

ORDINANCE 2021-06-17-0450

APPROVING THE FOLLOWING WITH ARINC INCORPORATED: (A) A CHANGE ORDER TO THE COMMON USE PASSENGER PROCESSING SYSTEM CONTRACT TO PROVIDE THE AVIATION DEPARTMENT WITH PAYMENT CARD INDUSTRY (PCI) SECURITY MEASURES IN AN AMOUNT NOT TO EXCEED \$192,618.00; AND (B) A CONTRACT FOR PCI ATTESTATION AND LICENSING FOR A TOTAL COST OF \$280,593.00, BEGINNING UPON APPROVAL BY CITY COUNCIL AND ENDING JULY 31, 2023. FUNDING IS AVAILABLE FROM THE FY 2021 AVIATION OPERATING AND MAINTENANCE FUND BUDGET. FUNDING FOR SUBSEQUENT YEARS IS SUBJECT TO CITY COUNCIL APPROVAL OF THE ANNUAL BUDGET.

\* \* \* \* \*

**WHEREAS**, the Common Use Passenger Processing System (CUPPS) contract with ARINC Incorporated (ARINC), passed and approved by City Council on March 1, 2018, by Ordinance 2018-03-01-0152 enables multiple airlines, service providers, or other users to share physical check-in or gate podium positions; and

**WHEREAS**, this ordinance will authorize a change order to the CUPPS contract to provide to provide the Aviation Department with Payment Card Industry (PCI) security measures, after hours support, and spare hardware, cabling, and computers to have on hand for break-fix availability in an amount not to exceed \$192,618.00; and

**WHEREAS**, an offer was submitted by ARINC to provide an Attestation of Compliance in accordance with the requirements set forth by the Payment Card Industry Data Security Standards (PCI DSS) for the cMUSE onsite hardware, software and network equipment for a total cost of \$280,593.00, beginning upon approval by City Council and terminating July 31, 2023; and

**WHEREAS**, the Texas Local Government Code indicates that competitive bidding is not required under section 252.022(a)(7)(A), which provides for any items that are available only from a sole source of supply; and

**WHEREAS**, all expenditures will be in accordance with the applicable fiscal year's budget approved by City Council; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** (A) The change order to the Common Use Passenger Processing System contract with ARINC Incorporated to provide the Aviation Department with Payment Card Industry



(PCI) security measures, after hours support, and spare hardware, cabling, and computers in an amount not to exceed \$192,618.00 is hereby approved and (B) the offer from ARINC Incorporated to provide an Attestation of Compliance in accordance with the requirements set forth by the Payment Card Industry Data Security Standards (PCI DSS) for the cMUSE onsite hardware, software and network equipment for a total cost of \$280,593.00 is hereby accepted, subject to and contingent upon the deposit of all required bonds, performance deposits, insurance certificates and endorsements. The change order, bid tabulation and contract are attached hereto and incorporated herein for all purposes as **Exhibit I**.

**SECTION 2.** Funding for this ordinance in the amount of \$192,618.00 is available in Fund 51001000, Cost Center 3305040009 and General Ledger 5201040 as part of the Fiscal Year 2021 Adopted Budget approved by City Council.


**SECTION 3.** Funding for this ordinance in the amount of \$33,464.00 is available in Fund 51001000, Cost Center 3305040009 and General Ledger 5201047 as part of the Fiscal Year 2021 Adopted Budget approved by City Council.

**SECTION 4.** Payment is authorized to ARINC Incorporated and should be encumbered with a purchase order.

**SECTION 5.** The financial allocations in this ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this ordinance.

**SECTION 6.** This ordinance is effective immediately upon passage by eight or more affirmative votes; otherwise, it is effective on the tenth day after passage.

**PASSED and APPROVED this 17<sup>th</sup> day of June, 2021.**



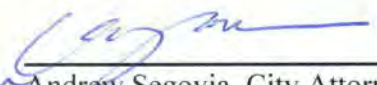
M A Y O R  
Ron Nirenberg

**ATTEST:**

**APPROVED AS TO FORM:**



Tina J. Flores, City Clerk



Andrew Segovia, City Attorney



## City of San Antonio

### City Council

June 17, 2021

**Item: 8**

**File Number: 21-3961**

**Enactment Number:**

**2021-06-17-0450**

Ordinance approving the following with ARINC Incorporated (A) a change order to the Common Use Passenger Processing System contract to provide the Aviation Department with Payment Card Industry (PCI) security measures and after hours support in an amount not to exceed \$192,618.00; and (B) a contract for PCI attestation and licensing for a total cost of \$280,593.00, beginning upon approval by City Council and ending July 31, 2023. Funding is available from the FY 2021 Airport Operating and Maintenance Fund budget. Funding for subsequent years is contingent upon City Council approval of the annual budget. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]

Councilmember Ana E. Sandoval made a motion to approve. Councilmember John Courage seconded the motion. The motion passed by the following vote:

**Aye:** 10 Nirenberg, McKee-Rodriguez, Viagran, Rocha Garcia, Castillo,  
Cabello Havrda, Sandoval, Pelaez, Courage and Perry

**Abstain:** 1 Bravo

LC  
06/17/21  
Item No. 8

# Exhibit I



## Exhibit I



CONTRACT NAME:	Common Use Passenger Processing System
CONTRACT NUMBER:	4400004706 (RFCSP 17-051; 6100008601)
VENDOR NAME:	ARINC Incorporated
VENDOR ADDRESS:	6120 South Yale Ave., Suite 200 Tulsa, OK 74136
ATTN:	Donald Snyder
CHANGE ORDER NUMBER:	4
DATE ISSUED:	March 30, 2021
EFFECTIVE DATE OF CHANGE ORDER:	Upon Final Signature

The City of San Antonio ("City") hereby issues this change order to the above referenced contract pursuant to Texas Local Government Code §252.048, and Ordinance No. 2011-12-08-1014, passed and approved December 8, 2011. This contract is hereby amended as follows:

### 1. CHANGE ORDER

1.1 This change order will add scope and capacity for Payment Card Industry ("PCI") security measures required the City of San Antonio's Information Technology Services Department, after-hours support, supplemental equipment, and other services as listed below.

The following Scope of Services is added:

- a. Work Breakdown Structure (WBS) to track cMUSE & PCI costs. This will prescribe the detailed method with which the associated costs are to be tracked including a hierarchical listing of associated tasks and activities.
- b. Period of Performance Alignment (Scope Only). Parties agree to align all contractual documents and references to the May 10, 2018 date of signature.
- c. Parties understand and agree that the Collins Aerospace Privacy Agreement, a true and correct copy of which is attached hereto and fully incorporated herein for all purposes, is a part of this Agreement, as though fully set out herein, and that all obligations, conditions, tasks, products, and representations set forth in said documents are required

to be fulfilled by the parties as completely and fully as are the obligations, conditions, tasks, products, and representations imposed by the Integration Agreement. The terms of the Integration Agreement shall control where there is any conflict between the terms of the Collins Aerospace Privacy Agreement and the terms of the Integration Agreement.

- d. Payment Card Industry (PCI) Data Security Standard (DSS). Adds activities and tasks required to maintain PCI compliance with technical and operational standards mandated by credit card companies to help ensure the security of credit card transactions in the payments industry. PCI standards for compliance are developed and managed by the PCI Security Standards Council. These standards include compliance testing, infrastructure cabling and equipment (responsibility of the vendor) and accessibility to the equipment area(s) (responsibility of CoSA). The PCI Security Standards Council is responsible for developing the PCI DSS.
  - e. After-hours support. Support included under Section 5 of the Statement of Work covers 08:00 – 17:00 Monday-Friday only. The table below specifies retainage and hourly rates for support Monday-Friday from 17:01-07:59 and 00:01-23:59 Saturdays, Sundays, and holidays. This service will be used on an as-needed basis evenings and weekends to ensure system availability is maintained. Total costs are estimated. On a monthly basis, Vendor shall invoice and City shall pay On-Call Hourly Rates based on actual usage.
    - i. Monthly Retainer and Other Direct Costs \$250.00
    - ii. On-Call hourly rate (M-F after 17:00) \$ 88.40\*
    - iii. On-Call hourly rate (weekends & holidays) \$132.60\*minimum of 2 hours charged
  - f. Additional deployments. Costs associated with 3 additional gate deployments at \$9,445 each and 5 additional ticket counter deployments at \$4,023 each to provide for future expansion if needed.
  - g. Additional costs for VOIP service. Additional VOIP service needed to provide outgoing call capabilities.
  - h. Purchase of spare hardware, cabling, and computers to have on hand for break-fix availability. Detailed quantities and pricing are included in the first table below.
- 1.2 The services, deliverables, and pricing set out in the tables below are hereby added to ARINC's Pricing Schedule (RFCSP Attachment C – Pricing Schedule) and Statement of Work (Integration Agreement, Exhibit C):



Item	Description	Qty	Unit Price	Total Price
<b>Base Hardware and Software Costs</b>				
<b>10% SPARES</b>				
1	TM-L500A ATB w/Tray and 5-year warranty	0	\$0.00	-
2	3m USB cable (Green)	1	\$6.26	\$6.26
3	Country specific power cable	1	\$11.12	\$11.12
4	TM-L500A BTP w/5-year warranty	1	\$964.85	\$964.85
5	SU-RPL600B roll holder	2	\$83.42	\$166.84
6	3m USB cable (Purple)	2	\$6.26	\$12.52
7	Country specific power cable	2	\$11.12	\$22.24
8	mini MPR (USB) w/5-year warranty and built in cable	2	\$347.57	\$695.14
9	Xenon 1900 w/ USB cable	2	\$340.62	\$681.24
				<b>\$2,560.21</b>
<b>Additional Cable Spares</b>				
10	CAT6 Patch Cable 7ft Yellow (IWS)	10	\$4.85	\$48.50
11	CAT6 Patch Cable 7ft Red (IWS)	10	\$4.85	\$48.50
12	3m USB cable (Green)	10	\$6.26	\$62.60
13	3m USB cable (Purple)	10	\$6.26	\$62.60
14	3m USB cable (Black)	10	\$6.26	\$62.60
15	3m USB cable (Orange)	10	\$6.26	\$62.60
16	Ativa Cat 5e Network Cable, 14', Blue	10	\$19.85	\$198.50
				<b>\$545.90</b>
<b>Five Workstation Replacements</b>				
17	REW GHOST 3.1 PER DEVICE BNDL STD LICs E ESS	5	\$15.09	\$75.45
18	HP ProDesk 600 G2 SFF i3-6100 3.7G 4GB 500GB DVDRW W7P	5	\$757.80	\$3,789.00
19	HP 5 YR NDB ONSITE PROMO DT ONLY HW SUP	5	\$103.12	\$515.60
20	CAT6 Patch Cable 7ft Yellow (IWS)	5	\$4.85	\$24.25
21	CAT6 Patch Cable 7ft Red (IWS)	5	\$4.85	\$24.25
22	ProDisplay P19A 19 in standard monitor (1280*1024)	5	\$215.23	\$1,076.15
23	TM-L500A ATB w/Tray and 5-year warranty	5	\$964.85	\$4,824.25
24	3m USB cable (Green)	5	\$6.26	\$31.30
25	Country specific power cable	5	\$11.12	\$55.60
26	TM-L500A BTP w/5-year warranty	5	\$964.85	\$4,824.25
27	SU-RPL600B roll holder	5	\$83.42	\$417.10
28	3m USB cable (Purple)	5	\$6.26	\$31.30
29	Country specific power cable	5	\$11.12	\$55.60
30	mini MPR (USB) w/5-year warranty and built in cable	5	\$347.57	\$1,737.85
31	Xenon 1900 w/ USB cable	5	\$340.62	\$1,703.10
				<b>\$19,185.05</b>
			<b>TOTAL</b>	<b>\$22,291.16</b>

Item	Services/Licenses	Purchase Price (One Time)
a	Work Breakdown Structure to track cMUSE & PCI costs	No Cost
b	Period of Performance Alignment	No Cost
c	Vendor Privacy Agreement	No Cost
d	PCI Software License Renewal (Year 3)	\$33,472
e	After-Hours System Support Costs (estimated)	\$60,000
f	3 additional gate deployments	\$28,335
f	5 additional ticket counter deployments	\$20,115
g	Additional VOIP Service	\$28,405
	<b>Services/Licenses Subtotal</b>	<b>\$170,327</b>

	Hardware	Qty	Purchase Price
h	Spare Hardware		\$2,560
h	Spare Cabling		\$546
h	Spare Workstations	5	\$19,185
	<b>Hardware Subtotal</b>		<b>\$22,291</b>
	<b>Services Subtotal (from above)</b>		<b>\$170,327</b>
	<b>Non-Recurring Charges Total</b>		<b>\$192,618</b>

## 2. PROVISIONS REMAIN IN EFFECT

All other terms, conditions, covenants and provisions of the above referenced contract, as previously amended, not specifically mentioned herein and revised by this document, are retained in their entirety, unchanged, and remain in full force in effect for the duration of said contract, and any renewals thereof.

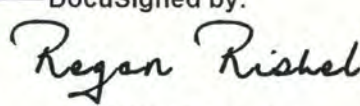
## 3. ENTIRE AGREEMENT

This contract, as amended, embodies the complete agreement of the parties hereto with regard to the subject matter contained herein, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein.

**EXECUTED** and **AGREED** to as of the dates indicated below. This Change Order may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**CITY OF SAN ANTONIO**

**ARINC INCORPORATED**

DocuSigned by:  
  
 CAEE4BAFACBB438...

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

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

Printed Name: Norbert Dziuk

Printed Name: Regan Rishel

Title: Assistant Finance Director

Title: Manager, Contracts - IMS Airports & STCI

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

Date: 4/13/2021

This change order is part of the contract. Please return this change order to the Finance Department, Purchasing Division, attention Marisol Amador at [Marisol.amador@sanantonio.gov](mailto:Marisol.amador@sanantonio.gov).





## Data Protection Agreement

This Data Protection Agreement (hereinafter, the “DPA”) made effective as of February 2, 2021 (the “*Effective Date*”) by and between ARINC Incorporated (a part of Collins Aerospace) having its place of business at 2551 Riva Road, Annapolis MD 21401 (hereinafter, “*ARINC*”) and the City of San Antonio, Texas, a home-rule municipal corporation, (the “*Customer*”). This DPA refers to Customer and ARINC collectively as the “*Parties*” and individually as the “*Party*.”

**WHEREAS**, ARINC and Customer have entered into the Integration Agreement for Common Use Passenger Processing System Request for Competitive Sealed Proposal No.: 17-051; 6100008601 under which ARINC, and/or other ARINC Affiliates, performs or will perform certain Services (defined below) for or on behalf of Customer and/or other Customer Affiliates;

**WHEREAS**, in performing such Services, ARINC may be processing Personal Data as part of delivering the Services;

**WHEREAS**, it is therefore necessary for the Parties to enter into an appropriate data processing agreement which reflects the roles of the Parties and their obligation under applicable Data Protection Laws and the Parties wish to enter into this DPA.

**NOW, THEREFORE**, the Parties agree as follows:

### 1. DEFINITIONS

Capitalised terms shall have the meanings set out below. Any capitalised terms not defined below or defined elsewhere in this DPA shall have the meanings as ascribed in the Service Agreement:

1.1 “**Affiliate**” means in relation to a Party, any entity which (directly or indirectly) controls, is controlled by and/or under common control with that Party.

1.2 “**Controller**,” “**Processor**,” “**Subprocessor**,” “**Data Subject**,” and “**Data Exporter**” and shall have the same meaning as in the Data Protection Laws.

1.3 “**Data Protection Laws**” means, as and to the extent they apply, in relation to any Personal Data which is Processed in the performance of the Agreement, any applicable laws and regulations in relation to the privacy or Processing of Personal Data relating to identifiable individuals, the protection of personal information or data, and the cross-border transfer of personal information or data, including as may be applicable, but not limited to: (a) the California Consumer Privacy Act (“CCPA”); (b) the EU General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”); and (c) national laws implementing, revising or replacing the GDPR, each as updated, amended or replaced from time to time.

1.4 “**Governmental Agencies**” means governmental and/or quasi-governmental agencies, airport authorities, passport agencies, customs officials, and such similar entities.

1.5 “**Personal Data**” means any information relating to an identified or identifiable data subject or as otherwise defined by applicable law;

1.6 “**Personal Data Breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored, or otherwise processed.

1.7 “**Process**” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, return or destruction and “Processed” or “Processing” shall be construed accordingly.

1.8 “**Pseudonymous Data**” means information processed in such a manner that Personal Information can no longer be attributed to a specific Data Subject.

1.9 “**Service Agreement**” means the service agreement by and between ARINC and the Customer for ARINC’s delivery of the “Services” defined in Section 1.10 hereinbelow.

1.10 “**Services**” means ARINC’s Processing of Personal Data on behalf of the Customer as related to ARINC’s provision of the products and services listed below:

1.10.1 **Global Airports:** products and services with respect to systems integration, passenger processing solutions, passenger facilitation, airport operations and baggage systems, which may be referenced in various agreements between ARINC and the Customer as any one or more of the following products or services: vMUSE™, vMUSE Enterprise™, cMUSE™, Self-Serv™, Self-Drop™, ExpressDrop, ARINC Border Management Solutions, ARINC Automated Border Control, ARINC Automated Passport Control, AirVue, AirPlan, AirDB, ARINC OnVoy, ARINC VeriPax™, ARINC Managed Services, BagLink™, BagMatch, ExpressCheck, ExpresDrop, SmartBag™, RFID, and other related products and services.

1.10.2 **Border Management Services:** products, services and/or licenses with respect to the transmission of Advance Passenger Information (API) or Passenger Name Record (PNR) from airlines to government authorities or their designated service providers. API and PNR are categories of passenger data that have been defined by IATA.





## 2. PROCESSOR OBLIGATIONS

With respect to the Services that ARINC performs or shall perform for the Customer as described in the Service Agreement, ARINC hereby agrees to be bound by the following terms and conditions:

2.1 Data Processor. With respect to the Services, the Parties hereby agree that ARINC is the Processor of Personal Data and Customer is the Controller of Personal Data.

2.2 Processing. ARINC shall Process the Personal Data to perform the Services and in accordance with Customer's documented instructions, which such instructions may be present in the Service Agreement. If the Service Agreement involves collection or Processing of Personal Data from individuals in California, then the Parties agree that ARINC is a "Service Provider", as such term is defined in the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et. seq. and implementing regulations (the "CCPA"), and will neither sell, nor exchange for anything of value, Personal Data.

2.3 Confidentiality. ARINC shall maintain the confidentiality of any such Personal Data and shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to the Personal Data, ensuring in each case that access is limited to those individuals who need to access the relevant Personal Data, for the purposes necessary to perform the Services hereunder.

2.4 Technical and Organization Measures. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, ARINC shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

2.5 Subprocessors. ARINC may engage the services of Subprocessors to perform the Services, and in doing so: (i) will execute written agreements with its Subprocessors binding them to terms no less rigorous than those set forth herein; and (ii) agrees to be responsible for the Subprocessors obligations. The Customer hereby agrees that ARINC's compliance with the foregoing requirement shall suffice as Customer's authorized approval of ARINC's selected Subprocessors. Upon request, ARINC shall make available to Customer a list of Subprocessors that ARINC subcontracts with in the Processing of Personal Data. In the event that the Customer sends notification to ARINC setting forth its reasons for disapproving any of the listed Subprocessors, Customer reserves the right to terminate the Services effective upon thirty (30) days to the extent that ARINC is unable or unwilling to substitute an alternate Subprocessor.

2.6 Data Subject Requests. ARINC shall notify Customer if ARINC receives a request from a Data Subject exercising his/her data subject rights under applicable Data Protection Laws and ARINC shall cooperate with Customer in

responding to such request. ARINC shall not respond to any Data Subject request unless required by applicable law.

2.7 Notification of Data Breach. To the extent that ARINC experiences a Personal Data Breach with respect to the Personal Data ARINC Processes as part of its performance of the Services, ARINC will notify Customer promptly upon becoming aware of such Personal Data Breach, to the extent required under applicable law. ARINC will mitigate, to the extent practicable, any harmful effect of such Personal Data Breach.

2.8 Cooperation. ARINC will provide reasonable assistance to Customer with its protection impact assessments and/or with any prior consultations to any supervisory authority, to the extent required by applicable law, in each case solely in relation to Processing of Personal Data by ARINC on behalf of Customer and as such Processing relates to the Services.

2.9 Destruction of Personal Data. Unless as otherwise instructed by the Customer or as required by applicable law, ARINC shall, after the end of the provision of Services, either (at the choice of Customer and as operationally feasible): (i) return a complete copy of all Personal Data to the Customer by secure file transfer and securely wipe all other copies of Personal Data Processed by ARINC or its Subprocessors; or (ii) securely wipe all copies of Personal Data Processed by ARINC or any of its Subprocessors.

2.10 Data Analytics. In connection with the provision of the Services hereunder, ARINC may use Pseudonymous Data for data analytics to improve the Services, which Customer hereby authorizes ARINC to use in accordance with carrying out its obligations under the Service Agreement. Subject to the ARINC's compliance with the terms set forth herein, ARINC may engage third parties to assist in any such data analytics of Pseudonymous Data.

2.11 Demonstrated Compliance. Upon prior written notice by the Customer, ARINC shall make available to the Customer all information necessary to demonstrate compliance with the terms set forth in this DPA including the verification of the procedures for the technical and organizational requirements of data protection and information security. ARINC shall promptly notify the Customer if, in the ARINC's opinion, the Customer's Processing instructions are in violation of Data Protection Laws.

2.12 Transfers of Personal Data.

2.12.1 Given the nature of the Services, it is possible that Personal Data may be transferred to other countries and/or Governmental Agencies that may not have the same Data Protection Laws as the country of original collection. Such transfer of Personal Data to third countries is necessary for the performance of contractual services for the Data Subject. Thus, for the purposes of establishing the appropriate safeguards in accordance with Data Protection





Laws, the Parties hereby agree that the transfer of Personal Data is legitimized on the basis that such transfer is necessary for the performance of a contract for the Data Subject. This DPA constitutes Customer's instructions and agreement with respect to such transfers.

2.12.2 If the Service Agreement involves the cross-border transfer of Personal Data from any country in the European Economic Area or Switzerland (collectively, "EEA/CH") to outside the EEA/CH, then the Customer and ARINC agree that the terms of the Model Contract Clauses (also called the Standard Contractual Clauses) adopted by the European Commission in Decision 2010/87/EU (hereinafter the "Processor Model Clauses" or the "Model Clauses") are incorporated by reference as if set forth herein. To the extent the EU Model Clauses are applicable to the Services, the details of the Processing shall be set forth in Exhibit 1 "Appendix 1 to the Model Contract Clauses," which if attached shall be made a part hereof. If any of the terms of the Model Clauses conflict with any terms the Service Agreement, the Model Clauses shall prevail.

### 3. CUSTOMER OBLIGATIONS

3.1 Customer shall be solely responsible for and shall ensure it complies with the Data Protection Laws in the jurisdiction(s) it operates including, without limitation, the below requirements:

3.1.1 ensure that it has the legal right to provide ARINC with the Personal Data to perform the Processing contemplated by the Service Agreement and this DPA in accordance with the Data Protection Laws;

3.1.2 ensure that all Customer instructions to ARINC regarding the Personal Data shall at all times be in accordance with Data Protection Laws;

3.1.3 notify or otherwise gain the approval of any regulatory body to the data transfer arrangements anticipated in this DPA; and

3.1.4 notify or otherwise obtain the consent of the Data Subject (unless other lawful mechanisms for transfer apply) for the Processing of the Personal Data under the Agreement.

3.2 If any applicable law requires a Data Subject to receive notice of or to provide consent to the Processing and/or transfer of his/her Personal Data, Customer shall ensure such notice is provided to and/or such consent is obtained from the applicable Data Subjects.

3.3 Customer acknowledges and agrees that ARINC may store and Process Personal Data in the United States or any other country in which ARINC or any of its subcontractors maintain facilities, subject to compliance with the Data Protection Laws.

*IMS DPA- Global Airports (2-7-20)*

### 4. SCOPE MODIFICATIONS.

4.1 In the event that changes in Data Protection Laws require modifications to the Services, the Parties shall use commercially reasonable efforts to comply with such requirements. If such changes in Data Protection Laws require structural changes to the Services such that the provision of the Services would otherwise be in breach of such Data Protection Laws unless such changes are performed, the Parties will discuss in good faith ARINC's ability to comply and will negotiate and revise the Services accordingly.

4.2 In the event that ARINC's compliance with Data Protection Laws requires the imposition of certain additional contractual obligations under this DPA, ARINC shall notify the Customer and both Parties shall in good faith seek to amend this DPA in order to address the requirements under Data Protection Laws.

4.3 In the event that ARINC considers in good faith that it is unable to comply with the required changes to the Services or in the event the affected Parties fail to reach agreement on an amendment to this DPA, ARINC shall notify without undue delay Customer and ARINC may terminate the Service Agreement and/or this DPA on no less than thirty (30) days' prior written notice.

### 5. LIABILITY

The liability of each Party under this DPA shall be subject to the exclusions and limitations of liability set out in the Service Agreement. Any reference to any "limitation of liability" of a Party in the Service Agreement shall be interpreted to mean the aggregate liability of a Party and all of its Affiliates under the Service Agreement and this DPA.

### 6. MISCELLANEOUS

6.1 Term. Unless as required by Data Protection Laws, this DPA shall cease to have any further effect upon, whichever is last to occur (i) the completion of the Services; or, (ii) to the extent applicable, the termination or expiration of the Service Agreement between ARINC and the Customer for the provision of the Services.

6.2 Amendments; Entire Agreement. The terms set forth in this DPA are the complete and exclusive statement of the agreement between the Parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the subject matter set forth herein.

6.3 Severability. If any provision of this DPA shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these terms and shall not affect the validity and enforceability of any remaining provisions of this DPA.



6.4 No Third Party Beneficiaries. Except with respect to the Data Subject rights set forth in the applicable Data Protection Laws, nothing in this DPA shall confer any benefits or rights on any person or entity other than the Parties to this DPA.

6.5 Precedence. In the event of any conflict between the provisions of the Service Agreement and the provisions of this

DPA, and in relation to the subject matter of this DPA, the provisions of this DPA shall take precedence.

6.6 Headings. The headings in this DPA are for reference only and shall not affect the interpretation of this DPA.



City of San Antonio Bid Tabulation

Opened: May 21, 2021			Sole Source ARINC Incorporated  2551 Riva Road Annapolis, MD 21401 (410) 266-4000
For: PAYMENT CARD INDUSTRY (PCI) ATTESTATION AND LICENSING			
6100014067		MA	
Item	Description	Quantity	
1	PCI System Support Costs for the Period Ending 10-31-2021	0	
	Price Per Each		\$0.00
	Extended Price		\$0.00
1A	Forgenix QSA Assessment - Year 1	1	
	Price Per Each		\$38,876.00
	Extended Price		\$38,876.00
1B	Collins Services (all semi-annual requirements listed in the PCI 12 requirements as well as coordination with Forgenix, remediation, and documentation) - Year 1	1	
	Price Per Each		\$66,240.00
	Extended Price		\$66,240.00
2	Year 1, August 1, 2021 - July 31, 2022 - Annual Software Licenses (Tenable ASV, AlienVault, and Solarwinds)	1	
	Price Per Each		\$33,464.00
	Extended Price		\$33,464.00
3	PCI System Support Costs for the Period Ending 10-31-2022	0	
	Price Per Each		\$0.00
	Extended Price		\$0.00
3A	Forgenix QSA Assessment - Year 2	1	
	Price Per Each		\$39,653.00
	Extended Price		\$39,653.00
3B	Collins Services (all semi-annual requirements listed in the PCI 12 requirements as well as coordination with Forgenix, remediation, and documentation) - Year 2	1	
	Price Per Each		\$68,227.00
	Extended Price		\$68,227.00
4	Year 2, August 1, 2022 - July 31, 2023 - Annual Software Licenses (Tenable ASV, AlienVault, and Solarwinds)	1	
	Price Per Each		\$34,133.00
	Extended Price		\$34,133.00
	Payment Terms		Net 30
	Total		\$280,593.00
	Total Award		\$280,593.00



**CITY OF SAN ANTONIO**  
**FINANCE DEPARTMENT - PURCHASING DIVISION**

FORMAL REQUEST FOR OFFER ("RFO") NO.: 6100014067

PAYMENT CARD INDUSTRY (PCI) ATTESTATION AND LICENSING

Date Issued: MAY 19, 2021

RESPONSE MUST BE RECEIVED **NO LATER THAN:**

10:00 A.M. CT, MAY 21, 2021

Responses may be submitted by any of the following means:

Electronic submission through the Portal

Electronic submission through Email

**Offer submissions will only be accepted electronically**

Offer Due Date: 10:00 A.M., CT, MAY 21, 2021

RFO No.: 6100014067

Bid Bond: N/A      Performance Bond: NO      Payment Bond: NO      Other: N/A

See Supplemental Terms & Conditions for information on these requirements.

Affirmative Procurement Initiative: NONE

DBE / ACDBE Requirements: N/A

See Instructions for Offerors and Attachments sections for more information on these requirements.

Pre-Submittal Conference \* NO

\* If YES, the Pre-Submittal conference will be held on N/A at N/A.

Staff Contact Person: MARISOL AMADOR, PROCUREMENT SPECIALIST III, P.O. Box 839966, San Antonio, TX 78283-3966

Email: [MARISOL.AMADOR@SANANTONIO.GOV](mailto:MARISOL.AMADOR@SANANTONIO.GOV)



## 002 - TABLE OF CONTENTS

002 – TABLE OF CONTENTS.....	2
003 – INSTRUCTIONS OF OFFERORS.....	3
004 – SPECIFICATIONS/SCOPE OF SERVICES.....	7
005 – SUPPLEMENTAL TERMS & CONDITIONS.....	7
006 – GENERAL TERMS & CONDITIONS.....	14
007 – SIGNATURE PAGE.....	20
008 – STANDARD DEFINITIONS.....	21
009 – ATTACHMENTS.....	22

### 003 - INSTRUCTIONS FOR OFFERORS

#### Submission of Offers.

##### **\*Offer submissions will only be accepted electronically\***

Submission of Electronic Offers Through the Portal. Submit one offer electronically by the due date provided on the Cover Page. All times stated herein are Central Time. Any offer or modification received after the time and date stated on the Cover Page shall be rejected. All forms in this solicitation which require a signature must have a signature affixed thereto, either by manually signing the document, prior to scanning it and uploading it with your submission, or affixing it electronically.

Offers sent to City by facsimile or email shall be rejected.

Modified Offers. Offers may be modified provided such modifications are received prior to the time and date set for submission of offers and submitted in the same manner as original offers. For electronic offers, a modified offer will automatically replace a prior offer submission. See below for information on submitting Alternate Offers.

City shall not be responsible for lost or misdirected offers or modifications.

#### Forms Requiring Signatures.

Signature Page. Offerors must sign the Signature Page and return the RFO document to City. For electronic offers, Offeror's electronic submission, constitutes a binding signature for all purposes.

All Other Documents. All other forms in this solicitation which require a signature must have a signature affixed thereto by manually signing the document. If submitting, electronically, sign the document prior to scanning it and uploading it with your submission.

Certified Vendor Registration Form. If Offeror has not completed the City's Certified Vendor Registration (CVR) Form, Offeror is required to do so prior to the due date for submission of offers. The CVR form may be accessed at <http://www.sanantonio.gov/purchasing/>. Offerors must identify the correct name of the entity that will be providing the goods and/or services under the contract. No nicknames, abbreviations (unless part of the legal title), shortened or short-hand names will be accepted in place of the full, true and correct legal name of the entity.

Alternate Offers. Alternate offers may be allowed at the sole discretion of City.

Electronic Alternate Offers Submitted Through the Portal. All alternate offers are recorded with original offers when submitted electronically.

Catalog Pricing. This Section Left Blank Intentionally.

#### Restrictions on Communication.

Offerors are prohibited from communicating with: 1) City officials as defined by §2-62 of the City Code of the City of San Antonio, regarding the RFO or offers from the time the RFO has been released until the contract is posted for consideration as a City Council agenda item during a meeting designated as an "A" session; and 2) City employees from the time the RFO has been released until the contract is awarded. These restrictions extend to "thank you" letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFO and/or offer submitted by Offeror. Violation of this provision by Offeror and/or its agent may lead to disqualification of the offer from consideration.

Exceptions to the restrictions on communication with City employees include:

Offerors may submit written questions, or objections to specifications, concerning this RFO to the Staff Contact Person listed on the Cover Page on or before the date offers are due. Questions received after the stated deadline will not be answered. Questions submitted and the City's responses will be posted with this solicitation. All questions shall be sent by e-mail or through the portal.

Offerors may provide responses to questions asked of them by the Staff Contact Person after responses are received. The Staff Contact Person may request clarification to assist in evaluating the Offeror's response. The information



provided is not intended to change the offer response in any fashion. Such additional information must be provided within two business days from City's request.

Offerors and/or their agents are encouraged to contact the Small Business Office of the International and Economic Development Department for assistance or clarification with issues specifically related to the City's Small Business Economic Development Advocacy (SBEDA) Program policy and/or completion of the SBEDA form (s). The point of contact may be reached by telephone at (210) 207-3922 or by e-mail at [SBEDAdocs@sanantonio.gov](mailto:SBEDAdocs@sanantonio.gov). *This exception to the restriction on communication does not apply, and there is no contact permitted to the Small Business Office regarding this solicitation, after the solicitation closing date.*

If this solicitation contains DBE/ACDBE requirements, respondents and/or their agents may contact the Aviation Department's DBE/ACDBE Liaison Officer for assistance or clarification with issues specifically related to the DBE/ACDBE policy and/or completion of the required form(s). Point of contact is Ms. Barbara Patton, who may be reached via telephone at (210) 207-3592 or through e-mail at [Barbara.Patton@sanantonio.gov](mailto:Barbara.Patton@sanantonio.gov). Bidders and/or their agents may contact Ms. Patton at any time prior to the due date for submission of bids. Contacting her or her office regarding this RFO after the due date is not permitted. If this solicitation contains DBE/ACDBE requirements, it will be noted on the Cover Page.

Pre-Submittal Conference. This Section Left Blank Intentionally.

#### Changes to RFO.

Changes to this RFO made prior to the offer due date shall be made directly to the original RFO. Changes are captured by creating a replacement version each time the RFO is changed. It is Offeror's responsibility to check for new versions until the offer due date. City will assume that all offers received are based on the final version of the RFO as it exists on the day offers are due.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFO.

#### Preparation of Offers.

All information required by the RFO must be furnished or the offer may be deemed non-responsive and rejected. Any ambiguity in the offer as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of City.

Correct Legal Name. If an Offeror is found to have incorrectly or incompletely stated the name of the entity that will provide goods and/or services, the offer may be rejected.

Line Item Offers. Any offer that is considered for award by each unit or line item, must include a price for each unit or line item for which Offeror wishes to be considered. All offers are awarded on the basis of low line item, low total line items, or in any other combination that serves the best interest of City, unless City designates this solicitation as an "all or none" offer in the Supplemental Terms & Conditions.

All or None Offers. Any offer that is considered for award on an "all or none" basis must include a price for all units or line items. In an "All or None" offer, a unit price left blank shall result in the offer being deemed nonresponsive and disqualified from consideration. An "All or None" offer is one in which City will award the entire contract to one offeror only.

Delivery Dates. Proposed delivery dates must be shown in the offer form where required and shall include weekends and holidays, unless specified otherwise in this RFO. Proposed delivery times must be specific. Phrases such as "as required", "as soon as possible" or "prompt" may result in disqualification of the offer. Special delivery instructions, if any, may be found in the Specifications / Scope of Services section of this document, or in the Purchase Order.

Tax Exemption. The City of San Antonio is exempt from payment of federal taxes, and State of Texas limited sales excise and use taxes. Offerors must not include such taxes in offer prices. An exemption certificate will be signed by City where applicable upon request by Offeror after contract award.

Samples, Demonstrations and Pre-award Testing. If requested by City, Offeror shall provide product samples, demonstrations, and/or testing of items offered to ensure compliance with specifications prior to award of the contract. Samples, demonstrations and/or testing must be provided within 7 calendar days of City's request. Failure to comply with City's request may result in rejection of an offer. All samples (including return thereof), demonstrations, and/or



testing shall be at Offeror's expense. Samples will be returned upon written request. Requests for return of samples must be made in writing at the time the samples are provided. Otherwise, samples will become property of City at no cost to City. Samples that are consumed or destroyed during demonstrations or testing will not be returned.

#### Estimated Quantities for Annual Contracts.

Designation as an "annual" contract is found in the contract's title on the Cover Page of this document. The quantities stated are estimates only and are in no way binding upon City. Estimated quantities are used for the purpose of evaluation. City may increase or decrease quantities as needed. Where a contract is awarded on a unit price basis, payment shall be based on the actual quantities supplied.

Offerors shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.

Offerors shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment, or conditions and sites/locations for providing goods and services as required by this RFO. No plea of ignorance by Offeror will be accepted as a basis for varying the requirements of City or the compensation to Offeror.

Confidential or Proprietary Information. All offers become the property of City upon receipt and will not be returned. Any information deemed to be confidential by Offeror should be clearly noted; however, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Offeror may not be considered confidential under Texas law, or pursuant to a Court order. Pricing may be tabulated and posted to City's website, so shall not be considered proprietary or confidential.

Costs of Preparation. Offeror shall bear any and all costs that are associated with the preparation of the Offer, attendance at the Pre-Submittal conference, if any, or during any phase of the selection process.

#### Rejection of Offers.

City may reject any and all offers, in whole or in part, cancel the RFO and reissue the solicitation. City may reject an offer if:

Offeror misstates or conceals any material fact in the offer; or

The offer does not strictly conform to law or the requirements of the offer;

The offer is conditional; or

Any other reason that would lead City to believe that the offer is non-responsive or Offeror is not responsible.

City, in its sole discretion, may also waive any minor informalities or irregularities in any offer, such as failure to submit sufficient offer copies, failure to submit literature or similar attachments, or business affiliation information.

Changes to Offer Form. Offers must be submitted on the forms furnished. Offers that change the format or content of City's RFO may be rejected.

Withdrawal of Offers. Offers may be withdrawn prior to the due date. Written notice of withdrawal shall be provided to the Staff Contact Person. Offers submitted electronically may be withdrawn electronically.

#### Evaluation and Award of Contract.

City reserves the right to make an award on the basis of City's best interests. Award may also be made based on low line item, low total line items, or in any other combination that serves the best interest of City, unless City designates this solicitation as an "all or none" offer in the Supplemental Terms & Conditions.

A written award of acceptance, manifested by a City Ordinance, and a purchase order furnished to Offeror results in a binding contract without further action by either party. Offeror must have the Purchase Order before making any delivery.

City reserves the right to delete items prior to the awarding of the contract, and purchase said items by other means.



Inspection of Facilities/Equipment. Depending on the nature of the RFO, Offerors' facilities and equipment may be a determining factor in making the offer award. All Offerors may be subject to inspection of their facilities and equipment.

Prompt Payment Discount.

Provided Offeror meets the requirements stated herein, City shall take Offeror's offered prompt payment discount into consideration. The evaluation will not be based on the discount percentage alone, but rather the net price as determined by applying the discount to the offer price, either per line item or total offer amount. However, City reserves the right to reject a discount if the percentage is too low to be of value to City, all things considered. City may also reject a discount if the percentage is so high as to create an overly large disparity between the price City would pay if it is able to take advantage of the discount and the price City would pay if it were unable to pay within the discount period. City may always reject the discount and pay within the 30 day period, at City's sole option.

City will not consider discounts that provide fewer than 10 days to pay in order to receive the discount.

For example, payment terms of 2% 5, Net 30 will NOT be considered in offer evaluations or in the payment of invoices. However, payment terms of 2% 10, Net 30 will result in a two percent reduction in the offer price during offer evaluation, and City will take the 2% discount if the invoice is paid within the 10 day time period.

Prohibited Financial Interest.

The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in §2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with City. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- A City officer or employee; his or her spouse, sibling, parent, child, or other family member within the first degree of consanguinity or affinity;
- An entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10% or more of the voting stock or shares of the entity, or 10% or more of the fair market value of the entity; or
- An entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

By submitting a proposal, Respondent warrants and certifies, and a contract awarded pursuant to this RFO is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City.

State of Texas Conflict of Interest Questionnaire (Form CIQ). Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed Form CIQ with the City Clerk if those persons meet the requirements under 176.006(a) of the statute.

By law this questionnaire must be filed with the City Clerk not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Texas Local Government Code.

Form CIQ is available from the Texas Ethics Commission by accessing the following web address:

<https://ethics.state.tx.us/forms/conflict/>

In addition, please complete the **City's Addendum to Form CIQ (Form CIQ-A)** and submit it with Form CIQ to the Office of the City Clerk. The Form CIQ-A can be found at:

<http://www.sanantonio.gov/Portals/0/Files/Ethics/OCC-CIQ-Addendum.pdf>

When completed, the CIQ Form and the CIQ-A Form should be submitted together by mail, to the Office of the City Clerk. Please mail to:

Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966.

Do not include these forms with your sealed bid. The Purchasing Division will not deliver the forms to the City Clerk for you.



## 004 - SPECIFICATIONS / SCOPE OF SERVICES

4.1 The City of San Antonio, Aviation Department is soliciting an offer from ARINC Incorporated (ARINC) to provide an Attestation of Compliance in accordance with the requirements set forth by the Payment Card Industry Data Security Standards ("PCI DSS") for the cMUSE onsite hardware, software and network equipment. ARINC will continue to maintain the PCI DSS compliance of the vendor's systems on-site with software updates, third party software update/patches, antivirus, log collection, change management, security controls and scans of the in-scope systems. Assessments will be finalized upon completion of the PCI DSS-mandated twelve sections of the guidelines and the Report on Compliance will be prepared as a project deliverable.

4.2 ARINC will complete an annual Assessment and provide City with a Report on Compliance no later than:

- October 31, 2021 and
- October 31, 2022.

### 4.3 Warranty on Parts and Labor:

4.3.1 ARINC shall furnish a 1-year warranty on all equipment and labor. The warranty shall be effective from the date of acceptance of the merchandise, or completion of the service, as applicable.

4.3.2 ARINC shall promptly repair any defects in material or workmanship appearing within this period of time, without cost to the City of San Antonio for material or labor.

## 005 - SUPPLEMENTAL TERMS & CONDITIONS

### Original Contract Term.

This contract shall begin upon the effective date of the ordinance awarding the contract, or date specified in the award letter if this contract does not exceed \$50,000. This contract shall terminate upon completion of all work described herein or delivery of all goods ordered, as applicable.

### Renewals.

At City's option, this Contract may be renewed under the same terms and conditions for 1 additional 1-year period. Renewals shall be in writing and signed by Director, without further action by the San Antonio City Council, subject to and contingent upon appropriation of funding therefore.

### Temporary Short-Term Extensions.

City shall have the right to extend this contract under the same terms and conditions beyond the original term or any renewal thereof, on a month to month basis, not to exceed three months. Said month to month extensions shall be in writing, signed by Director, and shall not require City Council approval, subject to and contingent upon appropriation of funding therefore.

### Warranty.

The warranty specified in Exhibit 1, if any, a minimum of 90-days product guarantee, or the manufacturer's standard commercial warranty, whichever is greater, shall apply to all products and/or services purchased under this RFO, unless otherwise specified in the Specifications/Scope of Services section of this RFO. This warranty shall provide for replacement of defective merchandise, parts, and labor, and shall include pick-up of the defective merchandise from City and delivery of the replacement(s) to the same location. The warranty shall be effective from the date of acceptance of the merchandise, or completion of the service, as applicable.

NOTWITHSTANDING THE FOREGOING, TO THE GREATEST EXTENT PERMITTED BY LAW, NEITHER PARTY WILL BE LIABLE UNDER ANY LEGAL THEORY TO THE OTHER PARTY FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OR LOSS OF GOODWILL, DATA OR PROFITS (EXCEPT THOSE PROFITS RELATED TO FEED DUE UNDER THIS AGREEMENT) OR COST OF RECOVERY. WITHOUT LIMITING THE FOREGOING, COLLINS TOTAL AGGREGATE LIABILITY FOR ANY REASON AND FOR ANY NUMBER OF CLAIMS WILL BE LIMITED TO \$750,000. THESE LIMITS OF LIABILITY APPLY WHETHER THE CLAIM ARISES OUT OF BREACH OF WARRANTY, CONTRACT, TORT OR STRICT LIABILITY, AND EVEN IF THE DAMAGES ARE POSSIBLE OR FORESEEABLE OR WHERE A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THIS LIMITATION OF LIABILITY WILL APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH HEREIN FAIL OF THEIR ESSENTIAL PURPOSE.



### Catalog Discount Pricing.

It is agreed that any published price list(s) may be superseded or replaced during the contract period only if such list is published by the manufacturer for industry wide use. If Vendor's catalog is a compilation of products from various manufacturer's, then the product pricing for a particular manufacturer's products may be superseded or replaced if that manufacturer's price increase is published for industry wide use. Vendor must be able to substantiate the price increase to City's satisfaction.

A revised price list must be submitted to City in the same format as the originally submitted price list, unless a different format is approved by City. It is agreed that any price list provided other than the manufacturer's price list may not be superseded or replaced during the contract period. (NOTE: Discounts accepted as part of this bid are not subject to revision.)

A written notice stipulating in detail the changes of a price list must be furnished and approved by the City before revisions go into effect.

All price lists submitted with the bid, or approved revisions, are hereby incorporated into this contract by reference. Vendor's percentage discount off catalog price stated on the Price Schedule shall be deemed a minimum discount. Vendor may provide a greater discount at any time during the contract period for reasons deemed appropriate by Vendor, such as volume discount pricing for large orders.

### Insurance

Prior to the commencement of any work under this Agreement, Vendor shall furnish copies of all required endorsements and completed certificate(s) of insurance to the City's Finance Department, Purchasing Division, which shall be clearly labeled "**PCI ATTESTATION & LICENSING**" in the description of operations block of the Certificate. The certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City will not accept a memorandum of insurance or binder as proof of insurance. The certificate(s) must be signed by the authorized representative of the carrier and list the agent's name and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to City. City shall have no duty to pay or perform under this agreement until such certificate and endorsements have been received and approved by City's Finance Department, Purchasing Division. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.

City reserves the right to review the insurance requirements of this section during the effective period of this agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. In no instance will City allow modification whereby City may incur increased risk.

A vendor's financial integrity is of interest to City; therefore, subject to Vendor's right to maintain reasonable deductibles in such amounts as are approved by City, Vendor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension here of, at Vendor's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Damage to property rented by you f. Independent Contractors	For Bodily Injury and Property Damage of \$1,000,000_per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage  f. \$100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hire Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence if AOA access required \$5,000,000 CSL



5. Professional Liability	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.
6. Umbrella or Excess Liability Coverage	\$2,000,000 per occurrence combined limit Bodily Injury (including death) and Property Damage. (per occurrence limit depends on scope of operation)
*7. Cyber Liability	\$1,000,000 per claim \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
*8. Property Insurance	One Hundred Percent (100%) replacement value for Structure, and replacement cost coverage of eighty percent (80%) of actual cash value for improvements and betterments
*If Applicable	

Vendor agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverages required of Vendor herein and provide a certificate of insurance and endorsement that names Vendor and City as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of Vendor. Vendor shall provide City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

As they apply to the limits required by City, City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. Vendor shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. Vendor shall pay any costs incurred resulting from provision of said documents.

City of San Antonio  
Attn: Aviation Department/Airport Integrated Control Center  
P.O. Box 839966  
San Antonio, Texas 78283-3966

Vendor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

Name City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of the workers' compensation and professional liability policies.

Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where City is an additional insured shown on the policy;

Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of City; and

Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than 10 calendar days advance notice for nonpayment of premium.

Within five calendar days of a suspension, cancellation or non-renewal of coverage, Vendor shall provide a replacement certificate of insurance and applicable endorsements to City. City shall have the option to suspend Vendor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this agreement.

In addition to any other remedies City may have upon Vendor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, City shall have the right to order Vendor to stop work



hereunder, and/or withhold any payment(s) which become due to Vendor hereunder until Vendor demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which Vendor may be held responsible for payment of damages to persons or property resulting from Vendor's or its subcontractors' performance of the work covered under this Agreement.

It is agreed that Vendor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement and that no claim or action by or on behalf of City shall be limited to insurance coverage provided.

Vendor and any subcontractors are responsible for all damage to their own equipment and/or property.

#### High Technology Procurement.

##### Intellectual Property.

Vendor shall pay all royalties and licensing fees. Vendor shall hold City harmless and indemnify City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, trademarks, trade secrets, materials and methods used in the project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Vendor has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to City.

Upon receipt of notification that a third party claims that the program(s), hardware, both the program(s) and the hardware or any other intellectual property infringe upon any United States or International patent, copyright or trademark Vendor will immediately:

Either:

obtain, at Vendor's sole expense, the necessary license(s) or rights that would allow City to continue using the programs, hardware, both the programs and hardware or any other intellectual property as the case may be, or,

alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

reimburse City for any expenses incurred by City to implement emergency backup measures if City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

Vendor further agrees to:

assume the defense of any claim, suit, or proceeding brought against City for infringement of any United States patent, copyright, trademark or any other intellectual property rights arising from the use and/or sale of the equipment or software under this Contract,

assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

indemnify City against any monetary damages and/or costs awarded in such suit;

Provided that:

Vendor is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Vendor agrees to consult with City Attorney of City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of City,

the Software or the equipment is used by City in the form, state, or condition as delivered by Vendor or as modified without the permission of Vendor, so long as such modification is not the source of the infringement claim,



the liability claimed shall not have arisen out of City's negligent act or omission, and

City promptly provide Vendor with written notice within 15 days following the formal assertion of any claim with respect to which City asserts that Vendor assumes responsibility under this section.

Undisclosed Features. Vendor warrants that the code and software provided to City under this contract does not contain any undisclosed features or functions that would impair or might impair City's use of the equipment, code or software. Specifically, but without limiting the previous representation, Vendor warrants there is no "Trojan Horse," lock, "time bomb," backdoor or similar routine. This contract shall not now, nor will it hereafter, be subject to the self-help provisions of the Uniform Computer Information Transactions Act or any other law. Vendor specifically disclaims any unilateral self-help remedies.

## Mandatory Federal Contract Provisions

### I. Title VI Notice

The City of San Antonio in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### II. General Civil Rights Provisions

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

### III. Title VI Clauses Compliance With Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation



Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the contractor under the contract until the contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### IV. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

#### V. Federal Fair Labor Standards Act

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.



The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### Occupational Safety and Health Act of 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### VI. DRUG-FREE WORKPLACE

(a) Definitions. As used in this clause—

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about—
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Contractor's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b) (1) of this clause;
- (4) Notify such employees in writing in the statement required by paragraph (b) (1) of this clause that, as a condition of continued employment on this contract, the employee will—
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b) (4) (ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
  - (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b) (1) through (b) (6) of this clause.



- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

#### **Incorporation of Attachments.**

Each of the attachments listed below is an essential part of this contract, which governs the rights and duties of the parties, incorporated herein by reference, and shall be interpreted in the order of priority as appears below, with this document taking priority over all attachments:

Attachment A – Price Schedule

Attachment B – Certificate of Interested Parties (Form 1295)

Attachment C – Veteran-Owned Small Business (VOSBPP) Tracking Form

### **006 - GENERAL TERMS & CONDITIONS**

Electronic Offer Equals Original. If Vendor is submitting an electronic offer, City and Vendor each agree that this transaction may be conducted by electronic means, as authorized by Chapter 322, Texas Business & Commerce Code, known as the Electronic Transactions Act.

#### **Delivery of Goods/Services.**

Destination Contract. Vendor shall deliver all goods and materials F.O.B., City of San Antonio's designated facility, inside delivery, freight prepaid, to the address provided in this RFO or, if different, in the Purchase Order. Vendor shall bear the risk of loss until delivery. Freight charges will be paid only when expedited delivery is requested and approved in writing by City. Vendor shall be responsible for furnishing necessary personnel or equipment and/or making necessary arrangements to off load at City of San Antonio facility, unless otherwise noted herein.

Failure to Deliver. When delivery is not met as provided for in the contract, City may make the purchase on the open market, with any cost in excess of the contract price paid by Vendor, in addition to any other direct, indirect, consequential or incidental damages incurred by City as a result thereof. In addition, Vendor may be removed from City's list of eligible bidders.

Purchase Orders. Each time a City department wishes to place an order against this contract, it will issue Vendor a purchase order. Vendor must have the purchase order before making any delivery.

Acceptance by City. City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by Vendor. City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If City elects to accept nonconforming goods and services, City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate City for the nonconformity. Any acceptance by City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

Testing. After award of contract, City may, at its sole option, test the product delivered to ensure it meets specifications. Initial testing shall be at City's expense. However, if the product does not to meet specifications, Vendor shall reimburse City for the costs of testing. City may withhold the cost of testing from any amounts owed to Vendor under this or any other contract, or invoice Vendor for same. If invoiced, Vendor shall pay City within 30 calendar days' of the invoice.

#### **Invoicing and Payment.**

Invoice Submissions. City requires all original first time invoices to be submitted directly to the Accounts Payable section of the Finance Department. The preferred method of delivery is electronically to the following e-mail address:

[accounts.payable@sanantonio.gov](mailto:accounts.payable@sanantonio.gov)

Invoices submitted electronically to the e-mail address above must be in separate .pdf format file. Multiple invoices cannot be submitted in a single .pdf file; however, Vendor may submit multiple, separate invoice files in a single e-mail.



Any required documentation in support of the invoice should be compiled directly behind the invoice in the same .pdf file. Each electronically submitted file must have a unique identifying name that is not the same as any other file name.

Invoices submitted by electronic submission are only considered "original" when the submission comes directly from the Vendor to Accounts Payable using this e-mail address. Vendor may courtesy copy the ordering City department personnel on the e-mail.

Vendors not able to submit invoices with the required file formatting above may mail original invoices, on white paper only, to: City of San Antonio, Attn: Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.

#### Information Required On Invoice.

All invoices must be in a form and content approved by City. City may require modification of invoices if necessary in order to satisfy City that all billing is proper and pursuant to the terms of the contract. Invoices are required to show each City Purchase Order Number. Invoices must be legible. Items billed on invoices must be specific as to applicable stock, manufacturer, catalog or part number (if any). All invoices must show unit prices for each item being billed, the quantity of items being billed and the total for each item, as well as the total for all items on the invoice. If prices are based on list prices basis, then the list prices, the percentage discount or percentage surcharge, net unit prices, extensions and net total prices must be shown. Prompt payment discounts offered shall be shown separately on the invoice.

#### Payment by City.

In accordance with the Texas Prompt Payment Act, City shall have not less than 30 days to pay for goods or services. Time for payment, including payment under discount terms, will be computed from the later of: (1) the date City receives conforming goods under the contract; (2) the date performance of the service under the contract is completed; or (3) the date City receives a correct and valid invoice for the goods or services. Payment is deemed to be made on the date of mailing of the check. Payment is made in US dollars only.

This provision shall not apply where there is a bona fide dispute between City and Vendor about the goods delivered or the service performed that causes the payment to be late, or where the invoice is not mailed to the address provided herein.

The payment amount due on invoices may not be manually altered by City personnel. Once disputed items are reconciled, Vendor must submit a corrected invoice or a credit memorandum for the disputed amount. City will not make partial payments on an invoice where there is a dispute.

**NECESSITY OF TIMELY INVOICE / WAIVER OF PAYMENT.** NOTWITHSTANDING THE FORGOING, CITY CANNOT PAY FOR ANY GOODS OR SERVICES WITHOUT AN INVOICE. VENDOR MUST INVOICE CITY NO LATER THAN 90 CALENDAR DAYS FROM THE DATE GOODS ARE DELIVERED OR SERVICES RENDERED. FAILURE TO SUBMIT AN INVOICE WITHIN SAID 90 DAY SHALL NEGATE ANY LIABILITY ON THE PART OF CITY AND CONSTITUTE A **WAIVER** BY VENDOR OF ANY AND ALL RIGHT OR CLAIMS TO COLLECT MONEYS THAT VENDOR MAY RIGHTFULLY BE OTHERWISE ENTITLED TO FOR GOODS OR SERVICES PERFORMED.

The total price for all goods and/or services is shown on the Price Schedule. No additional fees or expenses of Vendor shall be charged by Vendor nor be payable by City. The parties hereby agree that all compensable expenses of Vendor are shown on the Price Schedule. If there is a discrepancy on the Price Schedule between the unit price for an item, and the extended price, the unit price shall govern.

Amendments. Except where the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Vendor. The Director of the Purchasing and General Services Department, or Director's designee, shall have authority to execute amendments on behalf of City without further action by the San Antonio City Council, subject to and contingent upon appropriation of funds for any increase in expenditures by City.

#### Termination.

Termination-Breach. Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director, its material obligations under this contract, or violate any of the material terms of this contract, City shall have the right to immediately terminate the contract in whole or in part. Notice of termination shall be provided in writing to the Vendor, effective upon the date set forth in the notice. City may, in City's sole discretion, provide an opportunity for Vendor to cure the default. If City elects to offer an opportunity to cure, City shall provide notice to Vendor specifying the matters in default and the cure period. If Vendor fails to cure the default within the cure period, City shall have the right, without



further notice, to terminate the contract in whole or in part. Such termination shall not relieve Vendor of any liability to the City for damages sustained by virtue of any breach by Vendor.

Termination-Notice. City may terminate this contract, in whole or in part, without cause. City shall be required to give Vendor notice ten days prior to the date of termination of the contract without cause.

Termination-Funding. City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

Termination by City may be effected by Director, without further action by the San Antonio City Council.

Independent Contractor. Vendor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City. City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by Vendor under this contract and that Vendor has no authority to bind City. The doctrine of respondeat superior shall not apply as between City and Vendor.

#### **INDEMNIFICATION.**

**VENDOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly arising out of and resulting from VENDOR'S negligent in the performance of on-site activities under this Agreement, including any acts or omissions of VENDOR, any agent, officer, director, representative, employee, consultant or subcontractor of VENDOR, and their respective officers, agents employees, directors and representatives. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT VENDOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. In addition, Vendor agrees to indemnify, defend, and hold City harmless from any claim involving patent infringement, trademarks, trade secrets, and copyrights on goods supplied.**

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. VENDOR shall advise CITY in writing within 24 hours of any claim or demand against CITY or VENDOR known to VENDOR related to or arising out of VENDOR's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at VENDOR's cost. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving VENDOR of any of its obligations under this paragraph.

Assignment. Except as otherwise stated herein, Vendor may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Vendor shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void ab initio and shall confer no rights upon any third person.

Ownership of Documents. Pursuant to Texas Local Government Code Chapter 201, any and all Records produced by Vendor pursuant to the provisions of this contract are the exclusive property of City; and no such Record shall be the subject of any copyright or proprietary claim by Vendor. The term "Record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic. Vendor understands and acknowledges that as the exclusive owner of any and all such Records, City has the right to use all such Records as City desires, without restriction.

#### **Records Retention.**

Vendor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder ("Documents"), and shall make such Documents available to City at their respective offices, at all reasonable times and as often as City may deem necessary



during the contract period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

Vendor shall retain any and all Documents produced as a result of services provided hereunder for a period of four years ("Retention Period") from the date of termination of the contract. If, at the end of the Retention Period, there is litigation or other questions arising from, involving or concerning these Documents or the services provided hereunder, Vendor shall retain the records until the resolution of such litigation or other such questions. Vendor acknowledges and agrees that City shall have access to any and all such Documents at any and all times, as deemed necessary by City, during said Retention Period. City may, at its election, require Vendor to return the documents to City at Vendor's expense prior to or at the conclusion of the Retention Period. In such event, Vendor may retain a copy of the documents.

Vendor shall notify City, immediately, in the event Vendor receives any requests for information from a third party, which pertain to the Documents referenced herein. Vendor understands and agrees that City will process and handle all such requests.

**S.B. 943** – Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, Vendor acknowledges that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, contractor, potential vendor, or potential contractor, may apply to this RFO and any resulting contract. Vendor agrees that the contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

By submitting an offer, Offeror warrants and certifies, and a contract awarded pursuant to this RFO is made in reliance thereon, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous offer or contract. City hereby relies on Vendor's certification, and if found to be false, City may reject the offer or terminate the Contract for material breach.

**Severability.** If any clause or provision of this contract is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this contract shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intention of the parties hereto that in lieu of each clause or provision of this contract that is invalid, illegal, or unenforceable, there be added as a part of the contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

**Compliance with Law.** Vendor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

**Certifications.** Vendor warrants and certifies that Vendor and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

**Non-waiver of Performance.** Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

**Venue.** Venue of any court action brought directly or indirectly by reason of this contract shall be in Bexar County, Texas. This contract is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.



Non-discrimination. As a condition of entering into this agreement, Vendor represents and warrants that it will comply with City's Commercial Nondiscrimination Policy, as described under Section III.C.1 of the SBEDA Ordinance. As part of such compliance, Vendor shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Vendor retaliate against any person for reporting instances of such discrimination. Vendor shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. Vendor understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of Vendor from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Vendor shall include this nondiscrimination clause in all subcontracts for the performance of this contract.

As a party to this contract, Vendor understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

Attorney's Fees. The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

Prohibition on Contracts with Companies Boycotting Israel.

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATIONS PROHIBITED. Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. Vendor hereby certifies that it is not identified on such a list. City hereby relies on Vendor's certification. If found to be false, or if Vendor is identified on said list during the course of its contract with City, City may terminate the Contract for material breach.

Delinquent Taxes. In the event that Vendor is or subsequently becomes delinquent in the payment of taxes owed to the City of San Antonio, the City reserves the right to deduct any delinquent taxes from payments that the City may owe to the delinquent Vendor as a result of this contract.

Binding Contract. This contract shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.



Entire Agreement. This contract, including City's final electronically posted online version, together with its authorizing ordinance, and its price schedule(s), attachments, addendums, purchase orders, and exhibits, if any, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereof, and be duly executed by the parties, in accordance with the Amendment provision herein. **Parties agree that City's final electronically posted online version of this solicitation contains the agreed upon specifications, scope of services, and terms and conditions of this contract, and shall control in the event of a conflict with any printed version signed and submitted by Vendor.**



007 - SIGNATURE PAGE

By submitting an offer, Offeror represents that:

(s)he is authorized to bind Offeror to fully comply with the terms and conditions of City's Request for Offer for the prices stated therein;

(s)he has read the entire document, including the final version issued by City, and agreed to the terms therein;

Offeror is in good standing with the Texas State Comptroller's Office; and

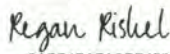
to the best of his/her knowledge, all information is true and correct.

Complete the following and sign on the signature line below. Failure to sign and submit this Signature Page will result in rejection of your offer.

Offeror Information

Please Print or Type

Vendor ID No.	1030077
Signer's Name	Regan Rishel
Name of Business	ARINC Incorporated
Street Address	2551 Riva Road
City, State, Zip Code	Annapolis, MD 21401
Email Address	regan.rishel@collins.com
Telephone No.	410-266-4000
Fax No.	410-266-4040
City's Solicitation No.	RFO No.: 6100014067

DocuSigned by:  
  
CAEE4BAFACBB438

Signature of Person Authorized to Sign Offer



## 008 - STANDARD DEFINITIONS

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

All-or-None Offer - an RFO in which City will award the entire contract to one offeror only.

Alternate Offer - two or more offers with substantive variations in the item or service offered from the same offeror in response to a solicitation.

Assignment - a transfer of claims, rights or interests in goods, services or property.

Bid Bond - security to ensure that Offeror (a) will not withdraw the offer within the period specified for acceptance, and (b) will furnish any required bonds and any necessary insurance within the time specified in the solicitation.

City - the City of San Antonio, a Texas home-rule municipal corporation.

Contractor - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.

Director - the Director of City's Purchasing & General Services Department, or Director's designee.

Line Item - a listing of items in an offer for which an offeror is expected to provide separate pricing.

Offer - a complete, signed response to an RFO that, if accepted, would bind Offeror to perform the resultant contract.

Offeror - a person, firm or entity that submits an offer in response to a solicitation. The offeror whose offer is accepted by City may also be referred to herein as Contractor, Vendor or Supplier.

Payment Bond - a particular form of security provided by the contractor to protect City against loss due to the contractor's failure to pay suppliers and subcontractors.

Performance Bond - a particular form of security provided by the contractor to protect City against loss due to the contractor's inability or unwillingness to complete the contract as agreed.

Performance Deposit - security provided by the contractor to protect City against loss due to the contractor's inability or unwillingness to complete the contract as agreed.

Pre-Submittal Conference - a meeting conducted by City, held in order to allow offerors to ask questions about the proposed contract and particularly, the contract specifications.

Purchase Order - a validly issued order placed by an authorized City department for the purchase of goods or services, written on City's standard purchase order form, and which is the vendor's authority to deliver to and invoice City for the goods or services specified in an RFO for the price stated in vendor's offer.

Specifications - a description of what City requires and what Offeror must offer; a description of the physical or functional characteristics of a product or material, or the nature of a service or construction item.

Subcontractor - a person, firm or entity providing goods or services to a vendor to be used in the performance of the vendor's obligations under the contract with City.

Supplier - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.

Vendor - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.



009 - ATTACHMENTS

ATTACHMENT A

PRICE SCHEDULE

**ITEM 2: SERVICES:** The quoted price shall include PCI DSS assessment and report of compliance for the Common Use Passenger Processing System.

Prices include support, maintenance, and training services.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>YEAR 1</u>	<u>YEAR 2</u>
1	PCI System Support Costs for the Period Ending 10/31/2021:		
1A	Forgenix QSA Assessment	\$38,876.00	
1B	Collins Services (all semi-annual requirements listed in the PCI 12 requirements as well as coordination with Forgenix, remediation, and documentation)	\$66,240.00	
2	Annual Software Licenses (Tenable ASV, AlienVault, and Solarwinds) August 1, 2021 – July 31, 2022	\$33,464.00	
3	PCI System Support Costs for the Period Ending 10/31/2022:		
3A	Forgenix QSA Assessment		\$39,653.00
3B	Collins Services (all semi-annual requirements listed in the PCI 12 requirements as well as coordination with Forgenix, remediation, and documentation)		\$68,227.00
4	Annual Software Licenses (Tenable ASV, AlienVault, and Solarwinds) August 1, 2022 – July 31, 2023		\$34,133.00
	<b>TOTAL PCI COSTS</b>	<b>\$138,580.00</b>	<b>\$142,013.00</b>



## ATTACHMENT B

### CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

Texas Government Code §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Chapter 46 of the Texas Administrative Code, require a business entity to submit a completed Form 1295 to the City before the City may enter into a contract with that business entity.

Form 1295 must be completed online. It is available from the Texas Ethics Commission by accessing the following web address: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

**Print your completed Form 1295. Submit your signed Form 1295 with your response to this solicitation. Where requested to provide the name of the public entity with whom you are contracting, insert "City of San Antonio". Where requested to provide the contract number, provide the solicitation number shown on the cover page of this solicitation (e.g. IFB 6100001234, RFO 6100001234 or RFCSP 6100001234).**

The following definitions found in the statute and Texas Ethics Commission rules may be helpful in completing Form 1295.

"Business entity" includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency. (NOTE: The City of San Antonio should never be listed as the "Business entity.")

"Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. Subsection (3) of this section does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

"Interested party" means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) an intermediary.

"Intermediary," for purposes of this rule, means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

- (1) receives compensation from the business entity for the person's participation;
- (2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
- (3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.

Publicly traded business entities, including their wholly owned subsidiaries, are exempt from this requirement and are not required to submit Form 1295.



ATTACHMENT C

VETERAN-OWNED SMALL BUSINESS PROGRAM TRACKING FORM

(Attached as separate document)