

# EXHIBIT

## "A"

**CITY OF ROUND ROCK AGREEMENT  
FOR PURCHASE OF PAVEMENT MARKING,  
CURB PAINTING AND RELATED PRODUCTS  
WITH  
DIJ CONSTRUCTION, INC.**

**THE STATE OF TEXAS**

**CITY OF ROUND ROCK**

**COUNTY OF WILLIAMSON  
COUNTY OF TRAVIS**

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**KNOW ALL BY THESE PRESENTS:**

This Agreement for pavement marking, curb painting services and related products, referred to herein as the "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 **DIJ CONSTRUCTION, INC.**, whose address is PO Box 1609, 2332 CR 252, Bertram, Texas 78605, referred to herein as "Services Provider." This Agreement supersedes and replaces any previous agreements between the named parties, whether oral or written, and whether or not established by custom and practice.

### RECITALS:

WHEREAS, City desires to purchase pavement marking, curb painting services and other related products; and

WHEREAS, City has issued its "Invitation for Bid" for the provision of said goods, and City has determined the bid submitted by Services Provider provides the best value to the City; 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:

#### **1.01 DEFINITIONS**

A. **Agreement** means the binding legal contract between City and whereby City is obligated to buy specified services and Services Provider is obligated to sell same. The Agreement includes the following: (a) City's Invitation for Bid designated Solicitation Number

20-024 (b) Services Provider's Response to IFB; (c) contract award; and (d) any exhibits, addenda, and/or amendments thereto. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference in the following order:

- (1) This Agreement;
- (2) Services Provider's Response to IFB;
- (3) City's Invitation for Bids, exhibits, and attachments.

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. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods and services** mean the specified services, supplies, materials, commodities, or equipment.

F. **Services Provider** means DIJ Construction, Inc., or any of its successors or assigns.

## **2.01 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. The term of this Agreement shall be for sixty (60) months from the effective date hereof.

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.

## **3.01 CONTRACT DOCUMENTS AND EXHIBITS**

City selected Services Provider to supply the services as outlined in IFB Solicitation Number 20-024; and Response to IFB submitted by Services Provider, all as specified in Exhibit "A." The intent of these documents is to formulate an Agreement listing the responsibilities of both parties as outlined in the IFB and as offered by Services Provider in its Response to the IFB.

The services which are the subject matter of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

#### **4.01 ITEMS AWARDED**

Only if, as, and when needed by City, the services set forth herein are awarded to DIJ Construction, Inc. in accordance with bid items shown on Attachment A – Bid Sheet of Exhibit "A," as follows:

#### **5.01 COSTS**

A. Only if, as, and when needed by City, the bid costs listed on Attachment A – Bid Sheet of Exhibit "A," which are specifically relevant to the referenced bid items, shall be the basis of any charges collected by Services Provider. Services Provider specifically acknowledges and agrees that City is not obligated to use any estimated annual quantity of services, and

B. City is authorized to pay Services Provider for items listed in Exhibit "A," for the cost set forth in Exhibit "A," an amount not-to-exceed **Four Hundred Seven Thousand Two Hundred and No/100 Dollars (\$407,200.00) per year** for services for a total not-to-exceed amount of **Two Million Thirty-Six Thousand and No/100 Dollars (\$2,036,000.00)** for the term of this Agreement.

#### **6.01 INVOICES**

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

- A. Name and address of Services Provider;
- B. Purchase Order Number;
- C. Description and quantity of items received; and
- D. Delivery dates.

#### **7.01 INTERLOCAL COOPERATIVE CONTRACTING / PURCHASING**

Authority for local governments to contract with one another to perform certain governmental functions and services, including but not limited to purchasing functions, is granted under Government Code, Title 7, Chapter 791, Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102.

Other governmental entities within the State of Texas may be extended the opportunity to purchase off of the City of Round Rock's bid, with the consent and agreement of the successful vendor(s) and Round Rock. Such agreement shall be conclusively inferred for the vendor from lack of exception to this clause in the vendor's response. However, all parties hereby expressly agree that the City of Round Rock is not an agent of, partner to, or representative of those outside agencies or entities and that the City of Round Rock is not obligated or liable for any action or debts that may arise out of such independently-negotiated "piggyback" procurements.

#### **8.01 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 services as determined by City's budget for the fiscal year in question. City may affect such termination by giving Services Provider a written notice of termination at the end of its then-current fiscal year.

#### **9.01 PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, any payment to be made by City to Services Provider 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. Services Provider 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:

A. There is a bona fide dispute between City and Services Provider, a contractor, subcontractor, or supplier about the goods delivered or the service performed that causes the payment to be late; or

B. There is a bona fide dispute between Services Provider 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

C. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or

D. The invoice is not mailed to City in strict accordance with any instruction on the purchase order relating to the payment.

#### **10.01 GRATUITIES AND BRIBES**

City may, by written notice to Services Provider, cancel this Agreement without incurring any liability to Services Provider if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Services Provider or its agents or

representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Services Provider may be subject to penalties stated in Title 8 of the Texas Penal Code.

#### **11.01 TAXES**

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

#### **12.01 ORDERS PLACED WITH ALTERNATE VENDORS**

If Services Provider cannot provide the services as specified, City reserves the right and option to obtain same from another source or supplier(s).

#### **13.01 INSURANCE**

Services Provider shall meet all requirements as stated in Part II, Section 2 of the attached IFB Solicitation Number 20-024.

#### **14.01 CITY'S REPRESENTATIVE**

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

Bobby Mercer  
Superintendent Transportation  
3400 Sunrise Road  
Round Rock, TX 78665  
512-341-3309  
[bmercer@roundrocktexas.gov](mailto:bmercer@roundrocktexas.gov)

#### **15.01 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.

#### **16.01 DEFAULT**

If Services Provider abandons or defaults hereunder and is a cause of City purchasing the specified services elsewhere, Services Providers 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.

Services Provider 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 hereunder;
- 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.

#### **17.01 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 Services Provider.

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

C. Services Provider has the right to terminate this Agreement only for cause, in the event of material and substantial breach by City, or by written mutual agreement to terminate.

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 Services Provider, Services Provider shall discontinue all services in connection with 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 termination notice, Services Provider shall submit a statement showing in detail the goods and services satisfactorily performed hereunder to the date of termination. City shall then pay Services Provider that portion of the charges, if undisputed. The parties agree that Services Provider is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

#### **18.01 INDEMNIFICATION**

Services Provider 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 Services Provider, or Services Provider's agents, employees or subcontractors, in the performance of Services Provider'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 Services Provider (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

## **19.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES**

A. Services Provider, its agents, employees and subcontractors shall use best efforts to comply with all federal and state laws, City's Charter and Ordinances, 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 and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Services Provider verifies Services Provider does not boycott Israel and will not boycott Israel during the term of this Agreement.

## **20.01 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.

## **21.01 NOTICES**

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

A. When delivered personally to recipient's address as stated in this Agreement; or

B. 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 Services Provider:**

DIJ Construction, Inc.  
P.O. Box 1609  
2332 CR 252  
Bertram, TX 78605

### **Notice to City:**

City Manager  
221 East Main Street  
Round Rock, TX 78664

AND TO:

Stephen L. Sheets, City Attorney  
309 East Main Street  
Round Rock, TX 78664

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

## **22.01 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.

## **23.01 EXCLUSIVE AGREEMENT**

This document, and all appended documents, constitutes the entire Agreement between Services Provider and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

## **24.01 DISPUTE RESOLUTION**

City and Services Provider 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.

## **25.01 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 such 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 to be void.

## **26.01 MISCELLANEOUS PROVISIONS**

**Standard of Care.** Services Provider 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.** Services Provider understands and agrees that time is of the essence and that any failure of Services Provider to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Services Provider 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 Services Provider'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 Services Provider 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 Services Provider have executed this Agreement on the dates indicated.

**City of Round Rock, Texas**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

**DIJ Construction, Inc.**

By: Terry Nix  
Printed Name: Terry Nix  
Title: President  
Date Signed: 9-24-2020

**For City, Attest:**

By: \_\_\_\_\_  
Sara L. White, City Clerk

**For City, Approved as to Form:**

By: \_\_\_\_\_  
Stephan L. Sheets, City Attorney



**City of Round Rock, Texas**  
**Purchasing Division**  
221 East Main Street  
Round Rock, Texas 78664-5299  
[www.roundrocktexas.gov](http://www.roundrocktexas.gov)

**INVITATION FOR BID (IFB)**

**PAVEMENT MARKING, CURB PAINTING SERVICES,  
AND RELATED PRODUCTS**

**SOLICITATION NUMBER 20-024**

**AUGUST 2020**

## Exhibit "A"

City of Round Rock  
Pavement Marking, Curb Painting Services, and Related Products  
IFB 20-024  
Class/Item: 550-36, 630-66, 968-61  
August 2020

### PAVEMENT MARKING, CURB PAINTING SERVICES, AND RELATED PRODUCTS PART I GENERAL REQUIREMENTS

1. **PURPOSE:** The City of Round Rock, herein after "the City" seeks a bid from firms experienced in the application and removal of reflective thermoplastic and paint pavement marking, curb painting services, and related products.
2. **SOLICITATION PACKET:** This solicitation packet is comprised of the following-

Description	Index
Part I – General Requirements	Page(s) 2-5
Part II – Definitions, Standard Terms and Conditions and Insurance Requirements	Page 6
Part III – Supplemental Terms and Conditions	Page(s) 7-10
Part IV – Scope of Work	Page(s) 11-12
Attachment A – Bid Sheet	Page 13
Attachment B – Reference Sheet	Page 14
Attachment C – Subcontractor Information Form	Page 15
Attachment D – Prevailing Wage Rates	Attached

3. **AUTHORIZED PURCHASING CONTACT:** For questions or clarification of specifications, you may contact:

**Adam Gagnon**  
Purchaser  
Purchasing Division  
City of Round Rock  
Phone: 512-218-5456  
E-mail: [agagnon@roundrocktexas.gov](mailto:agagnon@roundrocktexas.gov)

**Cheryl Kaufman**  
Purchasing Supervisor  
Purchasing Division  
City of Round Rock  
Phone: 512-218-5417  
E-mail: [ckaufman@roundrocktexas.gov](mailto:ckaufman@roundrocktexas.gov)

The individual listed above is the only authorized City contact for this solicitation. The authorized purchasing contact may be contacted by e-mail for clarification for this solicitation including specifications. No other City employee or representative may be contacted about this solicitation prior to contract approval. No authority is intended or implied that specifications may be amended, or alterations accepted prior to solicitation opening without written approval of the City of Round Rock through the Purchasing Department.

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**4. SCHEDULE OF EVENTS:** It is the City's intention to follow the solicitation timeline below.

EVENT	DATE
Solicitation released	August 5, 2020
Deadline for submission of questions	August 13, 2020 @ 5:00 PM, CST
City responses to questions or addendums	Approximately August 18, 2020 @ 5:00 PM, CST
<b>Deadline for submission of responses</b>	<b>August 26, 2020 @ 3:00 PM, CST</b>

All questions regarding the solicitation shall be submitted in writing by 5:00 PM, CST on the due date noted above. A copy of all questions submitted and the City's response to the questions shall be posted on the City's webpage in the form of an addendum at:

<https://www.roundrocktexas.gov/businesses/solicitations/>

Questions shall be submitted in writing to the "Authorized Purchasing Contact". The City reserves the right to modify these dates. Notice of date change will be posted to the City's website:

<https://www.roundrocktexas.gov/businesses/solicitations/>

- 5. SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at <https://www.roundrocktexas.gov/businesses/solicitations/> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancellations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
- 6. RESPONSE DUE DATE:** Signed and sealed responses are due at or before 3:00 PM, on the due date noted in PART I, Section 4 – Schedule of Events. Mail or hand deliver sealed responses to:
- City of Round Rock  
Attn: Adam Gagnon  
Purchasing Department  
221 E. Main Street  
Round Rock, Texas 78664-5299**
- A. Sealed responses shall be clearly marked on the outside of packaging with the Solicitation title, number, due date, and "DO NOT OPEN".
  - B. Facsimile or electronically transmitted responses are not acceptable.
  - C. Responses cannot be altered or amended after opening.
  - D. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
  - E. The City will not be bound by any oral statement or offer made contrary to the written specifications.
  - F. Samples and/or copies shall be provided at the Respondent's expense and shall become the property of the City.
  - G. Late responses will not be considered and will be returned unopened, if a return address is provided.

- 7. RESPONDENT REQUIREMENTS:** The City of Round Rock makes no warranty that this checklist is a full comprehensive listing of every requirement specified in the solicitation. This list is only a tool to assist participating Respondents in compiling their final responses. Respondents are to carefully read the entire solicitation.

Respondent shall submit one (1) evident signed "Original" and one identical-to-the-original electronic copy of the IFB response on a flash drive. The submittal is required to include all addendums and requested attachments. The bid response along with samples and/or copies shall be provided at the Respondent's expense and shall become the property of the City.

This invitation for bid (IFB) does not commit the City to contract for any supply or service. Respondents are advised that the City will not pay for any administrative costs incurred in response preparation to this IFB; all

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costs associated with responding to this IFB will be solely at the interested parties' expense. Not responding to this IFB does not preclude participation in any future RFP/RFQ/IFB.

**For your bid to be responsive, addendums and the attachments identified below shall be submitted with your proposal.**

- ❑ **Addendums:** Addendums may be posted to this solicitation. Bidders are required to submit signed addendums with their sealed response. The Bidder shall be responsible for monitoring the City's website at <https://www.roundrocktexas.gov/businesses/solicitations> for any updates pertaining to the solicitation.
- ❑ **Attachment A: BID SHEET:** The bid response shall be submitted on itemized, signed Bid Sheet provided in the solicitation packet. Failure to complete and sign the bid sheet will result in disqualification. If there is a conflict between the unit price and extended price, the unit price will take precedence. Submission of responses on forms other than the City's solicitation document may result in disqualification of the response.
- ❑ **Attachment B: REFERENCE SHEET:** Provide the name, address, telephone number and **E-MAIL** of at least three (3) valid Municipal, Government agencies, or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.
- ❑ **Attachment C: SUBCONTRACTOR INFORMATION FORM:** Provide a signed copy of the Subcontractor Information Form

8. **BEST VALUE EVALUATION AND CRITERIA:** The City reserves the right to reject any or all responses, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City. All solicitations received may be evaluated based on the best value for the City. In determining best value, the City may consider:
- A. Purchase price;
  - B. Reputation of Respondent and of Respondent's goods and services;
  - C. Quality of the Respondent's goods and services;
  - D. The extent to which the goods and services meet the City's needs;
  - E. Respondent's past performance with the City;
  - F. The total long-term cost to the City to acquire the Respondent's goods or services;
  - G. Any relevant criteria specifically listed in the solicitation.
  - H. If the solicitation is evaluated with points, the respondent must earn a minimum of 15 points on criteria not related to cost in order to be considered for contract award.

Respondents may be contacted for clarification of bid and/or to discuss details of the services they are proposing.

9. **CONFIDENTIALITY OF CONTENT:** As stated in Section 16 of City of Round Rock Purchasing Definitions, Standard Terms and Conditions, all documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances
- A. Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
  - B. If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Respondent shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.

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August 2020

10. **SUSPENSION OR DEBARMENT CERTIFICATION:** The provisions of the Code of Federal Regulations 2 CFR part 180 suspension and debarment may apply to this agreement. The City of Round Rock 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 doing business with the Federal Government, State of Texas, or the City of Round Rock.
11. **CERTIFICATE OF INTERESTED PARTIES:** Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 "Certificate of Interested Parties" that is signed 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. Link to Texas Ethics Commission Webpage:  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

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### PART II DEFINITIONS, STANDARD TERMS AND CONDITIONS AND INSURANCE REQUIREMENTS

1. **DEFINITIONS, STANDARD TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's Definitions, Standard Terms and Conditions, in effect at the time of release of the solicitation, shall govern unless specifically provided otherwise in a separate agreement or on the face of a purchase order. Said Definitions, Terms and Conditions are subject to change without notice. It is the sole responsibility of Respondents to stay apprised of changes. The City's Definitions, Standard Terms and Conditions can be viewed and downloaded from the City's website at:  
<https://www.roundrocktexas.gov/departments/purchasing/>
2. **INSURANCE:** The Respondent shall meet or exceed all insurance requirements set forth in Standard Insurance Requirements. The City's Standard Insurance Requirements document can be viewed and downloaded from the City's website at: <https://www.roundrocktexas.gov/departments/purchasing/>



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### PART III SUPPLEMENTAL TERMS AND CONDITIONS

1. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
  - A. The term of the Agreement shall begin from date of award and shall remain in full force for sixty (60) months.
  - B. Upon expiration of the contract term, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period as is reasonably necessary to re-solicit and/or complete the project up to 90 days.
2. **RESPONDENT QUALIFICATIONS:** The City has established the following minimum qualifications. Respondents who do not meet the minimum qualifications will not be considered for award. The Respondent shall:
  - A. Be firms, corporations, individuals or partnerships normally engaged in providing the application and removal of reflective thermoplastic and paint pavement marking, curb painting services, and related products as specified herein and have adequate organization, facilities, equipment, financial capability, and personnel to ensure prompt and efficient service to the City;
  - B. Provide all labor, supplies and materials required to satisfactorily perform the services as specified herein and own or acquire at no cost to the City all construction aids, appliances, and equipment Respondent deems necessary and maintain sole responsibility for the maintenance and repair of Respondent's vehicles, equipment, tools and all associated costs. The City shall not be responsible for any Respondent's tools, equipment, or materials lost or damaged during the performance of the services specified herein;
  - C. Be domiciled in or have a home office inside the United States. Respondents domiciled outside the United States, or not having a home office inside the United States will not be included for consideration in this procurement process.
3. **SUBCONTRACTORS:** If Subcontractors will be used the Respondent is required to complete and submit with their bid response Attachment C: Subcontractor Information Form. 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. The Contractor shall:
  - A. Require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - B. Require that all Subcontractors obtain and maintain, throughout the term of their agreement, primary insurance in the type and amounts specified for the Vendor, with the City being named as an additional insured; and
  - C. Require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
  - D. Awarded Contractor is required to submit a list of all subcontractors for approval by the City prior to use of any subcontractors throughout the term of the contract.
4. **PREVAILING WAGE:** Pursuant to Chapter 2258 of the Texas Government Code, a worker employed on a public work project by a city must be paid: (1) not less than the general prevailing wage rate of per diem wages for work of a similar character in the locality in which the work is performed; and (2) not less than the general prevailing rate of per diem wages for legal holiday and overtime work. In accordance with Chapter 2258.022, the City adopted through Resolution No. R-2016-3760 the wage rates set forth by the Texas Workforce Commission for the Austin-Round Rock Area as the general prevailing wage rate for the City's public works contracts. A contractor or subcontractor who is awarded a contract by the City shall pay not less than the rates set forth in Attachment C and comply with all applicable sections of Chapter 2258.

Attachment D – Prevailing Rates are posted in Solicitation Documents for IFB 20-024 Pavement Marking, Curb Painting Services, and Related Products on the City of Round Rock website at:

<https://www.roundrocktexas.gov/businesses/solicitations/>



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5. **SAFETY**: The City reserves the right to remove any employee from City property for violation of federal, state, and local health, safety and environmental laws, ordinances, rules and regulations. The Respondent shall:
- A. Ensure that all employees comply with all Occupational Safety and Health Administration (OSHA), State and City safety and occupational health standards and other applicable federal, state, and local health, safety, and environmental laws ordinances, rules and regulations in the performance of these services;
  - B. Be held responsible for the safety of their employees and unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site. In case of conflict, the most stringent safety requirement shall govern;
  - C. 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 successful Respondents' obligations under this paragraph.
6. **WORKFORCE**: Successful Respondent shall:
- A. Ensure Respondent's employees perform the services in a timely, professional and efficient manner;
  - B. Ensure Respondent's employees, while working on City property, wear a company uniform that clearly identifies them as the Respondent's employee;
  - C. Employ all personnel for work in accordance with the requirements set forth by the United States Department of Labor. The City reserves the right to verify citizenship or right to work in the United States.
7. **PRICING**: The Respondent shall determine and submit a fixed cost for the work and shall include all incidental costs, labor, overhead charges, travel, payroll expenses, freight, equipment acquisition and maintenance, demurrage, fuel surcharges, delivery charges, costs associated with obtaining permits, insurance, bonds and risk management. No separate line item charges shall be permitted for either response or invoice purposes.
8. **PRICE INCREASE**: Contract prices for the application and removal of reflective thermoplastic and paint pavement marking, curb painting services and related products shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the Contract each year and shall be equal to the consumer price index for that year, but at no time can the increase be greater than 5% for any single line item.
- A. **Consumer Price Index (CPI)**: Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for all Urban Consumers. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December); and each (January through June OR July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Consumer Price Index (CPI) is found at the Bureau of Labor Statistics, Consumer Price Index website: <http://www.bls.gov/cpi/>.
  - B. **Procedure to Request Increase**:
    - i. Mail the written price increase request with the rate detail comparison and comprehensive calculation and any supporting documentation to the designated City Contract Specialist a minimum of 45 days prior to the annual Contract anniversary date. The detailed written calculation will be verified and confirmed. All written requests for increases must include the City of Round Rock contract number, solicitation reference information and contact information for the authorized representative requesting the increase. Price increase requests shall be sent by mail to:

**City of Round Rock  
Purchasing Department  
Attn: Contract Specialist  
221 East Main Street  
Round Rock, TX 79664-5299**

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- ii. Upon receipt of the request, the City reserves the right to either accept the escalation and make change to the purchase order within 30 days of the request or negotiate with the Vendor or cancel the agreement or purchase order if an agreement cannot be reached on the value of the increase.
9. **PERFORMANCE REVIEW:** The City reserves the right to review the awarded respondent(s) performance at any time during the contract term.
10. **ACCEPTANCE/INSPECTION:** Acceptance inspection should not take more than five (5) working days. The awarded respondent will be notified within the time frame if the services delivered are not in full compliance with the specifications. In the event the services are not performed to the satisfaction of the City; the vendor shall agree to reperform services to specification at no additional cost to the City. If any agreement or purchase order is cancelled for non-acceptance, the needed services may be purchased elsewhere.
11. **ORDER QUANTITY:** The quantities shown on the solicitation are estimates only. No guarantee of any minimum or maximum purchase is made or implied. The City will only order the services/goods needed to satisfy requirements within budgetary constraints, which may be more or less than indicated.
12. **PERMITS:** The successful Respondent shall verify and obtain all necessary permits, licenses, and/or certificates required by federal, state and local laws, ordinances, rules or regulations for the completion of the services as specified if required for the project.
13. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split award, primary and secondary award, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Respondents to the solicitation will be notified when City staff recommendation of award has been made. The award announcement will be posted to the City's website at <https://www.roundrocktexas.gov/businesses/solicitations/> once City Council has approved the recommendation of award and the agreement has been executed.
14. **POST AWARD MEETING:** The City and successful Respondent(s) may have a post award meeting to discuss, but not be limited to the following:
  - A. The method to provide a smooth and orderly transition of services performed from the current contractor;
  - B. Provide City contact(s) information for implementation of agreement.
  - C. Identify specific milestones, goals and strategies to meet objectives.
15. **POINT OF CONTACT / DESIGNATED REPRESENTATIVE:**
  - A. **Contractor's point of contact:** In order to maintain consistent standards of quality work performed across the City, the City shall be provided with a designated and identified point of contact upon award of the contract to include contact information. The City's designated representative shall be notified by the Respondent immediately should the point of contact change.
  - B. The City's designated representative:  
**Bobby Mercer**  
**Superintendent**  
**Transportation**  
**Phone: (512) 341-3309**  
**E-mail: [bmercer@roundrocktexas.gov](mailto:bmercer@roundrocktexas.gov)**
16. **INTERLOCAL PURCHASING AGREEMENTS**
  - A. The City has entered into Interlocal Agreements with other Governmental agencies pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same price and terms and conditions to other eligible agencies that have an interlocal agreement with the City.

## Exhibit "A"

City of Round Rock

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- B. The City does not accept any responsibility or liability for the purchases by other government agencies through an interlocal cooperative agreement

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### PART IV SCOPE OF WORK

1. **PURPOSE:** The City seeks a qualified Respondent to provide all equipment, materials, resources, workmanship, and labor necessary for the application and removal of pavement marking and curb painting services throughout the City on an as needed basis in accordance with the scope of work. Respondent shall also provide pavement and curb marking materials and/or supplies which shall include delivery on an as needed basis.
2. **MATERIAL AND WORKMANSHIP SPECIFICATIONS:** All materials, equipment, preparation, application and removal methods shall be in accordance with the latest revisions of the City of Round Rock's Design and Construction Standards (DACS), Series 800 – Urban Transportation and the latest revisions of the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
  - A. City of Round Rock Transportation Department DACS available at:  
<http://www.roundrocktexas.gov/departments/transportation/dacs>
  - B. Texas Department of Transportation TMUTCD is available at:  
<http://www.txdot.gov/government/enforcement/signage.html>
3. **SERVICE REQUIREMENTS:** The Contractor shall-
  - A. Use machine or hand application per the instruction of the City's designated representative.
  - B. Use equipment licensed and inspected by the Texas Department of Transportation and comply with all applicable State, Federal, and OSHA regulations.
  - C. Only perform work within the City limits of Round Rock and only at the specified locations approved by the City's designated representative through a written Notice to Proceed.
  - D. Schedule all work at the convenience of the City so as to not interfere with the City's conduct of business.
  - E. Conduct traffic control during projects for the duration of each job consistent with the provisions set forth in the "1980 Texas Manual on Uniform Traffic Control Devices for Streets and Highways" or the latest revisions thereof, issued under the authority of the "State of Texas Uniform Act Regulating Traffic on Highways", codified as Article 6701d Vernon's Civil Statutes, pertinent sections being Section Nos. 24, 29, 30 and 31.
  - F. Complete all work within thirty (30) days from the scheduled start date.
  - G. Keep the adjacent areas of the work site free from rubbish and the accumulation of any waste materials and properly dispose of all rubbish and waste materials according to applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulation.
  - H. Services shall include materials, equipment, construction methods, measurements, application and removal of markings of the specified types, colors, shapes, sizes, widths, and thickness shown on plans or as the City may require.
4. **CONTRACTOR RESPONSIBILITIES:** The Contractor shall-
  - A. Provide a list of responsible representatives with names, titles, addresses, and telephone numbers.
  - B. Staff each job with sufficient personnel to ensure safe and timely completion of the work.
  - C. Coordinate with the City to develop a project schedule that is mutually agreeable to both parties.
  - D. Demonstrate to the City's designated representative that all the work has been completed per the contract specifications and codes.
5. **CITY RESPONSIBILITIES:** The City will-
  - A. Provide specific location information to perform the work.
  - B. Share applicable City plans with the Contractor for project reference.

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- C. Provide instruction on the type of application (machine or hand) for each job.
- D. Provide access to any location that is not available to the public.

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### ATTACHMENT A BID SHEET

1. **ATTACHMENT A – BID SHEET** is posted in Solicitation Documents for IFB 20-024 Pavement Marking, Curb Painting Services and Related Products in an Excel format on the City of Round Rock website at: <https://www.roundrocktexas.gov/businesses/solicitations/>
  - A. In order to be considered responsive Attachment A- Bid Sheet must be completed, signed by an authorized representative and returned by the deadline for submission of response indicated in Part I Section 4 – Schedule of Events.
  - B. The Respondent, by submitting and signing Attachment A – Bid Sheet, 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.
  - C. In order to do business with the City of Round Rock you must be registered with the City's Vendor Database. To register, go to: <https://roundrock.munisselfservice.com/Vendors/default.aspx>.
  - D. By the signature affixed on Attachment A – Bid Sheet, the Respondent hereby certifies that neither the Respondent nor the entity represented by the Respondent, or anyone acting for such entity has violated the antitrust laws of this State, codified in Section 15.01 et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly, the response made to any competitor or any other person engaged in such line of business.
  - E. The Respondent 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 the amounts shown on bid sheet.

**Exhibit "A"**  
**Attachment A- Bid Sheet**  
**Pavement Marking, Curb Painting Services, and Related Products**  
**IFB 20-024**

The Respondent represents by their signature below that they are submitting a binding offer and are authorized to bind the respondent to fully comply with the solicitation documents contained in IFB 20-024 Pavement Marking, Curb Painting Services, and Related Products. The Respondent acknowledges that they have received and read the entire solicitation packet, attachments, addendums, and all documents incorporated by reference, and agrees to be bound by the terms therein.

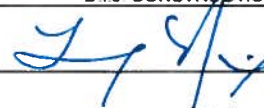
Special Instructions: All prices must be quoted in order to be considered responsive. be advised that exceptions taken to any portion of the solicitation will jeopardize acceptance of the bid. Alternative bids will not be considered and unauthorized modifications to the bid sheet format will result in the rejection of the bid. The City reserves the right to purchase more or less than the quantities indicated below.

No.	Description	Estimated Quantity	Unit	Unit Cost	Extended Total
1	TYPE 1 - Thermoplastic ReflectORIZED Pavement Marking Application <i>Machine Application</i>	325,000	LF	\$0.37	\$120,250.00
2	TYPE 1 - Thermoplastic ReflectORIZED Pavement Marking Application <i>Hand Application</i>	80,000	LF	\$1.10	\$88,000.00
3	TYPE 1 - Thermoplastic ReflectORIZED Pavement Lettering <i>Hand Application</i>	100	EA	\$113.00	\$11,300.00
4	TYPE 1 - Thermoplastic ReflectORIZED Pavement Shapes <i>Hand Application</i>	400	EA	\$33.00	\$13,200.00
5	TYPE 1 - Thermoplastic ReflectORIZED Pavement Symbols <i>Hand Application</i>	400	EA	\$132.00	\$52,800.00
6	TYPE 2 -Paint Pavement Marking <i>Machine Application</i>	25,000	LF	\$0.24	\$6,000.00
7	TYPE 2 -Paint Pavement Marking <i>Hand Application</i>	5,000	LF	\$0.72	\$3,600.00
8	TYPE 2 -Paint Pavement Lettering <i>Hand Application</i>	100	EA	\$35.00	\$3,500.00
9	TYPE 2 -Paint Pavement Shapes <i>Hand Application</i>	400	EA	\$15.00	\$6,000.00
10	TYPE 2 -Paint Pavement Symbols <i>Hand Application</i>	400	EA	\$40.00	\$16,000.00
11	Marking Elimination <i>Truck</i>	40,000	LF	\$0.30	\$12,000.00
12	Marking Elimination <i>Walk Behind</i>	30,000	LF	\$0.55	\$16,500.00
13	Raised Pavement Markings	1,000	EA	\$4.15	\$4,150.00
14	Curb Painting <i>(Letter includes Fire Lanes, No Parking, etc.)</i>	5,000	LF	\$0.78	\$3,900.00
15	Bulk Thermoplastic ReflectORIZED <i>Yellow</i>	20	TON <i>(Delivered)</i>	\$1,250.00	\$25,000.00
16	Bulk Thermoplastic ReflectORIZED <i>White</i>	20	TON <i>(Delivered)</i>	\$1,250.00	\$25,000.00
Annual Total:					\$407,200.00

COMPANY NAME:

D.I.J. CONSTRUCTION, INC.

SIGNATURE OF AUTHORIZED REPRESENTATIVE:



PRINTED NAME:

Terry Nix

PHONE NUMBER:

512-355-2766

EMAIL ADDRESS:

[terry@dijconstruction.com](mailto:terry@dijconstruction.com)

## Exhibit "A"

City of Round Rock  
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### ATTACHMENT B REFERENCE SHEET

PLEASE COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE

SOLICITATION NUMBER: 20-024

RESPONDENT'S NAME: D.I.J. Construction, Inc. DATE: 8/26/2020

Provide the name, address, telephone number and **E-MAIL** of at least three (3) valid Municipal, Government agencies or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.

1. Company's Name Williamson County Texas  
Name of Contact Herb Klaus  
Title of Contact Supervisor  
**E-Mail Address** hklaus@wilco.org  
Present Address 1351 SE Inner Loop  
City, State, Zip Code Georgetown TX 78626  
Telephone Number ( 512 ) 943 3360 Fax Number: (      )
  
2. Company's Name City of Austin Texas  
Name of Contact Tooran Khosh  
Title of Contact Project Manager  
**E-Mail Address** tooran.khosh@austintexas.gov  
Present Address 1501 Toomey Rd  
City, State, Zip Code Austin TX 78704  
Telephone Number ( 512 ) 974 9383 Fax Number: (      )
  
3. Company's Name City of Killeen Texas  
Name of Contact Billy Stottler  
Title of Contact Supervisor  
**E-Mail Address** bstottler@killeentexas.gov  
Present Address P.O. Box 1329  
City, State, Zip Code Killeen TX 76540  
Telephone Number ( 254 ) 616 3157 Fax Number: (      )

FAILURE TO PROVIDE THE REQUIRED INFORMATION WITH THE SOLICITATION RESPONSE MAY AUTOMATICALLY DISQUALIFY THE RESPONSE FROM CONSIDERATION FOR AWARD.



## Exhibit "A"

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**ATTACHMENT C**  
**SUBCONTRACTOR INFORMATION FORM**  
**COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE**

**SOLICITATION NUMBER:** 20-024

**RESPONDENT'S NAME:** D.I.J. Construction, Inc. **DATE:** 8/26/2020

- **CIRCLE ONE - NO, I WILL NOT USE SUBCONTRACTORS ON THIS CONTRACT**

**NO**

**YES, I INTEND TO USE SUBCONTRACTORS ON THIS CONTRACT** **YES**  
If yes complete the information below

1. Subcontractor Name	_____
Name of Contact	_____
E-Mail Address	_____
Address	_____
City, State, Zip Code	_____
Telephone Number	(       )                      Fax Number: (       )
Describe work to be performed	_____
Percentage of contract work to be performed	_____ %
_____	
_____	
2. Subcontractor Name	_____
Name of Contact	_____
Title of Contact	_____
E-Mail Address	_____
Address	_____
City, State, Zip Code	_____
Telephone Number	(       )                      Fax Number: (       )
Describe work to be performed	_____
Percentage of contract work to be performed	_____ %
_____	
_____	

- *Add additional pages as needed*

Exhibit "A"



ADDENDUM  
CITY OF ROUND ROCK, TEXAS

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Solicitation: IFB 20-024

Addendum No: 2

Date of Addendum: 8/26/20

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This addendum is to incorporate the following changes to the above referenced solicitation:

- I. **Extension:** The proposal due date is hereby extended until Wednesday, September 2, 2020 at 3:00 PM CST.
- II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:

  
Adam Gagnon, Purchaser  
Purchasing Office, 512-218-5456

8/26/20

By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:

  
Name

  
Authorized Signature

  
Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.

Exhibit "A"



**ADDENDUM  
CITY OF ROUND ROCK, TEXAS**

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**Solicitation: IFB 20-024**

**Addendum No: 1**

**Date of Addendum: 8/18/20**

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This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Questions:**

Q: Does this project have an estimate value?

A: The annual authority for the project will be determined by the amount on the bid sheet for the awarded respondent.

**II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

APPROVED BY:

  
\_\_\_\_\_  
Adam Gagnon, Purchaser  
Purchasing Office, 512-218-5456

8/18/20

By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:

  
\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Authorized Signature

  
\_\_\_\_\_  
Date

**RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.**