



EXHIBIT A

City of Granbury Procurement General Terms and Conditions

1. **THESE TERMS AND CONDITIONS APPLY TO ANY PROCUREMENT OF PRODUCTS OR SERVICES BY THE CITY OF Granbury (CITY); TAKING EXCEPTION TO THESE TERMS MAY DEEM A RESPONSE AS NON-RESPONSIVE.**
2. **ADDITIONAL TERMS:** Notwithstanding acceptance by the City of the goods or services ordered hereby, no additional terms or conditions of vendor, whether contained within vendor's invoice or otherwise, shall be accepted by City, unless agreed upon in writing through a proposal process.
3. **CONFLICTS:** In the event the terms and conditions herein expressed conflict with the terms and conditions of any specifications issued by the City in conjunction with this purchase, the specifications shall supersede these terms and conditions to the extent of the conflict.
4. **AUTHORIZATION:** The City of Granbury will not accept or pay for articles delivered or services performed without a specific written Purchase Order.
5. **CONFORMITY OF GOODS/SERVICES:** All goods to be delivered or services to be performed shall conform in every respect to the specifications issued by the City in conjunction with its solicitation of bids or proposals. In the event no such specifications were issued, the goods or services shall conform to the proposal submitted by the vendor.
6. **WARRANTY/GUARANTEE LAWS AND REGULATIONS:** By acceptance of this order, in addition to the guarantees and warranties provided by law, Contractor expressly guarantees and warrants as follows:
 - a) that the articles to be delivered hereunder will be in full conformity with the specifications or with the approved sample submitted and agreed that this warranty shall survive acceptance of delivery and payment for the articles and that the Contractor will bear the cost of inspecting and/or testing articles rejected.
 - b) that the articles to be delivered hereunder will not infringe on any valid patent, trademark, trade name, or copyright, and that the Contractor will, at Contractor's own expense, defend any and all actions or suits charging such infringement and will save and hold harmless the City, its officers, employees, agents, and representatives from any and all claims, losses, liabilities and suits arising there from.
 - c) that the articles to be delivered hereunder will be manufactured, sold and/or installed in compliance with the provisions of all applicable federal, state and local laws and regulations.



- d) that nothing contained herein shall exclude or affect the operation of any implied warranties otherwise arising in favor of the City.
7. **PRICING:** Unit pricing shall be in strict conformity with the bid or proposal submitted by vendor, unless a price increase is authorized by the City. The price of this agreement ***not to exceed \$100,000*** without City Council approval.
 8. **PRICE ESCALATION:** Price escalations may be permitted by the City of Granbury during the term of the contract. All requests for price escalation shall be in written form and shall demonstrate industry-wide or regional increases in the Contractor's costs. Include documents supporting the price escalation, such as manufacturer's direct cost, postage rates, railroad commission rates, federal/state minimum wage laws, federal/state unemployment taxes, FICA, etc. Increases will apply only to the product(s) and/or service(s) affected by an increase in raw material, labor, or another like cost factor. The City of Granbury reserves the right to accept or reject any/all price escalations.
 9. **PRICE REDUCTION:** If during the life of the contract, the Contractor's net prices to other customers for the same product(s) and/or service(s) are lower than the City of Granbury's contracted prices, an equitable adjustment shall be made in the contract price.
 10. **TAXES:** The City of Granbury is exempt from federal manufacturer's excise and state sales and use tax. Tax exemption certificates will be executed by the City and furnished upon request.
 11. **PACKAGING:** Unless otherwise indicated, items will be new, unused, and in first-rate condition in containers suitable for damage-free shipment and storage.
 12. **F.O.B./DAMAGE:** All orders shall be F.O.B. delivered, designated location, and shall include all delivery and packaging costs. The City of Granbury assumes no liability for goods delivered in damaged or unacceptable condition. The Contractor shall handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by the City of damage. In instances where City discovers concealed damage to property and such property will require shipment back to Contractor, Contractor shall be solely responsible for shipping fees.
 13. **DELIVERY TIMES & INSTALLATION:** Deliveries will be acceptable only during normal working hours at the designated location. Regarding installation services, the Contractor shall be responsible to remove from City property and dispose of all waste and packaging material in a lawful manner.
 14. **DELIVERY PROMISE – PENALTIES:** Default in promised delivery without acceptable reasons, or failure to meet specifications, authorizes the purchasing division to purchase goods/services elsewhere, and charge any increase in cost and handling to the defaulting Contractor.
 15. **INSPECTION, REJECTION, AND EXCESS SHIPMENT:** In addition to other rights provided by law, the City reserves the right (a) to inspect articles delivered and to return those which do not meet specifications or reasonable standards of quality, (b) to reject articles shipped contrary to instructions or in containers



which do not meet recognized standards, and (c) to cancel the order if not filled within the time specified. City may return rejected articles or excess shipment on this order or may hold the articles subject to the vendor's order and at vendor's risk and expense and may in either event charge the vendor with the cost of shipping, unpacking, inspecting, repacking, reshipping and other like expenses.

16. **INVOICES:** Invoices must be submitted by the Contractor to the City of Granbury, Purchasing Department, P.O. Box 969, Granbury, TX, 76048 or email them to purchasing@granbury.org . The City Purchase Order number **must** appear on all invoices, delivery memoranda, bills of landing, packing and correspondence.
17. **PAYMENT TERMS:** Payment terms are pursuant to the Texas Prompt Payment Act unless otherwise specified by the City. Upon receipt of a properly executed invoice from the vendor, payment will be processed for items or services delivered.
18. **PATENT RIGHTS:** The Contractor agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
19. **FUNDING:** The Contractor recognizes that any contract shall commence upon the effective date and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Granbury, which fiscal year ends on September 30th of each year, shall be subject to Granbury City Council approval. In the event that the Granbury City Council does not approve the appropriation of funds for the contract, the contract shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder.
20. **ASSIGNMENT:** Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned without the prior written consent of City, and that no part or feature of the work will be assigned to anyone objectionable to City. Contractor further agrees that subcontracting any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. Failure to obtain City's written consent prior to assignment of this Contract as set forth herein, may result in termination of this Contract at the City's discretion, without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract. If the City elects to terminate this Contract, the Contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term.
21. **AUDIT:** The City of Granbury reserves the right to audit the records and performance of Contractor during the contract and for three years thereafter.
22. **INSURANCE:** The City requires Contractor to carry the minimum insurance as required by state laws and insurance requirements outlined in the bid/proposal documents.



23. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in this contract. All change orders to the contract will be made in writing by the City of Granbury.
24. **INDEMNIFICATION:** Contractor agrees to defend, indemnify and hold the City and its respective officers, agents and employees, harmless against any and all claims, lawsuits, judgments, fines, penalties, costs and expenses for personal injury (including death), property damage, intellectual property infringement claims (including patent, copyright and trademark infringement) or other harm or violations for which recovery of damages, fines, or penalties is sought, suffered by any person or persons that may arise out of or be occasioned by Contractor's breach of any of the terms or provisions of the contract, violations of law, or by any negligent, grossly negligent, intentional, or strictly liable act or omission of the Contractor, its officers, agents, employees, invitees, subcontractors, or sub-subcontractors and their respective officers, agents, or representatives, or any other persons or entities for which the Contractor is legally responsible in the performance of the contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of City, and its officers, agents, employees or separate Contractors. City does not waive any governmental immunity or other defenses available to it under Texas or federal law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Contractor, at its own expense, is expressly required to defend City against all such claims. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Contractor's obligation to defend City or as a waiver of Contractor's obligation to indemnify City pursuant to this agreement. Contractor shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this agreement. If Contractor fails to retain counsel within the required time period, City shall have the right to retain defense counsel on its own behalf and Contractor shall be liable for all costs incurred by City.

In addition to Contractor's intellectual property infringement indemnification and defense requirements herein, if an infringement claim occurs, or in Contractor's opinion is likely to occur, Contractor shall, at its expense: (a) procure for City the right to continue using the product; (b) replace or modify the product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the product and grant City a reimbursement for the product. Contractor will proceed under subsection (c) above only if subsections (a) and (b) prove to be commercially unreasonable.

The intellectual property infringement indemnification herein applies to all products provided, supplied or sold under this agreement by Contractor to City whether manufactured by Contractor or a third party. Contractor represents that, to the best of its knowledge, City's use of products that are provided supplied, or sold by Contractor to City as part of this agreement does not constitute an infringement of any intellectual property rights and City has the legal right to use said products. City enters into this agreement relying on this representation.



The indemnification herein survives the termination of the contract and/or dissolution of this agreement including any infringement cure provided by the Contractor.

- A. **TERMINATION FOR CONVENIENCE OF CTIY:** The City of Granbury shall have the options in its sole discretion, to terminate this agreement, at any time during the term hereof for convenience and without cause. City shall exercise this option by giving Contractor written notice of the termination. The notice shall specify the date on which termination shall become effective. Upon receipt of the notice, Contractor shall commence and perform with diligence, all actions necessary on the part of Contractor to affect the termination of this agreement on the date specified by the City and to minimize the liability of Contractor and City to third parties as result of termination. All such actions shall be subject to prior approval of the City.
- B. **REMEDIES:** The Contractor and the City of Granbury agree that each party has rights, duties, and remedies available as stated in the uniform commercial code and any other available remedy, whether in law or equity.
- C. **VENUE:** This agreement will be governed and constructed according to the laws of the state of Texas. This agreement is performable in Hood, Texas. Exclusive venue shall be in Hood County, Texas.
- D. **NO PROHIBITED INTEREST/:** Contractor acknowledges and represents that they are aware of the laws, City Charter, and City Code of Conduct regarding conflicts of interest. The City charter states that “no officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service.”
- E. **DELINQUENT TAXES:** The City of Granbury prohibits the payment of public funds to persons that owe delinquent taxes to the City of Granbury. Therefore, payment to a Contractor for goods or services provided to the City under contract or Purchase Order may be withheld in the event the Contractor owes delinquent taxes to the City.
- F. **WORKFORCE:**
 - A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
 - B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while in the course and scope of delivering goods or services under a City of Granbury contract on the City's property.
 - i. use or possess a firearm, including a handgun that is licensed under state law, except as required by the terms of the contract; who hold a license to carry a handgun or who otherwise lawfully possess a firearm and ammunition may keep such items in their locked personal vehicle while parked on City Property; or



- ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly, or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and must not employ such worker again on Contract services without the City's prior written consent.

D. The immigration reform and control act of 1986 (IRCA) makes it illegal for employers to knowingly hire or recruit immigrants who do not possess lawful work authorization and requires employers to verify their employees' work eligibility on a U.S. department of justice form I-9.

The Contractor warrants that Contractor is in compliance with IRCA and will maintain compliance with IRCA during the term of the contract with the City. Contractor warrants that Contractor has included or will include a similar provision in all written agreements with any subcontractors engaged to perform services under this contract.

G. **STATUTORY CONTRACTING REQUIREMENTS:**

As required per Texas Government Code Section 2270.001, the Contractor certifies the following:

- i. Company does not boycott Israel;
- ii. Company will not boycott Israel during the term of the contract.

H. **DEBARMENT, SUSPENSION, and INELIGIBILITY:**

- A. The Contractor represents and warrants that the Contractor, its principals, and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations). The Contractor represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of this Contract, the Contractor will periodically review SAM.gov and local notices to verify the continued accuracy of this representation. The Contractor shall require all subcontractors at every tier to comply with this requirement.
- B. This certification is material representation of facts relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, in addition to remedies available to the City and the Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.