

EXHIBIT
"A"

**CITY OF ROUND ROCK AGREEMENT
FOR PURCHASE OF
PUBLICATIONS, AUDIOVISUAL MATERIALS, BOOKS,
TEXTBOOKS AND ANCILLARY SERVICES
WITH
INGRAM LIBRARY SERVICES LLC**

THE STATE OF TEXAS §
 §
CITY OF ROUND ROCK § **KNOW ALL BY THESE PRESENTS:**
 §
COUNTY OF WILLIAMSON §
COUNTY OF TRAVIS §

This Agreement is for the purchase of publications, audiovisual materials, books, textbooks and ancillary services, and is referred to herein as the "Agreement." This Agreement is made and entered into on this the ____ day of the month of _____, 2020, by and between the CITY OF ROUND ROCK, TEXAS, a home-rule municipality whose offices are located at 221 East Main Street, Round Rock, Texas 78664, referred to herein as the "City," and INGRAM LIBRARY SERVICES LLC, whose offices are located at Mail Stop 623, One Ingram Boulevard, La Vergne, Tennessee 37086, referred to herein as "Vendor." This Agreement supersedes and replaces any previous agreement between the named parties, whether oral or written, and whether or not established by custom and practice.

RECITALS:

WHEREAS, City desires to purchase publications, audiovisual materials, books, textbooks and ancillary services; and

WHEREAS, City is a member of the Texas Smartbuy Cooperative Purchasing Program ("Texas Smartbuy") and Vendor is an approved Texas Smartbuy vendor through Texas Smartbuy Contract #715-M2; and

WHEREAS, City desires to purchase said goods from Vendor through Texas Smartbuy as set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1.0 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Vendor whereby City agrees to obtain specified goods and Vendor is obligated to provide specified goods. This Agreement includes any exhibits, addenda, and/or amendments thereto.

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Goods** mean the specified supplies, materials, commodities, or equipment.

E. **Vendor** means Ingram Library Services LLC, or any successors or assigns.

2.0 EFFECTIVE DATE AND TERM

A. This Agreement shall be effective on the date it has been signed by both parties hereto, and shall remain in full force and effect unless and until it expires by operation of the term stated herein, or until terminated or extended as provided herein.

B. This Agreement shall expire on October 31, 2024.

C. City reserves the right to review the relationship at any time, and may elect to terminate this Agreement with or without cause or may elect to continue.

3.0 SCOPE OF WORK

A. The goods which are the subject matter of this Agreement are described generally in the attached Exhibit "A."

B. This Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions.

C. Vendor shall satisfactorily provide all deliverables described in Exhibit "A" within the contract term specified. A change in the Scope of Services or any term of this Agreement must be negotiated and agreed to in all relevant details, and must be embodied in a valid Supplemental Agreement as described herein.

4.0 COSTS

A. City agrees to pay for goods during the term of this Agreement at the pricing set forth in Exhibit "A."

B. The City shall is authorized to pay the Vendor an amount not-to-exceed **Six Hundred Thousand and No/100 Dollars (\$600,000.00)** for the term of this Agreement.

5.0 INVOICES

All invoices shall include, at a minimum, the following information:

1. Name and address of Vendor;
2. Purchase Order Number;
3. Description and quantity of items received; and
4. Delivery dates.

6.0 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the goods as determined by City's budget for the fiscal year in question. City may effect such termination by giving Vendor a written notice of termination at the end of its then-current fiscal year.

7.0 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, any payment to be made by City to Vendor will be made within thirty (30) days of the date City receives goods under this Agreement, the date the performance of the services under this Agreement are completed, or the date City receives a correct invoice for the goods or services, whichever is later. Vendor may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b). This Prompt Payment Policy does not apply to payments made by City in the event:

1. There is a bona fide dispute between City and Vendor, a contractor, subcontractor, or supplier about the goods delivered or the service performed that cause the payment to be late; or
2. There is a bona fide dispute between Vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
3. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
4. The invoice is not mailed to City in strict accordance with any instruction on the purchase order relating to the payment.

8.0 GRATUITIES AND BRIBES

City may, by written notice to Vendor, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

9.0 TAXES

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Vendor's charges.

10.0 INSURANCE

Vendor shall meet all City of Round Rock insurance requirements set forth at: http://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr_insurance_07.20112.pdf.

11.0 CITY'S REPRESENTATIVE

City hereby designates the following representative authorized to act in its behalf with regard to this Agreement:

Michelle Cervantes
Library Director
216 E. Main Street
Round Rock, TX 78664
(512) 218-7010
mcervantes@roundrocktexas.gov

12.01 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

13.0 DEFAULT

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- A. Fails to make any payment in full when due;
- B. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- C. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- D. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

14.0 TERMINATION AND SUSPENSION

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City, or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

15.01 INDEMNIFICATION

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

16.0 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Vendor, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel and will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott Israel and will not boycott Israel during the term of this Agreement.

17.0 ASSIGNMENT AND DELEGATION

The parties hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

18.0 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to recipient’s address as stated in this Agreement; or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient’s address as stated in this Agreement.

Notice to Vendor:
Ingram Library Services LLC
Mail Stop 623, One Ingram Blvd
La Vergne, Tennessee 37086

Notice to City:		
City Manager		Stephan L. Sheets, City Attorney
221 East Main Street	AND TO:	309 East Main Street
Round Rock, TX 78664		Round Rock, TX 78664

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

19.0 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

20.0 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing.

21.0 DISPUTE RESOLUTION

City and Vendor hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

22.0 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement 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 Agreement from being void should a provision which is of the essence of this Agreement be determined void.

23.0 MISCELLANEOUS PROVISIONS

Standard of Care. Vendor represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

Time is of the Essence. Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Vendor's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

Force Majeure. Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

Ingram Library Services LLC

By: 
Printed Name: Pamela R. Smith
Title: Vice President and General Manager
Date Signed: August 11, 2020

City of Round Rock, Texas

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

For City, Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Exhibit "A"

City of Round Rock, Texas
 Price Sheet
 Ingram Library Services LLC
 Texas Smartbuy Cooperative Contract # 715-M2

The City of Round Rock would like to enter into a contract with Ingram Library Services LLC per the terms of Texas Smartbuy Cooperative Contract # 715-M2. The City intends to purchase from this contract Publications, Audiovisual materials, Books, Textbooks, and Ancillary Services in an annual amount not to exceed \$150,000.

Contract Term: Effective from date of execution and will expire on 10/31/2024 or per the terms of Texas Smartbuy Cooperative Contract # 715-M2.

Special Instructions: Complete pricing below and submit copy of price list or catalog.

Contract No. 715M2 Publications, Audiovisual Materials, Books, Textbooks, and Ancillary Services

Ingram Library Services LLC		Public Libraries (City, Regional, etc.) Category			
Electronic and Digital Materials					
Category 1	Digital pre-loaded, all in one audio books	20%			
Category 2	Digital pre-loaded, all in-one audio book pack kits	NA			
Category 3	Digital pre-loaded	NA			
Category 4	Audiovisual Pre-loaded, Device included	NA			
Print Materials					
Category 5	Adult trade, fiction/non-fiction hardbound	47%			
Category 6	Adult trade, fiction/non-fiction paperback	41%			
Category 7	Juvenile trade, fiction/non-fiction hardbound	47%			
Category 8	Juvenile trade, fiction/non-fiction paperback	41%			
Category 9	Mass market paperback; rack	41%			
Category 10	Non-trade publication, hardbound	10%			
Category 11	Non-trade publications, paperback	10%			
Category 12	University press	10%			
Category 13	Adult library bound, fiction/non-fiction	15%			
Category 14	Juvenile library bound, fiction/non-fiction	15%			
Category 15	Pre-bound hardbound	30%			
Category 16	Pre-bound paperback	NA			
Nonstandard Formats					
Category 17	Musical/Audio Compact Disc, Pre-recorded	10%			
Category 18	Musical/Audio Record Disc, Vinyl, Pre-recorded	NA			
Category 19	Audiovisual DVD/Blue-ray pre-recorded, feature/non-feature films	31%			
Category 20	Spoken word/audio compact disc pre-recorded, abridged	46%			
Category 21	Spoken word/audio compact disc pre-recorded, un-abridged	46%			
Category 22	Spoken word/audio MP3 format pre-recorded, un-abridged	46%			

*N/A = not awarded

Additional Information

Net titles for all categories and bindings are invoiced at 0.0% discount. For public, K12 school libraries and State Agencies, Spoken word audio non trade/short discount invoiced at 10.0% discount. Video Games invoiced at 5.0% discount for all categories. Continuations and standing order programs receive the same discounts as firm orders.

Exhibit "A"

Contract No. 715M2 Publications, Audiovisual Materials, Books, Textbooks, and Ancillary Services

Ingram Library Services LLC

Premium Processing - Shelf-Ready	Base Price	Description
Mylar Jacket (or Laminate Cover), Label Protectors, Spine Label, Barcode, and Standard MARC Record	\$1.19	Mylar or up to 2 label protectors, spine label, barcode, standard BookMARC record. Laminate paperback cover is a separate charge.
Mylar Jacket (or Laminate Cover), Label Protectors, Spine Label, Barcode, RFID Tag (programmed and applied), and Standard MARC Record	\$1.99	Mylar or up to 2 label protectors, spine label, pre-programmed RFID and barcode (1) set, standard BookMARC record. Laminate paperback cover is a separate charge.
Processing Services	Base Price	Description
Brief MARC Record	No Charge	If Vendor Offers MARC records, a Brief MARC Record Shall Be Free of Charge, Per the Terms of This RFP
Full MARC Record	0.35	BookMARC record via FTP or page
Mylar Jacket	0.69	attached via tape or glue
Barcode Label	0.20	
Label (per application-Customer supplied)	0.20	
Label (per application-Vendor supplied)	0.20	
Genre Label	0.20	
Spine Label	0.20	
Label Protector	0.25	
Pocket (paper)	0.35	
Pocket (vinyl)	0.45	
Property Stamp (per impression)	0.20	
Spine Tape (inside)	1.55	
Spine Tape (Outside)	0.85	
Audio Visual Processing and Accessories	Base Price	Description
Digital Processing for Media	\$2.00	Up to 6 digital labels
Format Conversion Service	N/A	
Hub Label (per application)	\$0.25	
Shrink Wrap Removal	\$0.55	
DVD/CD Case, Holds Single Disc (Paper)	N/A	
DVD/CD Case, Holds Single Disc (Plastic)	\$1.99	DVD single disc case
DVD/CD Case, Holds Multiple Discs	\$2.60	DVD multiple disc case
DVD/CD Case, Locking	\$2.59	Single DVD OneTime locking case at \$2.59. Multi-DVD OneTime locking case at \$3.50. Single music CD OneTime locking case at \$3.00. Double music CD OneTime locking case at \$3.50.
Spoken Audio CD Case; Various Capacities	\$3.80	small spoken audio CD clam case, \$4.75 medium spoken audio CD clam case, \$6.00 large spoken audio clam case.
Laminated Paperback Covers	Base Price	Description
Polypropylene Laminate; Various Thicknesses	\$1.85	\$1.85 for 15 mil laminate cover. \$1.99 for 5 mil laminate cover. Clear polyester, applied to front and back cover. The 2 mil spine ensures the book remains flexible.
Vinyl Laminate; Various Thicknesses	N/A	
RFID/Theft Deterrents	Base Price	Description
Pre-programmed RFID/Barcode Set (1 Barcode); Applied to book	\$0.80	
RFID ("universal" tag programmed and applied)	\$0.99	Ingram-supplied tag
CD/DVD Overlay RFID Tag	\$1.29	StingRay Full Disc Overlay RFID Tags
Theft Deterrent Tape/Strip	\$0.50	3M or Checkpoint theft strip placed inside book or on case
Additional Processing Components		
<p>Ingram offers prebinding services for \$5.45 per unit. Spoken Audio CDs can be repackaged into locking MediaSAFE cases for \$4.95 per unit small case (holds up to 14 CDs) and \$5.30 per unit large case (holds up to 26 CDs.) Processing options requested by the Library and not specifically listed on this price sheet will be offered at our standard pricing at the time an option is added to the customer's account profile. Ingram can provide custom cataloging including linking, record upgrades, and original cataloging. Pricing is custom quoted based on the individual library's specifications.</p>		
<p>Information Only: The City of Round Rock reserves the right to order other products from the attached MSRP Sheet per the discounts quoted in Texas Smartbuy Cooperative Contract # 715-M2.</p>		
COMPANY NAME:	Ingram Library Services LLC	
SIGNATURE OF AUTHORIZED REPRESENTATIVE:		
PRINTED NAME:	Pamela R. Smith	
PHONE NUMBER:	800-937-5300	
EMAIL ADDRESS:	ilsbids@ingramcontent.com	