions.
- 4.1.7 The Contractor shall ensure that City documents and materials are shredded on the same day they are picked up from a City location. The Contractor shall not store, or otherwise keep, any City documents and materials.
- 4.1.8 The scheduled pickup and shredding of City materials shall be mutually agreed upon between the Contractor and Contract Manager for each City location. The City reserves the right to schedule additional pickups on an as-needed basis.

4.2 Onsite Shredding Service

- 4.2.1 The Contractor shall provide bulk (on-site) shredding services. The Contractor shall allow City representatives to witness the shredding process upon request. The Contractor shall provide documentation of the shredding service to the Contract Manager or designee at the time the services are performed at each City location.
- 4.2.2 The Contractor shall provide on-site shred services on a regular or as-needed basis.
- 4.2.3 The Contractor shall provide onsite shredding services, Monday through Friday, between 9:00 A.M. and 3:00 P.M. or as mutually agreed to between the Contractor and City for the specified location.
- 4.2.4 The Contractor's invoice for onsite shredding service shall include a shipping, delivery, or work ticket showing the description of each item, quantity and unit price.
- 4.2.5 The Contractor shall invoice the City for onsite bulk shredding services at a flat fee rate (see Section 0600 – Bid Sheet) by the pound. The Contractor invoices shall include the Certificate of Destruction number and date(s).

4.3 Offsite Shredding Service

- 4.3.1 The Contractor shall pickup storage bins at the City location and perform the shredding services at the Contractor's facility.
- 4.3.2 The Contractor shall pick up the bins and included materials for shredding services at a scheduled time or an as-needed basis. The frequency, date, and time of the scheduled pickups shall be mutually agreed to between the Contractor and City.
- 4.3.3 The Contractor shall invoice the City on a flat fee per bin per month (see Section 0600 – Bid Sheet). It is estimated that the bins shall be collected and replaced with an empty bin on average one to two (1 to 2) times per month. The Contractor's invoices shall include a Certificate of Destruction number and date(s).

5.0 Sustainability

- 5.1 The City's sustainable purchasing objectives include purchasing services that:

**Citywide Document Shredding Services
for the City of Austin
Scope of Work
Solicitation No. IFB CRR0207**

- Conserve natural resources including water, energy, and raw materials throughout the product life cycle
- Minimize environmental impacts such as water and air pollution during usage
- Eliminate or reduce toxins that create hazards to workers, citizens, wildlife, and the environment
- Support up-cycling and recycling efforts as well as utilizing products with high recycled content
- Encourage vendors to reduce environmental impacts in their production and distribution systems
- Support worker health, safety, and fair wages
- Consider total cost of ownership during the products useful life, including operation, supplies, maintenance, and disposal cost
- It is strongly encouraged that the Contractor limits emissions through no- or low-emission vehicles, efficient routing, and limiting the overall number of trips necessary to meet the requirements of this contract.

5.2 Reporting Requirements

5.2.1 The Contractor shall properly recycle all paper and plastic collected under this contract. If other materials are collected, the other materials shall be recycled if markets are available. Disposal in a landfill shall be considered the last option for the collected material.

5.2.2 The Contractor shall provide an annual (from the date of the contract award date) report itemizing all materials recycled and their weights recycled during the calendar year, presented by the selected service provider, and shall be forwarded to the Director of Austin Resource Recovery.

5.2.2.1 The Contractor's annual report shall itemize the materials recycled, weight of the materials recycled (pounds or tons), and the recycling vendor(s) the materials are sold to.

5.2.3 The City encourages the Contractor to limit its carbon footprint through use of no- or low-emission vehicles, efficient routing, and minimizing the overall number of trips necessary to meet the requirements of this contract.

6.0 City Responsibilities

6.1 The City will provide the Contractor with a list of all locations and the appropriate contact for each location.

Section 0605: Local Business Presence Identification

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

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

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

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR:

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

SUBCONTRACTOR(S):

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

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

SUBCONTRACTOR(S):

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

Section 0700: Reference Sheet

Responding Company Name _____

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name _____

Name and Title of Contact _____

Project Name _____

Present Address _____

City, State, Zip Code _____

Telephone Number (____) _____ Fax Number (____) _____

Email Address _____

2. Company's Name _____

Name and Title of Contact _____

Project Name _____

Present Address _____

City, State, Zip Code _____

Telephone Number (____) _____ Fax Number (____) _____

Email Address _____

3. Company's Name _____

Name and Title of Contact _____

Project Name _____

Present Address _____

City, State, Zip Code _____

Telephone Number (____) _____ Fax Number (____) _____

Email Address _____

Section 0815: Living Wages Contractor Certification

Company Name _____

Pursuant to the Living Wages 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 \$13.03 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.03 per hour.

Employee Name	Employee Job Title

USE ADDITIONAL PAGES AS NECESSARY

- (1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.03 per hour
- (2) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

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

Section 0835: Non-Resident Bidder Provisions

Company Name _____

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

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

Answer: _____

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

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

Answer: _____ Which State: _____

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

Answer: _____

Section 0900: Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Form

SOLICITATION NUMBER:	CRR0207
PROJECT NAME:	Citywide Shredding Services

The City of Austin has determined that no goals are appropriate for this project. Even though goals were not assigned 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 _____ **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, sub-consultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though goals were not assigned, 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.	

Company Name	

Name and Title of Authorized Representative (Print or Type)	

Signature	Date

Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Utilization Plan
 (Please duplicate as needed)

SOLICITATION NUMBER:	CRR0207
PROJECT NAME:	Citywide Shredding Services

PRIME CONTRACTOR / CONSULTANT COMPANY INFORMATION

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone Number		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 / sub-consultants / suppliers that will be used in the performance of this Contract. **Attach Good Faith Effort documentation if non MBE/WBE firms will be used.**

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

Sub-Contractor / Sub-Consultant			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethics / 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** _____

Exhibit A

HIPAA Business Associate Agreement

This Agreement is made and entered into between the City of Austin (“City”) and the person or entity identified in the signature block below (the “Business Associate”), and is made with reference to the following facts:

- i. *{Explain procurement and applicability of Agreement}*;
- ii. The Program is subject to the privacy and other requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);
- iii. Under the HIPAA Rules (defined below), the City is required to enter into a written agreement with the Business Associate under the terms and conditions provided below; and
- iv. The parties wish to enter into this Agreement in order to comply with the HIPAA Rules (defined below), and to safeguard Protected Health Information (defined below) appropriately.

Therefore, in consideration of their mutual undertakings set out in this Agreement, and for other good and valuable consideration, the parties agree to the following:

1. Definitions. As used in this Agreement:

- A. “HIPAA Rules”** and/or “HIPAA” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules implementing HIPAA and set out at 45 CFR Part 160 and Part 164.
- B. “Individually Identifiable Health Information”** shall mean information collected from an individual, including demographic information, that:
 - i. Is created or received by the City and provided to the Business Associate; and
 - ii. Relates to: (a) the past, present, or future physical or mental health or condition of an individual; (b) the provision of healthcare to an individual; or (c) the past, present, or future payment for the provision of healthcare to an individual; and
 - iii. Which identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- C. “Protected Health Information”** shall mean Individually Identifiable Health Information that is: (i) transmitted by electronic media; (ii) maintained in any medium constituting electronic media; or (iii) transmitted or maintained in any other form or medium.
- D. “Agent”** and “Subcontractor” shall mean a third party who is not an employee in the workforce of the Business Associate and who receives Protected Health Information from the Business Associate for purposes of carrying out any part of the Business Associate’s responsibilities under its services agreement with the City.
- E. “Business Associate”** shall have the same meaning as the term “business associate” set out at 45 CFR Part 160.103, and in reference to the party to this agreement, shall be the party designated as a Business Associate.

2. Permitted Uses and Disclosures of Protected Health Information by Business Associate.

- A.** The Business Associate may use or disclose Protected Health Information for the following purposes only: (i) to receive and process claims for payment for eligible Program participants; (ii) to maintain claims history and patient profiles; (iii) to maintain current eligibility data on Program participants; and (iv) for the management and administration of its internal business processes that relate to its legal responsibilities and its responsibilities under the services contract between the City and the Business Associate.
- B.** The Business Associate may use or disclose Protected Health Information as required by law.
- C.** The Business Associate shall make its internal practices, books and records, including policies and procedures, relating to the use and disclosures of Protected Health Information available to the Secretary of the United States Department of Health and Human Services for purposes of determining compliance with HIPAA.
- D.** Within ten (10) calendar days of receipt of a request by the City, the Business Associate shall permit any individual whose Protected Health Information is maintained by the Business Associate to have access to and to copy his or her Protected Health Information, in the format requested, unless it is not readily producible in such format, in which case it shall be produced in hard copy format. In the event any individual requests access to Protected Health Information held by the Business Associate directly from the Business Associate, the Business Associate shall, within two (2) days forward such request to the City.

3. Prohibitions on Use and Disclosure of Protected Health Information by Business Associate.

- A.** The Business Associate will not use or further disclose Personal Health Information except as permitted or required by this Agreement, or as required by law.
- B.** The Business Associate shall not sell Protected Health Information, including patient or enrollee lists, nor use any Protected Health Information to engage in “marketing,” as that term is defined in 45 CFR Part 164.501.
- C.** The Business Associate shall not disclose Personal Health Information to any member of its workforce unless the Business Associate has advised such person of the Business Associate’s obligations under this Agreement and of the consequences for such person and for the Business Associate of violating them.
- D.** The Business Associate shall not disclose Personal Health Information to any Agent, Subcontractor or other third party unless disclosure is required by law, or unless expressly approved in advance by the City in writing. Any such disclosure shall be made in accordance with 45 CFR Parts 164.502 and 164.308, and only upon the written agreement of the Agent, Subcontractor or other third party which shall include, at a minimum:
 - i.** The agreement of such Agent, Subcontractor or other third party that creates, receives, maintains, or transmits protected health information on behalf of the Business Associate agree to be bound to the same restrictions, conditions and requirements that apply to Business Associate with respect to such information;

- ii. Reasonable assurances from such Agent, Subcontractor or other third party that Personal Health Information will be held confidential as provided in this Agreement, and only disclosed as required by law or for the purposes for which it was disclosed to such Agent, Subcontractor or other third party; and
- iii. An agreement from such Agent, Subcontractor or other third party to immediately notify the Business Associate of any breaches of the confidentiality of Personal Health Information, to the extent it has obtained knowledge of such breach.

4. Safeguards for Protected Health Information.

- A. The Business Associate shall implement appropriate safeguards to prevent use or disclosure of Personal Health Information other than as permitted by this Agreement. The Business Associate shall provide the City with information concerning such safeguards as the City may from time to time request. Upon reasonable request, the Business Associate shall give the City access for inspection and copying to the Business Associate's facilities used for the maintenance and processing of Personal Health Information, and to its books, records, practices, policies, and procedures concerning the use and disclosure of Personal Health Information.
- B. The Business Associate and any Agent or Subcontractor shall comply with the minimum necessary requirements set forth in the HIPAA Rules when using or disclosing Personal Health Information. The Business Associate also agrees to mitigate, to the extent possible, any harmful effects of an improper use or disclosure of Personal Health Information by the Business Associate in violation of the requirements of this Agreement. The Business Associate shall make its internal practices, books, records, including policies and procedures, related to the use and disclosures of protected health information available to the Secretary of the United States Department of Health and Human Services, for purposes of determining compliance with HIPAA.
- C. The Business Associate shall maintain a record of all Personal Health Information disclosures made other than for the permitted purposes of this Agreement, including the date of disclosure, the name and, if known, the address of the recipient of the Personal Health Information, a brief description of the Personal Health Information disclosed, and the purposes of the disclosures.
- D. The Business Associate shall comply with all written directions from the City concerning:
 - (i) any special limitations on the use or disclosure of Protected Health Information beyond the requirements of the HIPAA Rules;
 - (ii) any changes in, or revocation of, the permission by an individual to use or disclose his or her Protected Health Information that may affect the Business Associate's use or disclosure of such information; and
 - (iii) any restriction on the use or disclosure of Protected Health Information that the City has agreed to that may affect the Business Associate's use or disclosure of such information.
- E. Within ten (10) calendar days of notice by the City to the Business Associate that the City has received a request for an accounting of disclosures of Personal Health Information regarding an individual, the Business Associate shall make available to the City such information as is in the Business Associate's possession and is required for the City to make the accounting.

- F. Within five (5) business days of becoming aware of a use or disclosure of Personal Health Information in violation of this Agreement by the Business Associate, Agent or Subcontractor, the Business Associate shall report such disclosure or use in writing to the City and describe the remedial action taken or proposed to be taken with respect to such use or disclosure.
- G. The Business Associate shall make any amendment(s) to Protected Health Information in a designated record set as directed or agreed to by the City pursuant to 45 CFR Part 164.526, or take other measures as necessary to satisfy the City's obligations under 45 CFR Part 164.526.
- H. The Business Associate acknowledges that the additional requirements of the HITECH Act (Health Information Technology for Economic and Clinic Health Act enacted as part of the American Recovery and Reinvestment Act of 2009) and the Final Rule (also known as the Omnibus Rule) issued by the U.S. Department of Health and Human Services on January 25, 2013 are applicable to the Business Associate. The Business Associate further acknowledges restrictions on the sales and marketing of protected health information without the explicit authorization of the individual.
- I. To the extent the Business Associate is to carry out one of more of the City's obligations under Subpart E of 45 C.F.R. Part 164, the Business Associate will comply with the requirements of Subpart E that apply to the City in the performance of such obligations.
- J. The Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by the City except for the specific uses and disclosures set forth below:
 - a. The Business Associate may disclose protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information remains confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances in which it is aware in which the confidentiality of the information has been breached.
 - b. The Business Associate may provide data aggregation services related to the health care operations of the City.

5. Term of this Agreement; Termination; Procedures upon Termination.

- A. This Agreement shall become effective upon execution by the parties, and shall be effective as of the date of the last party to sign.
- B. The term of this Agreement shall expire with the close of business on _____, 20___. Provided, that either party may terminate this Agreement on any basis at any time prior to the expiration of the term upon written notice to the other party.

- C. Except as provided in paragraph D, below, upon termination of this Agreement, the Business Associate shall return or destroy all Personal Health Information received from the City, or created or received by the Business Associate on behalf of the City. This provision shall also apply to Personal Health Information that is in the possession of Agents or Subcontractors of the Business Associate. The Business Associate shall retain no copies of the Personal Health Information.
- D. In the event that the Business Associate determines that returning or destroying the Personal Health Information is not feasible, the Business Associate shall provide to the City written notification of the conditions that make return or destruction infeasible. Upon agreement by the City that return or destruction of Personal Health Information is not feasible, the Business Associate shall extend the protections of this Agreement to such Personal Health Information and limit further uses and disclosures of such Personal Health Information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains the Personal Health Information. The Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate retains the protected health information.
- E. The Business Associate shall not use or disclosure the protected health information retained by the Business Associate other than for the purposes for which the protected health information was retained and subject to the same conditions set out in this Agreement which applied prior to Termination.
- F. Survival. The obligations of the Business Associate under this Section shall survive the termination of this Agreement.

6. Other Provisions.

- A. **Indemnification.** The Business Associate shall indemnify and hold harmless the City from and against any and all costs, liabilities, losses, damages and expenses (including, but not limited to, reasonable attorneys’ fees) resulting from any claim, lawsuit or proceeding brought by a third party against the City and arising from or related to a breach or alleged breach by the Business Associate or the Business Associate’s Agents or Subcontractors of the obligations referenced herein. The Business Associate’s obligation to indemnify shall survive the expiration or termination of the Contract.
- B. **Remedies for Breach.** Without limiting the rights of the parties under paragraph 5, should the Business Associate breach any of its obligations under this Agreement, the City may at its option: (i) exercise its rights of access and inspection under paragraph 2, above; and/or (ii) report the breach to the Secretary of the United States Department of Health and Human Services.
- C. **Notices.** Any notice by a party required or provided for under this Agreement shall be effective upon delivery via regular or electronic mail to the other party at the following address:

To the City:

To the Business Associate:

Email: _____

Email: _____

D. Amendments. Upon the enactment of any law or regulation affecting the use or disclosure of protected health information, or the publication of any decision of a court of the United State or State of Texas relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, the City may, by written notice to the Business Associate, amend this Agreement in such a manner as the City determines necessary to comply with such law or regulation. Notwithstanding the foregoing, if the City and Business Associate have not amended this Agreement to address a law or final regulation that becomes effective after the effective date of this Agreement and that is applicable to this Agreement, then upon the effective date of such law or regulation (or any portion thereof) this Agreement shall be amended automatically and deemed to incorporate such new or revised provisions as are necessary for this Agreement to be consistent with such law or regulation for the City and the Business Associate to be and remain in compliance with all applicable laws and regulations.

E. Construction of Terms. A reference in this Agreement to a section in the HIPAA Rules means the section in effect or as amended at the time. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

Agreed to by the parties through the signatures of their authorized representatives below:

THE CITY OF AUSTIN, TEXAS

THE BUSINESS ASSOCIATE:

By: _____
[Signature]

By: _____
[Signature]

Name: _____

Name: _____

Title: _____

Title: _____

Organization Name: _____

Date: _____, 2014

Date: _____, 2014