

## **ARTICLE 1, INTRODUCTION**

This Contract does not grant Contractor a vested property right and Contractor has no guarantee of exclusivity. DPS reserves the right, in its sole discretion, to solicit or contract with other contractors for similar subject matter, services, or deliverables to those under the Contract at any time. Contractor is not guaranteed any minimum amount of compensation. Subcontractors must also comply with these provisions.

### **1.1 GLOBAL DRAFTING CONVENTIONS**

- A. “Includes” and “including” are terms of enlargement and not of limitation or exclusive enumeration. Use of the terms does not create a presumption that components not expressed are excluded.
- B. Any references to laws, rules, regulations, and guidance in the Contract are references as they exist at the time of execution and as they may be amended, changed, or supplemented during the life of the Contract.

### **1.2 HEADINGS**

The headings, captions, and arrangements used in the Contract are, unless specified otherwise, for reference and convenience only and do not alter the interpretation of the Contract.

### **1.3 AUTHORIZED REPRESENTATIVES**

- A. Contractor must designate an authorized representative who has the authority to make or approve changes in Contract requirements on behalf of Contractor. Contractor’s authorized representative may designate other people (such as a Contract Manager or Project Manager) to assist in the performance of certain obligations required by the Contract.
- B. DPS’s authorized representative is the only person authorized to make or approve changes in any Contract requirements.
- C. Either Party may change its Project Manager and Contract Manager with written notice to the other Party.

### **1.4 SEVERABILITY**

The parties want a court to interpret the Contract as follows:

- A. With respect to any provision that it holds to be unenforceable, by changing that provision to the minimum extent necessary to make it enforceable or, if that change is not permitted by law, by disregarding that provision;
- B. If an unenforceable provision is changed or disregarded in accordance with this section, by holding that the rest of the Contract will remain in effect as written;
- C. By holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable;

and

- D. If changing or disregarding the unenforceable provision would result in failure of an essential purpose of the Contract, by holding the entire Contract unenforceable.

## **1.5 APPLICABLE LAW; VENUE**

The Contract will be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under the Contract is fixed in any state court of competent jurisdiction in Travis County, Texas.

## **1.6 NOTICES**

Both parties will direct any notice required or permitted under the Contract to the designated contact and is considered received: (1) When delivered in hand and a receipt granted; (2) Three days after it is deposited in the United States mail by certified mail, return receipt requested; or (3) When received if sent by confirmed facsimile or confirmed email.

Either of the parties may change its address or designated individual(s) to receive notices by giving the other party written notice specifying the new address or individual and the date upon which it will become effective.

## **ARTICLE 2, TERMINATION AND DISPUTES**

### **2.1 TERMINATION**

The Contract may be terminated or cancelled in any of the following circumstances.

#### **2.1.1 Termination for Unavailability of Funds**

Contractor understands that all obligations of DPS under the contract are subject to the availability of state and/or federal funds for those specific obligations. If such funds are not appropriated or become unavailable, DPS may terminate the contract immediately without prior notice, penalty, or liability by DPS.

#### **2.1.2 Termination for Convenience**

DPS reserves the right to terminate the Contract any time, in whole, or in part, without cost or penalty, by providing 30 days' advance written notice of such termination to Contractor.

#### **2.1.3 Termination for Failure to Perform**

- A. If Contractor fails to provide the deliverables or other performance in accordance with the provisions of the Contract or fails to comply with any of the terms or conditions of the Contract, DPS, upon written notice of default to Contractor, may immediately terminate the Contract. DPS may, but is not required to, offer Contractor the opportunity to cure.
- B. Contractor remains liable for all covenants and indemnities under the Contract. Contractor is liable for all costs and expenses, including court costs, incurred by DPS

with respect to the enforcement of any of the remedies listed in the Contract.

- C. If DPS provides Contractor with the option to Cure, DPS's notification will demand that the failure, cause, or default be remedied within a timeframe set by DPS. DPS will have the right to cancel the Contract upon written notice if Contractor fails to remedy such failure, cause, or default within the specified timeframe.
  - 1. If Contractor reasonably believes that it cannot cure default cannot within the timeframe requested by DPS but that such Event of Default can be cured through effort on the part of Contractor, then Contractor must submit a detailed plan for curing to DPS.
  - 2. DPS will promptly review Contractor's plan for curing and may, at its discretion, approve or reject Contractor's plan to cure.
  - 3. DPS will communicate its decision in writing to Contractor.

### **2.1.4 General Termination Provisions; All Contracts are Non-Exclusive**

- A. Termination of the Contract for any reason will not release Contractor from any liability or obligation expressly stated to survive or by its nature is intended to apply following any such termination, including the provisions regarding confidentiality, indemnification, warranty, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
- B. Unless mutually agreed upon in writing, Contractor must cease all work immediately upon the effective date of termination. DPS will only pay for work DPS authorized in writing and which Contractor has completed, delivered to DPS, and which DPS has accepted.
- C. Contractor must deliver to DPS all completed, or partially completed work and all documentation or other products and results of these services at a date per DPS's request. Contractor will not make or retain any copies of the work or any documentation or other products and results of the services without the prior written consent of DPS.

## **2.2 DISPUTE RESOLUTION**

- A. Both parties agree to resolve disputes arising under the Contract using the dispute resolution process provided for in Tex. Gov't Code Chapter 2260 as supplemented by Title 37, Tex. Admin. Code Chapter 34 and, Subchapter U.
- B. Contractor must continue providing the deliverables and continue to comply with all applicable provisions of the Contract, unless directed otherwise in writing by DPS during the dispute resolution process. Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Tex. Gov't Code § 2251.051 and such suspension of performance is expressly applicable and authorized under that law.

### **2.3 REMEDIES**

DPS, based on information from monitoring or other verifiable sources which establish a contract violation, may immediately take actions, including, but not limited to:

- A. Requiring Contractor to take specific corrective actions in order to remain in compliance with any contractual term;
- B. Withholding or recouping payments made to the Contractor;
- C. Suspending or limiting any services and placing conditions on any such suspensions or limitations of services;
- D. Removing from the provision of services any employee of the Contractor or subcontractor; and
- E. Suspending, placing into abeyance, or removal of any contractual rights including, but not limited to, removal of all contract rights.

### **2.4 NO WAIVER**

Nothing in the Contract waives the state's sovereign immunity or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas.

### **2.5 IMPOSSIBILITY**

Neither Party will be liable to the other for any delay in, or failure of performance, of any requirement included in the contract caused by impossibility. The existence of such causes of delay or failure will extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Impossibility is defined as unforeseeable calamity, war, fires, explosions, hurricanes, floods, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

## **ARTICLE 3, AMENDMENTS AND CONTRACTOR CHANGES**

### **3.1 AMENDMENTS**

Except as authorized in Sections 3.3, the Contract may only be amended through a written amendment signed by an authorized signatory on behalf of each party.

### **3.2 NO AMOUNTS PAID FOR UNAUTHORIZED PERFORMANCE**

Contractor will not receive compensation for performance not authorized under the Contract, including any performance prior to the effective date of a written Contract amendment signed by both parties. Any such performance is at the sole risk of Contractor.

### **3.3 RESERVED OPTION TO EXTEND THE INITIAL TERM OF THE CONTRACT**

At its sole discretion, if DPS has reserved the option to unilaterally renew the Contract for a specific timeframe, DPS may exercise such option to renew by written notification to

Contractor prior to the Contract's expiration. If DPS exercises this option, the renewed Contract will include this option provision.

### **3.4 CONTRACTOR CHANGES (INCLUDES SUCCESSORS AND ASSIGNEES)**

Contractor will not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of DPS. Any attempted assignment in violation of this Section is void and without effect. This section does not prohibit collateral assignment of payments for the purpose of secured lending arrangements in the ordinary course of business.

## **ARTICLE 4, INDEMNIFICATION**

### **4.1 INDEMNIFICATION (GENERAL)**

**CONTRACTOR MUST DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND DPS, OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE MUST BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. CONTRACTOR AND DPS AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

### **4.2 INDEMNIFICATION (INTELLECTUAL PROPERTY)**

**IF CONTRACT INVOLVES INTELLECTUAL PROPERTY MATTERS, CONTRACTOR MUST DEFEND, INDEMNIFY, AND HOLD HARMLESS DPS AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OR OTHER INTANGIBLE PROPERTY, PUBLICITY, OR PRIVACY RIGHTS OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR UNDER THE CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE, OR OTHER SERVICE PROVIDED UNDER THE CONTRACT; OR (3) DPS'S OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO DPS BY CONTRACTOR OR OTHERWISE TO WHICH DPS HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND DPS AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR WILL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE WILL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT**

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**AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, CONTRACTOR WILL REIMBURSE DPS AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF DPS DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF DPS IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, DPS WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF DPS'S COUNSEL.**

### **ARTICLE 5, CONTRACT PERFORMANCE**

#### **5.1 NO SUBSTITUTIONS**

Contractor may not substitute or cancel commodities or services without the prior written approval of an authorized representative of DPS.

#### **5.2 DELIVERY TIMES**

Contractor may only deliver during normal business hours only or as written into the solicitation unless prior written approval for late delivery has been obtained from DPS's authorized representative.

#### **5.3 TITLE AND RISK OF LOSS**

Title and risk of loss for deliverables will not pass to DPS until DPS actually receives, takes possession, and accepts the deliverables at the point or points of delivery.

#### **5.4 RECALL NOTICE**

Upon discovery of any recall notice, Contractor must immediately advise DPS of all required replacements or changes to any equipment or hardware provided under the Contract or the withdrawal of any equipment or hardware due to a safety hazard or recall.

#### **5.5 TESTING; ACCEPTANCE; RETURN; REVOCATION**

After Contract award, but prior to payment, DPS may conduct acceptance testing on the commodities and services delivered under the Contract. If the delivered and installed items fail to meet the acceptance criteria or any other requirements, DPS may refuse to accept such items. Upon DPS's acceptance that the commodities and services meet or exceed all Contract requirements, DPS will notify Contractor in writing that Contractor may submit an invoice to DPS. DPS reserves the right to revoke prior acceptance for latent defects.

#### **5.6 INSPECTION AND MONITORING**

- A. DPS has the right to inspect and validate all commodities and services in the Contract in a manner that will not unduly interfere with Contractor's performance. Contractor must furnish, and must require subcontractors to furnish, at no increase in the Contract's price, all reasonable assistance for the performance of these duties.
- B. If any deliverable or service does not conform to the Contract's requirements, DPS will require Contractor to perform the deliverables or services again in conformity with the Contract's requirements, at no increase in the Contract's amount.

- C. DPS will have the right to access and to examine all records of Contractor, including financial records, maintenance records, employee records, and attendance records generated by Contractor in connection with performance of the Contract.
- D. If an audit or contract monitoring determines that Contractor owes money to DPS, then Contractor must reimburse DPS any owed funds within 30 days of notification of such findings.
- E. Contractor must provide and maintain all documentation pertaining to quality testing, acceptance of deliverables, maintenance and warranty records, inventories of equipment per location, and all reports necessary under the terms of the Contract, in a manner acceptable to DPS for the deliverables provided under the Contract. Complete records of all inspection work performed by Contractor must be maintained and made available to DPS during the Contract's performance and for a period of seven years after the termination of the Contract.

### **5.7 PERSONNEL**

#### **5.7.1 Qualifications of Key Personnel**

- A. Contractor warrants that all identified key personnel assigned to the Contract are Contractor employees, agents, or subcontractors and meet all qualifications as defined within the Contract to perform the work required.
- B. Contractor must assign all personnel identified in the Contract to complete planned and assigned responsibilities in connection with performance of the Contract. DPS will have the right to approve the assignment and replacement by Contractor of all personnel assigned to provide deliverables or to provide on-site representation of Contractor.

#### **5.7.2 Replacement of Personnel**

- A. Contractor must notify DPS before replacing any of the key personnel assigned to work on DPS projects identified in the Contract. Contractor must notify DPS of the proposed assignment, must provide the qualifications of the individual to the appropriate DPS representatives, must provide a transfer of knowledge validation, and must provide any other information about the individual reasonably requested by DPS. DPS reserves the right to object to any proposed replacement that, in DPS's opinion, does not have the requisite skills to perform the work.
- B. DPS reserves the right to require Contractor to replace Contractor's key personnel (employees, agents, and subcontractors). Before DPS issues a written request, DPS representatives and Contractor will discuss the circumstances of the proposed personnel replacement. Upon receipt of a written request from DPS's Contract Administrator, Contractor will proceed with the replacement. The replacement request will include the desired replacement date and the reason for the request. Contractor must use its best efforts to complete the replacement in a manner that does not degrade performance or quality.

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- C. DPS will have the right to approve the assignment and replacement by Contractor of all personnel assigned to perform work at a DPS facility.

### 5.8 WARRANTIES

#### 5.8.1 Third-Party Warranties

If Contractor procures any products for DPS, Contractor must assign or otherwise transfer to DPS any manufacturer's warranty for such materials or products that Contractor receives.

#### 5.8.2 Contractor Warranties

Contractor represents and warrants that it has the requisite qualifications, experience, personnel, and other resources to provide goods or services in the manner required by the Contract.

### 5.9 STOP-WORK ORDER

- A. DPS can, at any time, by written order to Contractor, require Contractor to stop all, or any part, of the work called for by the Contract for a period of up to 90 days after the order is delivered to Contractor, and for any further period to which the parties may agree. Upon receipt of the order, Contractor must, at DPS's expense, immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost allocable to the work covered by the order during the period of work stoppage. Within a period of up to 90 days after a stop-work order is delivered to Contractor, or within any extension of that period to which the parties must have agreed, DPS may either:
  - 1. Cancel the stop-work order; or
  - 2. Terminate the work covered by the order.
- B. If a stop-work order issued under this provision is canceled or the period of the order or any extension thereof expires, Contractor must resume work. DPS will make an equitable adjustment in the delivery completion schedule, the estimated cost, or both, and the Contract will be changed, in writing accordingly, if:
  - 1. The stop-work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of the Contract; and
  - 2. Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that the Contract Administrator decides the facts justify the action, the Contract Administrator may receive and approve the claim submitted at any time before final payment under the Contract.
- C. If a stop-work order is not canceled and the work covered by the order is terminated, the Contract Administrator may allow reasonable cost resulting from the stop-work order in arriving at the termination settlement.



### 5.10 SUBCONTRACTS

- A. Contractor must assume full responsibility for all deliverables and performance under the Contract. If Contractor decides to subcontract any part of the Contracted deliverables, Contractor must include a list of all subcontractors to DPS.
- B. DPS must approve all subcontractors performing services under the Contract and may require Contractor to replace any service subcontractor DPS considers unacceptable.

### 5.11 DPS OWNERSHIP

#### 5.11.1 Rights to Data, Documents, and Computer Software (State Ownership)

- A. Any DPS-owned data, DPS-created data, and DPS-loaned data from other governmental entities, biographic data, demographic data, image data inclusive of fingerprints, photograph and signatures or any other data or metadata in any form acquired or accessed by Contractor in the performance of its obligations under the Contract is the exclusive property of the State of Texas and all such data will be delivered or returned to DPS by Contractor after the Contract ends.
- B. All work product produced by Contractor in performing work pursuant to this Contract and any intellectual property rights will be exclusively owned by DPS. Contractor irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Contractor may accrue under U.S. or foreign copyright or other laws and all other residual rights and benefits which arise under any other applicable law now in force or later enacted.
- C. Contractor may not use, willingly allow, or cause to have such data used for any purpose other than the performance of Contractor's obligations under the Contract without the prior written consent of DPS.
- D. To the extent that Contractor IP or Third-Party IP are embodied or reflected in the Work Product, or are necessary to provide the services, Contractor grants to DPS, or must obtain from the applicable third party for DPS's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for DPS's internal business purposes only, to
  - i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Successful Respondent IP or Third-Party IP and any derivative works thereof embodied in or delivered to DPS in conjunction with the Work Product, and
  - ii) authorize others to do any or all of the foregoing. Contractor agrees to notify DPS on delivery of the Work Product or services if such materials include any Third-Party IP.

On request, Contractor must provide DPS with documentation indicating a third party's

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written approval for Contractor to use any Third-Party IP that may be embodied or reflected in the Work Product.

### **5.12 INDEPENDENT CONTRACTOR**

Contractor (and its employees, representatives, agents, and any subcontractors) is an independent contractor in providing deliverables or otherwise in its performance under the Contract. DPS will not deem Contractor and its employees, representatives, agents, and any subcontractors as DPS employees.

### **5.13 PAYMENTS**

#### **5.13.1 Billing and Payment**

- A. Tex. Gov't Code Chapter 2251 (the Prompt Payment Act) will govern payment, payment disputes, and accrual of interest on any overdue payments.
- B. If DPS, for any reason, including lack of supporting documentation from Contractor, disputes any invoice line items submitted by Contractor, DPS will place a hold on the disputed line items. DPS will notify Contractor of the dispute and request clarification.
- C. If the dispute is resolved in Contractor's favor, DPS will pay the remaining portion of the original invoice in accordance with the Prompt Payment Act. If the dispute is resolved in DPS's favor, Contractor must resubmit to DPS a revised and accurate invoice.

#### **5.13.2 Payment Adjustments**

- A. DPS may elect to deduct from Contractor payment as specified in this section or any amount specified in or any money determined to be due as specified in the Contract.
- B. If DPS determines that the remaining amount of Contractor payment is not adequate to cover money determined due to DPS, then DPS may withhold all remaining Contractor payments and an invoice issued to Contractor for the remaining amount due.
- C. Contractor must pay the invoiced amount within 30 days of receipt unless Contractor and DPS mutually agree on an alternative payment method.

#### **5.13.3 Withholding of Payment**

- A. DPS will have the right to withhold Contractor's payment until the failures described below have been corrected.
  - 1. Failure to submit reports or other documentation required;
  - 2. Failure to comply with background check or security requirements;
  - 3. Failure to respond to audit reports; and
  - 4. Failure to correct identified areas of non-compliance to the satisfaction of DPS

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within ten days upon receipt of written notification.

- B. DPS will not pay interest to Contractor for monies so withheld.

### **5.13.4 Debts and Delinquencies**

Contractor agrees that any payments due under the contract will be applied towards any debt or delinquency that is owed to the State of Texas.

### **5.13.5 Right to Offset**

If DPS determines that Contractor owes money to DPS under any contract or purchase order, DPS, upon providing Contractor with written notice of its intent to offset, will have the right to withhold monies due to Contractor with respect to the Contract or with respect to any other contract or purchase order with DPS and apply such monies to the money due to DPS.

## **5.14 NOTICES**

### **5.14.1 Bankruptcy**

If Contractor becomes the subject of a voluntary or involuntary bankruptcy proceeding, Contractor shall immediately notify the DPS Contract Administrator.

### **5.14.2 Mergers and Conversions**

If Contractor undergoes a merger or conversion pursuant to Chapter 10 of the Tex. Business Organizations Code, Contractor shall provide the DPS Contract Administrator with sufficient documentation to establish the new legal name of Contractor. A novation agreement may be required by DPS.

## **ARTICLE 6, PUBLICITY, MARKETING, AND PUBLIC INFORMATION**

### **6.1 NEWS RELEASES, ADVERTISEMENTS, MARKETING, AND PUBLICITY**

- A. Pertaining to the Contract and Contractor's work performed under it, without express, prior written approval from DPS, Contractor may not (1) make any news releases, public announcements, or public disclosures; (2) market to DPS employees; (3) have conversations with representatives of the news media regarding DPS or this Contract, or (4) make social media posts regarding DPS or this Contract.
- B. Contractor may not use the name of the State of Texas or DPS or any state insignia in any advertisement, promotion or otherwise for any purpose regarding the Contract without the express prior written consent of DPS.
- C. Notwithstanding the foregoing, Contractor may make any disclosure required by law or regulation without the approval of DPS.

### **6.2 PUBLIC INFORMATION ACT**

- A. The Contract and all data and other information generated or otherwise obtained in

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its performance may be subject to the Texas Public Information Act. Notwithstanding any provisions of the Contract to the contrary, Contractor understands that DPS is subject to and will comply with the Texas Public Information Act, Tex. Gov't Code Chapter 552, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. DPS will notify Contractor in writing within a reasonable time from receipt of a request for information related to Contractor's work under the Contract. Contractor must cooperate with DPS in the production of documents responsive to the request. DPS will determine whether to submit a Public Information Act exception request to the Attorney General. Contractor must notify DPS within 24 hours of receipt of any third-party requests for information relating to the Contract. Contractor must maintain the confidentiality of information received from DPS during the performance of the Contract, including information which discloses confidential personal information particularly, social security numbers.

- B. Contractor must make any information subject to disclosure under the Texas Public Information Act available in a format that is accessible by the public at no additional charge to the State of Texas and DPS.

### **ARTICLE 7, FEDERAL, STATE, AND LOCAL LAWS, RULES, AND REGULATIONS**

#### **7.1 DRUG-FREE WORKPLACE**

Contractor must comply with the applicable provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. Sections 8101-8106).

#### **7.2 DISCLOSURE OF INTERESTED PARTIES**

If Tex. Gov't Code § 2252.908 applies to the contract, Respondent will submit to Agency a Certificate of Interested Parties prior to contract execution in accordance with Section 2252.908 of the Texas Government Code.

Vendor must submit the required disclosures to Texas Ethics Commission (TEC) by completing TEC Form 1295, Certificate of Interested Parties, whether or not Vendor has any interested parties to disclose.

TEC Form 1295 is an online form available at TEC's website:

<https://www.ethics.state.tx.us/filinginfo/1295/>.

Upon completion, Vendor must submit the form online to TEC and then print the completed form that includes the Certificate Number automatically assigned by TEC. Vendor's authorized agent must fill out all portions of the form, including the unsworn declaration, sign the printed form, and submit the form to DPS.

For further information, see Tex. Gov't Code § 2252.908 and 1 Tex. Admin. Code Ch. 46 as well as TEC's website.

DPS is prohibited by law from executing a contract with Vendor until Vendor submits any

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required TEC Form 1295, even if Vendor is otherwise eligible for award.

### **7.3 BUY TEXAS**

In accordance with Tex. Gov't Code § 2155.4441, Contractor agrees that during the performance of a contract for services it will purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.

### **7.4 COMPLIANCE WITH LAWS, RULES, AND POLICY**

- A. Contractor must provide state unemployment insurance coverage and standard workers' compensation insurance coverage. Contractor must comply with all federal and state tax laws and withholding requirements. DPS will not be liable to Contractor/subcontractor or its employees for any unemployment insurance or workers' compensation coverage or federal or state tax withholding requirements. Contractor must demonstrate compliance with such laws upon written request of DPS.
- B. For Contractor representatives (employees, subcontractors, etc.) that work at DPS Facilities, Contractor must ensure that at all times its personnel will observe and comply with all laws, regulations, and rules pertaining to state facilities, including, parking and security regulations and non-smoking policies. . Absent prior, written permission from DPS, no visitors or relatives of Contractor's employees and subcontractors are allowed on state property.
- C. Contractor and Contractor's personnel must comply with all relevant DPS policies and requirements that relate to the security of data and confidentiality of information, which requirements may include the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy and Security Addendum, as they now exist and as they may be amended. Contractor certifies that it will comply with the security controls required under this Contract and will maintain records and make them available to DPS as evidence of Respondent's compliance with the required controls.
- D. DPS will have the right to require Contractor to prohibit any Contractor's representative who has failed to comply with such applicable laws, regulations, or rules from working on the Contract.

### **7.5 IMMIGRATION AND E-VERIFY**

Contractor certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of (1) all persons employed to perform duties within Texas during the term of the contract; and (2) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.

### **7.6 FRAUD, WASTE, OR ABUSE**

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- A. In accordance with Tex. Gov't Code Chapter 321, the State Auditor's Office is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt, or use of state funds.
  - B. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at DPS, it can be reported to the State Auditor's Office by calling 1-800-892-8348 or on that agency's website at [www.sao.texas.gov](http://www.sao.texas.gov). It can also be reported to DPS's Office of the Inspector General at (512) 424-2015, DPS Chief Auditor's Office at 512-424-4403, or Crime Stoppers at 1-800-832-8477.
  - C. Contractor represents and warrants that it has read and understood DPS's Anti-Fraud Policy, as such policy reads as stated below and as amended throughout the term of the Contract. Employees or Contractors who suspect fraud is occurring in the workplace should immediately notify their supervisors or the Contract Monitor as applicable.

### 7.7 RIGHT TO AUDIT

- A. Under Tex. Gov't Code § 2262.154, the State Auditor's Office, or successor agency, may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the State directly under the Contract or indirectly through a subcontract under the Contract.
- B. Contractor understands that acceptance of funds by Contractor or any other entity or person directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Contractor or other entity that is the subject of an audit or investigation must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.
- C. Contractor must ensure that this section's provisions concerning the authority to audit funds received either directly or indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract that the Contractor awards.
- D. DPS reserves the right to audit Contractor's records and documents regarding compliance with the Contract. Contractor is also subject to audit by any other department or agency, including federal agencies who provide funding to the Contract
- E. If such an audit reveals any overpayment errors by DPS to Contractor, Contractor must refund DPS the full amount of such overpayments within 30 days of Contractor's receipt of notice of such audit findings. DPS reserves the right, in its

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sole discretion, to deduct such amount owing to DPS from any future payments to Contractor.

### **ARTICLE 8, CERTIFICATIONS**

#### **8.1 REPRESENTATIONS AND CERTIFICATIONS; FALSE STATEMENTS; CONTINUING DUTY TO AMEND, SUPPLEMENT, AND CORRECT**

By signing the Contract, including all incorporated documents and exhibits, Contractor makes all the representations and certifications included in the Contract. If Contractor signs the Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations or certifications included in the Contract, Contractor will be in default under the Contract and DPS may terminate or void the Contract for cause and pursue other remedies available to DPS under the Contract and applicable law.

Contractor has a continuing duty to amend, supplement, or correct any such representations or certifications in writing to DPS not later than ten days after discovering additional information relating to any of its representations or certifications.

#### **8.2 BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN**

If Contractor is a third-party custodian of electronic state records, then as required by 13 Tex. Admin. Code § 6.94(a)(9), Contractor must provide DPS with descriptions of its business continuity and disaster recovery plans regarding how the custodian will protect DPS's vital state records.

#### **8.3 NOTICE UNDER TEX. GOV'T CODE § 2261.252**

If Contract is with a private Vendor and has a value greater than \$25,000, then Contractor certifies that members of the Public Safety Commission or certain positions within the agency including the Executive Director, the General Counsel, the Procurement Director, or their covered family members do not have a financial interest, as defined by Tex. Gov't Code §2261.252(c) in the vendor.

#### **8.4 PROHIBITED USE OF APPROPRIATED OR OTHER FUNDS UNDER CONTROL OF STATE AGENCY; LOBBYING**

Contractor represents and warrants that it will not use funds provided under this Contract:

- A. to finance or otherwise support, the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States;
- B. to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose
- C. employ, as a regular full-time or part-time or contract employee, a person who is required by Tex. Gov't Code Chapter 305 to register as a lobbyist
- D. pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Tex. Gov't Code Chapter 305 to register as a lobbyist.
- E. to influence the passage or defeat of a legislative measure;



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- F. compensate a state employee who was terminated under Tex. Gov't Code §556.007.

### **8.5 NON-DISCRIMINATION**

In the performance of the Contract, Contractor warrants that it will not discriminate against any person, employee, subcontractor, participant, or provider based on race, color, disability or perceived disability, religion, sex, sexual orientation, national origin, creed, political belief, genetic information, or age,

### **8.6 ANTITRUST AFFIRMATION**

Contractor affirms under penalty of perjury of the laws of the State of Texas that: (1) Contractor is duly authorized to execute this contract; (2) in connection with its response, Contractor has not violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (3) In connection with its response, Contractor has not violated any federal antitrust law; and (4) Contractor has not directly or indirectly communicated any of the contents of its response to a competitor or any other Vendor engaged in the same line of business as Contractor.

### **8.7 FELONY CRIMINAL CONVICTIONS**

For Contracts where Contractor is performing services, Contractor represents that Contractor has not and Contractor's employees and subcontractors performing work under the Contract at a DPS facility or have access to DPS confidential information have not been convicted of a felony criminal offense. Alternatively, if such a conviction has occurred, Contractor has fully advised DPS as to the facts and circumstances surrounding the conviction and DPS has given Contractor written approval for Contractor or Contractor's employees or subcontractors to perform work under or related to the Contract.

Contractor must amend, supplement, or correct representations and warranties in this section in writing to DPS not later than five business days after discovering any additional information that would change Contractor's representation or warranty.

### **8.8 DPS BACKGROUND CHECK AND ID CARD REQUIREMENTS**

- A. Contractor must not allow any personnel (employee or subcontractor) with physical or logical access to DPS to work on the Contract who has not submitted to and successfully completed a DPS fingerprint-based Criminal History Background Investigation. DPS has the right to prevent Contractor's personnel from gaining access to DPS's buildings and computer systems if DPS determines that such personnel did not pass the background check or failed to otherwise maintain a security clearance.
- B. Contractor certifies that Contractor and any of its employees or subcontractors will visibly wear any DPS-issued identification cards while working at DPS facilities.

### **8.9 LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS**



## DPS STANDARD TERMS AND CONDITIONS

Department of Public Safety of the State of Texas

OGC Approved 6/11/2025

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Contractor certifies that it understands it will have no authority to act for or on behalf of DPS or the State of Texas except as expressly provided for in the Contract; no other authority, power, or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or DPS.

### **8.10 CHILD SUPPORT OBLIGATION AFFIRMATION**

Under Section 231.006 of the Family Code, the Vendor certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate in addition to other remedies set out in 231.006(f).

### **8.11 EXECUTIVE ORDER NO. GA-48 HARDENING OF STATE GOVERNMENT**

Contractor represents and warrants that it, and if applicable, any of its holding companies or subsidiaries, is not (1) listed in § 889 of the 2019 National Defense Authorization Act (NDAA), or (2) listed in § 1260H of the 2021 NDAA, or (3) owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4, or (4) controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.