

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**Monday, August 05, 2024
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, August 05, 2024 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 829 8364 3476 Passcode:553336 . The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Invocation - Led by Pastor Greg Jenkins with Tomball Assembly of God
- C. Pledges to U.S. and Texas Flags
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- E. Reports and Announcements
 - 1. Announcements

L Upcoming Events:

August 8, 2024 – Mayor’s Kaffeeklatsch 8:30 a.m. – 10 a.m. @
Community Center

August 8, 2024 - Ribbon Cutting Matheson Park Splash Pad 10:30 a.m.

2024 Swim Season (Jerry Matheson Park Pool)

REGULAR SEASON HOURS (Tuesday, May 28 to Sunday, August 11)

Monday – Closed

Tuesday through Friday – 10 a.m. to 6 p.m.

Saturday and Sunday – Noon to 8 p.m.

END OF SEASON HOURS (Weekends only)

August 17 and 18 – Noon to 8 p.m.

August 24 and 25 – Noon to 8 p.m.

August 31 and September 1 – Noon to 8 p.m.

September 2 – 10 a.m. to 6 p.m.

September 2 – 10:00 a.m. to 6:00 p.m.

September 11, 2024 – 9/11 Remembrance 8:30 am – 9:30 am @ Depot

September 14, 2024 – Second Saturday 5 p.m. – 9 p.m. @ the Depot

F. Presentations

1. Presentation of the solid waste transition communication plan.

G. New Business

1. Approve Minutes of July 15, 2024, Special and Regular City Council meetings and the July 22, 2024, Special Joint City Council and TEDC meeting.
2. Discussion and possible action to schedule City Council Orientation and future Council availability.
3. Presentation, discussion, and possible action regarding the Centenarian Program.
4. Appoint City Council Members as Liaisons to City-Appointed Boards, Commissions and Committees

5. Approve Resolution No. 2024-27, A Resolution of the City of Tomball, Texas, Acknowledging Receipt of the 2024 Certified Estimated Taxable Value, the 2024 Certification of Estimated Collection Rate from the Harris County Tax Assessor-Collector, and the 2024 Tax Rate Calculation Worksheet as Calculated by the Harris County Tax Assessor-Collector Based on the Certified Estimated Taxable Value and Related Information; and Containing Related Provisions.
6. Approve a service agreement with Canon Financial Services for lease and support of the citywide copiers through Contract No. DIR-CPO-4437 for a total amount of \$275,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the expenditure. This amount is included in the FY 2023-2024 budget and will be included in annual budget request during the term of the contract.
7. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

 - Sec. 551.071 - Consultation with the City Attorney regarding a Matter that the Attorney's Duty Requires to be Discussed in Closed Session
 - Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-Director of Finance

H. Adjournment

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st day of August 2024 by 6:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia, TRMC, CMC, CPM
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: August 5, 2024

Topic:

Upcoming Events:

- August 8, 2024 – Mayor’s Kaffeeklatsch 8:30 a.m. – 10 a.m. @ Community Center
- 2024 Swim Season (Jerry Matheson Park Pool)**
REGULAR SEASON HOURS (Tuesday, May 28 to Sunday, August 11)
- Monday – Closed
 - Tuesday through Friday – 10 a.m. to 6 p.m.
 - Saturday and Sunday – Noon to 8 p.m.
- END OF SEASON HOURS (Weekends only)**
- August 17 and 18 – Noon to 8 p.m.
 - August 24 and 25 – Noon to 8 p.m.
 - August 31 and September 1 – Noon to 8 p.m.
 - September 2 – 10 a.m. to 6 p.m.
 - September 2 – 10:00 a.m. to 6:00 p.m.
 - September 11, 2024 – 9/11 Remembrance 8:30 am – 9:30 am @ Depot
 - September 14, 2024 – Second Saturday 5 p.m. – 9 p.m. @ the Depot

Background:

Origination: Marketing Department

Recommendation:

Party(ies) responsible for placing this item on agenda: Sasha Luna, Assistant City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____ Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: August 5, 2024

Topic:

Presentation of the solid waste transition communication plan.

Background:

Origination: Marketing

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda:

Chrislord Templonuevo, Director of
Marketing and Tourism

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: No:

If yes, specify Account Number: #100-111-6002

If no, funds will be transferred from account # _____ To account # _____

Signed _____
Staff Member Date

Approved by _____
City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: August 5, 2024

Topic:

Approve Minutes of July 15, 2024, Special and Regular City Council meetings and the July 22, 2024, Special Joint City Council and TEDC meeting.

Background:

Origination: City Secretary Office

Recommendation:

Approve Minutes

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

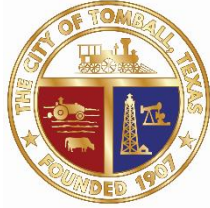
Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____
Staff Member Date

Approved by _____
City Manager Date

**MINUTES OF REGULAR CITY COUNCIL
CITY OF TOMBALL, TEXAS**



**Monday, July 15, 2024
6:00 PM**

A. Mayor Klein Quinn called the meeting of the City Tomball Council to order at 6:05 p.m.

PRESENT

Council 1 John Ford
Council 2 Paul Garcia
Council 3 Dane Dunagin
Council 4 Lisa A. Covington
Council 5 Randy Parr

OTHERS PRESENT

City Manager - David Esquivel
Assistant City Manager - Jessica Rogers
Assistant City Secretary - Sasha Luna
Records Specialist - Fae Morris
Police Chief - Jeff Bert
Police Captain - Brandon Patin
Fire Chief - Joe Sykora
Assistant Fire Chief/Fire Marshal - Jeff Cook
HR Director - Kristi Lewis
Director of Marketing & Tourism - Chrislord Templonuevo
Public Works Director - Drew Huffman
Director of Community Development - Craig Meyers
Project Manager - Meagan Mageo
Budget Analyst - Hannah Brown
IT Director - Tom Wilson
Assistant Public Works Director/City Engineer - Troy Toland
City Manager's Office Intern - Ki Provencher
Police Captain - Shon Davis
Police Sergeant - Courtney White
TEDC Executive Director - Kelly Violette
TEDC Coordinator - Tori Gleason

B. Invocation - Led by Pastor Jason Schleicher with Salem Lutheran Church

- C. Pledges to U.S. and Texas Flags by Police Chief J. Bert
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

No public comments were received.

- E. Presentations

- 1. Proclamation – Tomball State Baseball Team

- F. Reports and Announcements

- 1. Announcements

- I. Upcoming Events:**

- July 23, 2024 – Comprehensive Plan Focus Group Meeting #4 5:30 p.m.
@ City Hall

- August 2, 2024 – 52nd Annual Tomball Night 5 p.m. – 10 p.m. @ Market St.

- August 2, 2024 – 9th Annual Health and Wellness Expo 5 p.m. – 8 p.m. @ Community Center

- August 2, 2024 – 22nd Annual Parade of Lights 9:15 p.m. @ Main St.

- 2024 Swim Season (Jerry Matheson Park Pool)**

- REGULAR SEASON HOURS (Tuesday, May 28 to Sunday, August 11)**

- Monday – Closed

- Tuesday through Friday – 10 a.m. to 6 p.m.

- Saturday and Sunday – Noon to 8 p.m.

- END OF SEASON HOURS (Weekends only)**

- August 17 and 18 – Noon to 8 p.m.

- August 24 and 25 – Noon to 8 p.m.

- August 31 and September 1 – Noon to 8 p.m.

- September 2 – 10 a.m. to 6 p.m.

- 2. Reports by City staff and members of council about items of community interest on which no action will be taken:

G. Old Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Adopt, on Second Reading, Ordinance No. 2024-20, an Ordinance of the City of Tomball, Texas Authorizing and Approving the Calendar Year 2024 Annual Service and Assessment Plan (SAP) Update for Raburn Reserve Public Improvement District Number 10 (PID 10).
2. Adopt, on Second Reading, Ordinance No. 2024-21, an Ordinance of the City of Tomball, Texas Authorizing and Approving the Calendar Year 2024 Annual Service and Assessment Plan (SAP) Update for Seven Oaks Public Improvement District Number 14 (PID 14).
3. Adopt, on Second Reading, Ordinance No. 2024-22, an Ordinance of the City of Tomball, Texas Authorizing and Approving the Calendar Year 2024 Annual Service and Assessment Plan (SAP) Update for Winfrey Estates Public Improvement District Number 14 (PID 12).

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

H. New Business

1. Approve Minutes of the July 1, 2024, Regular City Council meeting.

Motion made by Council 1 Ford, Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

2. Consideration and discussion regarding appointment/reappointment to the P&Z.

The following individuals came before Council expressing their interest to serve on P&Z:

Susan Harris

Scott Moore

Danny Hudson

Colleen Pye

Matt Williams

3. Consideration and discussion regarding appointment/reappointment to the TEDC.

The following individuals came before Council expressing their interest to serve on the TEDC Board:

Brock Hendrickson

Brenda Crenshaw

Danny Hudson

Scott Moore

Latrell Shannon

Sherrie Meicher

4. Authorize the Mayor to extend the Declaration of Disaster pursuant to §418.108(b) of the Texas Government Code, for response and recovery efforts from Hurricane Beryl.

Motion made by Council 1 Parr, Seconded by Council 4 Covington

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

5. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session

Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – Finance Director

Executive Session Started: 7:01 p.m.

Ended Executive Ended: 7:55 p.m.

I. Adjournment

Motion made by Council 3 Dunagin, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

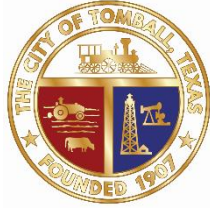
Motion carried unanimously.

PASSED AND APPROVED this 5th day of August 2024.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

**MINUTES OF SPECIAL CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**Monday, July 15, 2024
4:00 PM**

A. Mayor Klein Quinn called the meeting of the City Tomball Council to order at 4:01 p.m.

PRESENT

Council 1 John Ford
Council 2 Paul Garcia
Council 3 Dane Dunagin
Council 4 Lisa A. Covington
Council 5 Randy Parr

OTHERS PRESENT

City Manager - David Esquivel
Assistant City Manager - Jessica Rogers
Assistant City Secretary - Sasha Luna
Records Specialist - Fae Morris
Police Chief - Jeff Bert
Police Captain - Brandon Patin
Fire Chief - Joe Sykora
Assistant Fire Chief/Fire Marshal - Jeff Cook
HR Director - Kristi Lewis
Director of Marketing & Tourism - Chrislord Templonuevo
Public Works Director - Drew Huffman
Director of Community Development - Craig Meyers
Project Manager - Meagan Mageo
Budget Analyst - Hannah Brown
IT Director - Tom Wilson
Assistant Public Works Director/City Engineer - Troy Toland
City Manager's Office Intern - Ki Provencher

B. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

No public comments were received.

C. New Business

1. The Tomball City Council and city staff will enter into a workshop session to discuss the Proposed Fiscal Year 2024-2025 Budget.

Mayor Klein Quinn recessed the meeting at 5:45 p.m.

Mayor Klein Quinn called the meeting back to order at 7:55 p.m.

D. Adjournment

Motion made by Council 1 Ford, Seconded by Council 4 Covington.

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

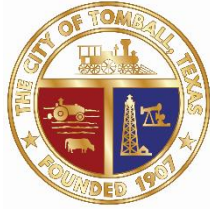
Motion carried unanimously.

PASSED AND APPROVED this 5th day of August 2024.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

**MINUTES OF SPECIAL JOINT CITY COUNCIL AND TOMBALL EDC
MEETING
CITY OF TOMBALL, TEXAS**



**July 22, 2024
4:00 PM**

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to order at 4:02 p.m.

PRESENT:

Council 1 John Ford
Council 2 Paul Garcia
Council 3 Dane Dunagin
Council 4 Lisa A. Covington
Council 5 Randy Parr

CITY STAFF PRESENT:

City Manager - David Esquivel
Assistant City Manager - Jessica Rogers
City Secretary - Tracy Garcia
Assistant City Secretary - Sasha Luna
Records Specialist - Fae Morris
Budget Analyst - Hannah Brown
Fire Chief - Joe Sykora
Assistant Fire Chief/Fire Marshal - Jeff Cook
Police Chief - Jeff Bert
Police Captain-Support Services - Brandon Patin
Police Lieutenant-Investigations - Albert Chambers
Human Resources Director - Kristi Lewis
Director of Marketing & Tourism - Chrislord Templonuevo
IT Director - Tom Wilson
Public Works Director - Drew Huffman
Director of Community Development - Craig Meyers
Project Manager - Meagan Mageo
Intern-City Manager's Office - Ki Provencher

The Economic Development Corporation meeting was called to order by President G. Fagan at 4:02 p.m.

PRESENT:

Member Engleke
Member Degges
Member Hendrickson

TEDC Staff Present:

Director - Kelly Violette
Assistant Director – Tiffani Wooten
Economic Development Coordinator – Tori Gleason
Administrative Assistant – McKayley Dannelley

- B. Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

No comments were received.

- C. New Business

1. The Tomball City Council and the Tomball Economic Development Corporation Board of Directors will enter into a Workshop Session to discuss the Fiscal Year 2024-2025 City of Tomball and Tomball Economic Development Corporation Budget.

- D. Adjournment

President G. Fagan adjourned the Economic Development Corporation meeting at 5:53pm.

Motion made by Council 3 Dunagin, Seconded by Council 2 Garcia

Voting Yea: Council 1 Ford, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr.

Motion carried unanimously.

PASSED AND APPROVED this 5th day of August 2024.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

City Council Meeting Agenda Item Data Sheet

Meeting Date: August 5, 2024

Topic:

Discussion and possible action to schedule City Council Orientation.

Background:

Staff is looking for date recommendations to schedule an in-person City Council Orientation.

Origination: City Administration

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: #all dept. & funds training

If no, funds will be transferred from account # _____ To account # _____

Signed _____ Approved by _____
Staff Member Date City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: August 5, 2024

Topic:

Presentation, discussion, and possible action regarding the Centenarian Program.

Background:

The Centenarian Program, founded by Mayor Klein-Quinn, is a proposed community outreach program aimed to recognize members of the greater area of Tomball that have reached the milestone of 100 years or more.

Origination: Mayor's Office

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: Sasha Luna , Assistant City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: No: If yes, specify Account Number: #100-113-6398

If no, funds will be transferred from account # _____ To account # _____

Signed Sasha Luna 8/1/2024 Approved by _____
Staff Member Date City Manager Date



Tomball Centenarian Program

Overview

The City of Tomball Centenarian Program aims to recognize the wisdom, experience, and resilience of centenarians and to highlight their contributions to society. It provides an opportunity to learn from their life stories, gather insights into longevity, and foster intergenerational connections. The program also serves as a platform to promote healthy aging and to inspire others to live fulfilling lives.



What's in a century?

- Prohibition and the Great Depression
- The United States and its allies defeat the Nazis
- The rise and fall of the USSR
- Humanity first enters space
- The Civil Rights Movement
- 17 Presidents of the United States
- The birth of everybody in this room



How does one become a Centenarian?

- Application requires individual to have attained 100 years of age prior to or on the date of presentation
 - Answer simple questions regarding favorite quotes, veteran status, and the recipient's life
- Provide a time and date for presentation
- A member of council will attend the event and present a certificate and rose



Long-Term Marketing Support

- Flyers will be printed and distributed to nursing homes, city facilities, and businesses with high foot traffic
- Social media posts, our website, and radio
- Will market itself



Why should Tomball adopt this program?

It's a simple way to honor valuable members of our community who are often forgotten.



Questions?





City of Tomball Centenarian Program Guidelines

The City of Tomball Centenarian Program aims to recognize the wisdom, experience, and resilience of centenarians and to highlight their contributions to society. It provides an opportunity to learn from their life stories, gather insights into longevity, and foster intergenerational connections. The program also serves as a platform to promote healthy aging and to inspire others to live fulfilling lives.

Eligibility Criteria:

1. Nominees must be Tomball residents.
2. Nominees must reach the milestone of 100 years or more on or before the date of the event.

Nomination Process:

1. Members of the community, family members, or caregivers may nominate eligible individuals for participation in the Centenarian Program.
2. Nominations must be submitted to the City of Tomball at least 30 days prior to the desired presentation date.

Application and Confirmation:

1. Once the nominee's application has been approved, the city will require the nominee or their representative to confirm the date, time, and location of the scheduled presentation.

Presentation of Certificate:

1. The centenarian will be presented with a framed certificate by a member of the Tomball City Council during the event stated on their Centenarian Recognition Request Form.

Community Engagement:

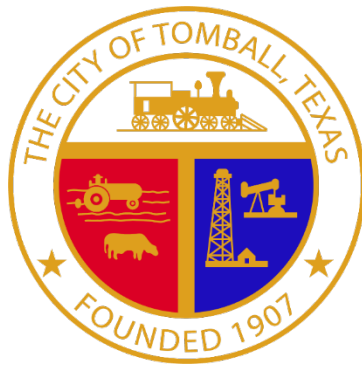
1. City staff will reach out and provide informational flyers for distribution to nursing homes, senior living communities, pharmacies, Tomball Chamber of Commerce, and the Community Center. Marketing will advertise the program through the city's website, social media, and our local radio station.

Long-Term Support:

1. Tomball City Council will support the program by continuing to present the milestone certificate to Tomball centenarian residents.
2. Marketing will continue to promote with advertisement blasts.

Contact Information:

City Secretary Office
401 Market Street
Tomball, TX 77375
281-351-5484
cs0@tomballtx.gov



City of Tomball

CENTENARIAN RECOGNITION REQUEST FORM

Please complete this form to request a **Centenarian Recognition Certificate** for a Tomball Resident soon turning 100, or currently older than 100.

Centenarian name: _____

Centenarian birthdate: _____

Centenarian birthplace: _____

Is a current resident: ____ Yes ____ No

Contact person for this request:

Name: _____ **Phone Number:** _____

Email Address: _____ **Relationship:** _____

Is/was the Centenarian married: ____ Yes ____ No

If yes, name of spouse: _____

Date of wedding anniversary: _____

Does the Centenarian have children: ____ Yes ____ No

If yes, how many: _____

Brief Summary of the Centenarian's life and what makes him/her unique:

What is the secret to longevity of the Centenarian:

What has been the most amazing event in the life of the Centenarian?

What is the Centenarian's favorite quote?

Is the Centenarian a Veteran: ___ Yes ___ No

If yes, branch, year, and location of service: _____

Date of Event for Recognition Certificate: _____

Location of Event: _____

Time of Event: _____

Name of individual completing this form (if information differs from contact person):

Name: _____ Email Address: _____

Signature: _____



City of Tomball Centenarian

The City of Tomball wants to share the exciting news! We are thrilled to announce our intention to celebrate the remarkable individuals in our community who have reached the milestone of 100 years or more.

As a city, we believe it is essential to honor and recognize the incredible lives and contributions of our centenarians. These individuals have witnessed and contributed to the growth and development of our community in profound ways, and it is only fitting that we celebrate their achievements.

If you know someone who has achieved this significant milestone and resides in a Tomball zip code, we kindly request your assistance in identifying these extraordinary individuals so that we can properly honor them, their life and legacy.

Simply fill out the application on our website and submit. Please note that we will need a minimum of 30 days' notice prior to presenting the certificate to ensure that we can properly prepare for the recognition of such an achievement.

Thank you in advance for your assistance in this endeavor. Together, we can make this momentous occasion meaningful and memorable for our centenarians.

If you have any questions or need further information, please do not hesitate to contact our office.

Contact Information:

City Secretary Office
401 Market Street
Tomball, TX 77375
281-351-5484
cs@tomballtx.gov

CERTIFICATE OF RECOGNITION

AWARDED TO

(CENTENARIAN NAME)

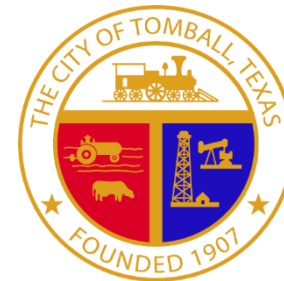
IN HONOR OF BEING RECOGNIZED AS A CENTENARIAN

The City of Tomball and its community celebrate you on a life well lived and recognize the remarkable milestone of reaching 100 years or more. We thank you for your outstanding contributions to our community and for enriching the lives of those around you. Congratulations Centenarian!

AWARDED THIS [Day] OF [Month], 20____.

Lori Klein Quinn

Mayor of the City of Tomball





TOMBALL CENTENARIANS

Do you know someone living within the Tomball city limits who will soon turn 100 years old or older?
We want to honor them!

If you are interested in this special recognition, visit www.tomballtx.gov and type "Centenarian" to complete the application. If you have any questions about the program, please contact the City Secretary's Office at cso@tomballtx.gov or call (281) 351-5484.

City Council Meeting Agenda Item Data Sheet

Meeting Date: August 5, 2024

Topic:

Appoint City Council Members as Liaisons to City-Appointed Boards, Commissions and Committees

Background:

During the July and August discussions by Council regarding changes to the boards and commissions process, Councilmembers reached a consensus regarding appointing individual Councilmembers to attend and serve as liaisons to the various boards to which Council appoints members:

- Board of Adjustments
- Planning and Zoning (Capital Improvement Plan Advisory Committee)
- Tomball Economic Development Corporation
- Tomball Regional Health Foundation
- Tomball Tourism Advisory Committee
- Board of Adjustment

Councilmember Liaisons would attend meetings and report/provide information to Council regarding actions taken by ‘their’ board or items of interest to the Council body.

Origination: Mayor Klein Quinn

Recommendation:

N/A

Party(ies) responsible for placing this item on agenda: Mayor Klein Quinn

Signed _____
Staff Member Date

Approved by _____
City Manager Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: August 5, 2024

Topic:

Approve Resolution No. 2024-27, A Resolution of the City of Tomball, Texas, Acknowledging Receipt of the 2024 Certified Estimated Taxable Value, the 2024 Certification of Estimated Collection Rate from the Harris County Tax Assessor-Collector, and the 2024 Tax Rate Calculation Worksheet as Calculated by the Harris County Tax Assessor-Collector Based on the Certified Estimated Taxable Value and Related Information; and Containing Related Provisions.

Background:

Each year, the City of Tomball must take certain actions to accept certified values and estimates, collection rates, and tax rate calculations in order to levy and assess a property tax (ad valorem tax). Chapter 26 of the Texas Property Tax Code outlines the following property tax related items that must be submitted to the governing body:

- the estimated taxable values;
- the certified collection rate; and
- the Texas Comptroller's tax rate calculation worksheet that includes the applicable tax rate calculations based on the estimate taxable values.

The City of Tomball receives this information from the Harris County Tax Office and prepares it for submittal to the City Council.

Please note, this is not the adoption of the proposed tax rate or formal adoption of the property tax rate for FY 2025.

Origination: Finance Director

Recommendation:

Approve Resolution 2024-27 taking the following actions:

1. Accept the 2024 Certified Estimated Taxable Value
2. Accept the 2024 Certification of Estimated Collection Rate from the Harris County Tax Assessor-Collector
3. Accept the 2024 Tax Rate Calculation Worksheet as calculated by the Harris County Tax Assessor-Collector based on the Certified Estimated Taxable Value
 - No-New-Revenue tax rate is \$0.259036 per \$100 valuation
 - Voter-Approval tax rate is \$0.324730 per \$100 valuation
 - De Minimus tax rate is \$0.318476 per \$100 valuation

Party(ies) responsible for placing this item on agenda:

Jessica Rogers, Assistant City
Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Jessica Rogers 7/31/2024 Approved by _____
Staff Member Date City Manager Date

RESOLUTION NO. 2024-27

A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, ACKNOWLEDGING RECEIPT OF THE 2024 CERTIFIED ESTIMATED TAXABLE VALUE, THE 2024 CERTIFICATION OF ESTIMATED COLLECTION RATE FROM THE HARRIS COUNTY TAX ASSESSOR-COLLECTOR, AND THE 2024 TAX RATE CALCULATION WORKSHEET AS CALCULATED BY THE HARRIS COUNTY TAX ASSESSOR-COLLECTOR BASED ON THE CERTIFIED ESTIMATED TAXABLE VALUE AND RELATED INFORMATION; AND CONTAINING RELATED PROVISIONS.

* * * * *

WHEREAS on August 5, 2024, the City Council of the City of Tomball (the “Taxing Unit”) received the certified estimated taxable value and related information from its assessor and collector of taxes;

WHEREAS the City Council desires to proceed with the steps necessary to levy ad valorem taxes; **NOW THEREFORE;**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

SECTION 1. The matters described in the preamble of this resolution are found and determined to be true and correct and are adopted, ratified and confirmed.

SECTION 2. All actions by the assessor and collector of taxes prior to this date, with respect to such calculations and publications are approved, ratified and confirmed in all respects.

SECTION 3. All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of the conflicts only.

SECTION 4. If any word, phrase, clause, sentence, paragraph, section or other part of this resolution or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this resolution and the application of such word, phrase, clause, sentence, paragraph, section or other part of this resolution to any other persons or circumstances shall not be affected thereby.

SECTION 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this resolution was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

SECTION 6. This resolution shall take effect immediately upon its adoption and signature.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 5TH DAY OF AUGUST 2024.

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary



Harris Central Appraisal District

13013 Northwest Freeway
Houston TX 77040
Telephone: (713) 812-5800

P.O. Box 920975
Houston TX 77292-0975
Information Center: (713) 957-7800



Office of Chief Appraiser

July 25, 2024

Honorable Lori Klein-Quinn
Mayor
City of Tomball
401 Market Street
Tomball, TX 77375-4697

Re: 2024 Sec. 26.01(a-1) Estimate
City of Tomball

Dear Mayor Quinn:

As required by Texas Tax Code Sec. 26.01(a-1), we have prepared an estimate of taxable value for the above taxing jurisdiction for 2024.

While we have taken our best estimate of potential hearing loss into account, 2024 protests are still being received and formal hearings held during the next several months may cause further value reductions. Also, if fewer protests are filed, your value could possibly increase.

Your final taxable value will also be impacted by late-filed exemption applications, late applications for productivity valuation, correction motions under Tax Code Sec. 25.25, immediate residential homestead exemptions granted pursuant to Tax Code Sec. 11.42(f), and possible post-ARB appeals through binding arbitration, appeals to district court, or appeals to the State Office of Administrative Hearings.

Given these limitations, the estimated 2024 taxable value for the taxing unit identified above is:

\$3,668,728,189

The enclosed worksheet also provides additional estimated values that may be useful in your tax rate calculations.

Please do not hesitate to contact your HCAD jurisdiction coordinator or my office if you have questions regarding this estimate or other matters affecting appraisal district operations.

Sincerely,

Roland Altinger
Chief Appraiser

Board of Directors

Martina Lemond Dixon, Chairman
Jim Robinson, Secretary
Jonathan Cowen, Assistant Secretary
Ann Harris Bennett, Director, Tax Assessor-Collector
Mike Sullivan, Director
Cassandra Auzenne Bandy, Director
Grace Rodriguez, Director
Kathy Blueford-Daniels, Director
Kyle Scott, Director
Ericka McCrutcheon, Director

Chief Appraiser

Roland Altinger

Deputy Chief Appraiser

Jason Cunningham

Taxpayer Liaison Officer

Teresa S. Terry



ANN HARRIS BENNETT

Tax Assessor-Collector
www.hctax.net

July 17, 2024

Sueanne Larson
City of Tomball
501 James Street
Tomball, TX 77375

Reference: Truth-In-Taxation

Dear Sueanne Larson:

The following information is provided for City of Tomball's 2024 Truth-In-Taxation calculations, in accordance with the certification requirements of the Texas Property Tax Code (Tax Code) §26.04, on the Comptroller's Tax Rate Calculation Worksheets.

Per Tax Code §§26.04(b), (h), (h-1) and (h-2), if the 2024 anticipated collection rate is lower than the actual collection rates in any of the prior three years, use the lowest actual collection rate from that year. However, if the 2024 anticipated rate is higher than at least one of the rates in the prior three years, use the 2024 anticipated rate. Note that the rate can be greater than 100%. I hereby certify your anticipated collection rate for 2024 is 97.19% based on the following collection rates:

Anticipated Tax Year 2024 = 97.19%
Tax Year 2023 = 97.19%
Tax Year 2022 = 97.52%
Tax Year 2021 = 96.95%

I hereby certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year equals \$0.00. Tax Code §26.012(10) and 26.04(b)

I hereby certify the total amount of refunds issued in the preceding year equals \$252,256.48. Tax Code §26.012(13)

The Chief Appraiser will provide certified estimates on July 25, 2024.

Should you have any questions, or need further assistance, please call Elizabeth Doss at (713) 274-8110.

We look forward to working with you during the Truth-In-Taxation process.

Sincerely,

Ann Harris Bennett
Harris County Tax Assessor-Collector

2024 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

City of Tomball

281-351-5484

Taxing Unit Name

Phone (area code and number)

401 Market Street Tomball, TX 77375

https://tomballtx.gov/

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	Prior year total taxable value. Enter the amount of the prior year taxable value on the prior year tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$ 2,676,376,535
2.	Prior year tax ceilings. Counties, cities and junior college districts. Enter the prior year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision last year or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$ 0
3.	Preliminary prior year adjusted taxable value. Subtract Line 2 from Line 1.	\$ 2,676,376,535
4.	Prior year total adopted tax rate.	\$ 0.293320 /\$100
5.	Prior year taxable value lost because court appeals of ARB decisions reduced the prior year's appraised value. A. Original prior year ARB values: \$ 382,828,125 B. Prior year values resulting from final court decisions: - \$ 335,909,927 C. Prior year value loss. Subtract B from A. ³	\$ 46,918,198
6.	Prior year taxable value subject to an appeal under Chapter 42, as of July 25. A. Prior year ARB certified value: \$ 576,924,159 B. Prior year disputed value: - \$ 177,147,128 C. Prior year undisputed value. Subtract B from A. ⁴	\$ 399,777,031
7.	Prior year Chapter 42 related adjusted values. Add Line 5C and Line 6C.	\$ 446,695,229

¹ Tex. Tax Code §26.012(14)
² Tex. Tax Code §26.012(14)
³ Tex. Tax Code §26.012(13)
⁴ Tex. Tax Code §26.012(13)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
8.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$ 3,123,071,764
9.	Prior year taxable value of property in territory the taxing unit deannexed after Jan. 1, 2024. Enter the prior year value of property in deannexed territory. ⁵	\$ 0
10.	<p>Prior year taxable value lost because property first qualified for an exemption in the current year. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in the current year does not create a new exemption or reduce taxable value.</p> <p>A. Absolute exemptions. Use prior year market value: \$ 4,766,328</p> <p>B. Partial exemptions. Current year exemption amount or current year percentage exemption times prior year value: + \$ 1,660,463</p> <p>C. Value loss. Add A and B.⁶</p>	\$ 6,426,791
11.	<p>Prior year taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in the current year. Use only properties that qualified for the first time in the current year; do not use properties that qualified in the prior year.</p> <p>A. Prior year market value: \$ 1,677,666</p> <p>B. Current year productivity or special appraised value: - \$ 2,843</p> <p>C. Value loss. Subtract B from A.⁷</p>	\$ 1,674,823
12.	Total adjustments for lost value. Add Lines 9, 10C and 11C.	\$ 8,101,614
13.	Prior year captured value of property in a TIF. Enter the total value of the prior year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the prior year taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$ 144,323,530
14.	Prior year total value. Subtract Line 12 and Line 13 from Line 8.	\$ 2,970,646,620
15.	Adjusted prior year total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$ 8,713,500
16.	Taxes refunded for years preceding the prior tax year. Enter the amount of taxes refunded by the taxing unit for tax years preceding the prior tax year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for the prior tax year. This line applies only to tax years preceding the prior tax year. ⁹	\$ 252,256
17.	Adjusted prior year levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$ 8,965,756
18.	<p>Total current year taxable value on the current year certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled.¹¹</p> <p>A. Certified values: \$ 0</p> <p>B. Counties: Include railroad rolling stock values certified by the Comptroller's office: + \$</p> <p>C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: - \$ 0</p> <p>D. Tax increment financing: Deduct the current year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the current year taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below.¹² - \$ 27,095,162</p> <p>E. Total current year value. Add A and B, then subtract C and D.</p>	\$ -27,095,162

⁵ Tex. Tax Code §26.012(15)
⁶ Tex. Tax Code §26.012(15)
⁷ Tex. Tax Code §26.012(15)
⁸ Tex. Tax Code §26.03(c)
⁹ Tex. Tax Code §26.012(13)
¹⁰ Tex. Tax Code §26.012(13)
¹¹ Tex. Tax Code §26.012, 26.04(c-2)
¹² Tex. Tax Code §26.03(c)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
19.	<p>Total value of properties under protest or not included on certified appraisal roll. ¹³</p> <p>A. Current year taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district’s value and the taxpayer’s claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴ \$ <u>1,139,489,867</u></p> <p>B. Current year value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵ + \$ <u>2,529,238,322</u></p> <p>C. Total value under protest or not certified. Add A and B. \$ <u>3,668,728,189</u></p>	
20.	<p>Current year tax ceilings. Counties, cities and junior colleges enter current year total taxable value of homesteads with tax ceilings. These include the home- steads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in the prior year or a previous year for homeowners age 65 or older or disabled, use this step. ¹⁶</p>	\$ <u>0</u>
21.	<p>Current year total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷</p>	\$ <u>3,641,633,027</u>
22.	<p>Total current year taxable value of properties in territory annexed after Jan. 1, of the prior year. Include both real and personal property. Enter the current year value of property in territory annexed. ¹⁸</p>	\$ <u>10,480,078</u>
23.	<p>Total current year taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in the prior year. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, of the prior year and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for the current year. ¹⁹</p>	\$ <u>169,954,601</u>
24.	<p>Total adjustments to the current year taxable value. Add Lines 22 and 23.</p>	\$ <u>180,434,679</u>
25.	<p>Adjusted current year taxable value. Subtract Line 24 from Line 21.</p>	\$ <u>3,461,198,348</u>
26.	<p>Current year NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰</p>	\$ <u>0.259036</u> /\$100
27.	<p>COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the current year county NNR tax rate. ²¹</p>	\$ _____ /\$100

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit’s debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit’s debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	<p>Prior year M&O tax rate. Enter the prior year M&O tax rate.</p>	\$ <u>0.186777</u> /\$100
29.	<p>Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i>.</p>	\$ <u>3,123,071,764</u>

¹³ Tex. Tax Code §26.01(c) and (d)
¹⁴ Tex. Tax Code §26.01(c)
¹⁵ Tex. Tax Code §26.01(d)
¹⁶ Tex. Tax Code §26.012(6)(B)
¹⁷ Tex. Tax Code §26.012(6)
¹⁸ Tex. Tax Code §26.012(17)
¹⁹ Tex. Tax Code §26.012(17)
²⁰ Tex. Tax Code §26.04(c)
²¹ Tex. Tax Code §26.04(d)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
30.	Total prior year M&O levy. Multiply Line 28 by Line 29 and divide by \$100	\$ 5,833,179
31.	<p>Adjusted prior year levy for calculating NNR M&O rate.</p> <p>A. M&O taxes refunded for years preceding the prior tax year. Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2023. This line applies only to tax years preceding the prior tax year..... + \$ 160,629</p> <p>B. Prior year taxes in TIF. Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no current year captured appraised value in Line 18D, enter 0..... - \$ 317,434</p> <p>C. Prior year transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. +/- \$ 0</p> <p>D. Prior year M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function..... \$ -156,805</p> <p>E. Add Line 30 to 31D.</p>	\$ 5,676,374
32.	Adjusted current year taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,461,198,348
33.	Current year NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$ 0.164000 /\$100
34.	<p>Rate adjustment for state criminal justice mandate. ²³</p> <p>A. Current year state criminal justice mandate. Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. \$ 0</p> <p>B. Prior year state criminal justice mandate. Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies..... - \$ 0</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.000000 /\$100</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	\$ 0.000000 /\$100
35.	<p>Rate adjustment for indigent health care expenditures. ²⁴</p> <p>A. Current year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state assistance received for the same purpose. \$ 0</p> <p>B. Prior year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state assistance received for the same purpose..... - \$ 0</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.000000 /\$100</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	\$ 0.000000 /\$100

²² [Reserved for expansion]

²³ Tex. Tax Code §26.044

²⁴ Tex. Tax Code §26.0441

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
36.	<p>Rate adjustment for county indigent defense compensation. ²⁵</p> <p>A. Current year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender’s office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state grants received by the county for the same purpose. \$ 0</p> <p>B. Prior year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender’s office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state grants received by the county for the same purpose. \$ 0</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100</p> <p>D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100</p> <p>E. Enter the lesser of C and D. If not applicable, enter 0.</p>	\$ 0.000000 /\$100
37.	<p>Rate adjustment for county hospital expenditures. ²⁶</p> <p>A. Current year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year. \$ 0</p> <p>B. Prior year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2022 and ending on June 30, 2023. \$ 0</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100</p> <p>D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100</p> <p>E. Enter the lesser of C and D, if applicable. If not applicable, enter 0.</p>	\$ 0.000000 /\$100
38.	<p>Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code Section 26.0444 for more information.</p> <p>A. Amount appropriated for public safety in the prior year. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year \$ 0</p> <p>B. Expenditures for public safety in the prior year. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year. \$ 0</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100 \$ 0.000000 /\$100</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	\$ 0.000000 /\$100
39.	<p>Adjusted current year NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.</p>	\$ 0.164000 /\$100
40.	<p>Adjustment for prior year sales tax specifically to reduce property taxes. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in the prior year should complete this line. These entities will deduct the sales tax gain rate for the current year in Section 3. Other taxing units, enter zero.</p> <p>A. Enter the amount of additional sales tax collected and spent on M&O expenses in the prior year, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent \$ 5,831,599</p> <p>B. Divide Line 40A by Line 32 and multiply by \$100 \$ 0.168484 /\$100</p> <p>C. Add Line 40B to Line 39.</p>	\$ 0.332484 /\$100
41.	<p>Current year voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below.</p> <p>Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08.</p> <p>- or -</p> <p>Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.</p>	\$ 0.344120 /\$100

²⁵ Tex. Tax Code §26.0442
²⁶ Tex. Tax Code §26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
D41.	<p>Disaster Line 41 (D41): Current year voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of</p> <p>1) the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or</p> <p>2) the third tax year after the tax year in which the disaster occurred</p> <p>If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08.²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).</p>	\$ 0.000000 /\$100
42.	<p>Total current year debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that:</p> <p>(1) are paid by property taxes,</p> <p>(2) are secured by property taxes,</p> <p>(3) are scheduled for payment over a period longer than one year, and</p> <p>(4) are not classified in the taxing unit’s budget as M&O expenses.</p> <p>A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2021, verify if it meets the amended definition of debt before including it here.²⁸</p> <p>Enter debt amount \$ 5,750,971</p> <p>B. Subtract unencumbered fund amount used to reduce total debt. - \$ 0</p> <p>C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none) - \$ 0</p> <p>D. Subtract amount paid from other resources - \$ 769,535</p> <p>E. Adjusted debt. Subtract B, C and D from A. \$ 4,981,436</p>	\$ 4,981,436
43.	Certified prior year excess debt collections. Enter the amount certified by the collector. ²⁹	\$ 0
44.	Adjusted current year debt. Subtract Line 43 from Line 42E.	\$ 4,981,436
45.	<p>Current year anticipated collection rate.</p> <p>A. Enter the current year anticipated collection rate certified by the collector.³⁰ 97.19 %</p> <p>B. Enter the prior year actual collection rate..... 97.19 %</p> <p>C. Enter the 2022 actual collection rate. 97.52 %</p> <p>D. Enter the 2021 actual collection rate. 96.95 %</p> <p>E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%.³¹</p>	97.19 %
46.	Current year debt adjusted for collections. Divide Line 44 by Line 45E.	\$ 5,125,461
47.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,641,633,027
48.	Current year debt rate. Divide Line 46 by Line 47 and multiply by \$100.	\$ 0.140746 /\$100
49.	Current year voter-approval tax rate. Add Lines 41 and 48.	\$ 0.484866 /\$100
D49.	<p>Disaster Line 49 (D49): Current year voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.</p>	\$ 0.000000 /\$100

²⁷ Tex. Tax Code §26.042(a)
²⁸ Tex. Tax Code §26.012(7)
²⁹ Tex. Tax Code §26.012(10) and 26.04(b)
³⁰ Tex. Tax Code §26.04(b)
³¹ Tex. Tax Code §§26.04(h), (h-1) and (h-2)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
50.	COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the current year county voter-approval tax rate.	\$ 0.000000 /\$100

SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue. This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	Taxable Sales. For taxing units that adopted the sales tax in November of the prior tax year or May of the current tax year, enter the Comptroller's estimate of taxable sales for the previous four quarters. ³² Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November of the prior year, enter 0.	\$ 0
52.	Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November of the prior tax year or in May of the current tax year. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November of the prior year. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ 5,831,599
53.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,641,633,027
54.	Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$ 0.160136 /\$100
55.	Current year NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.259036 /\$100
56.	Current year NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November the prior tax year or in May of the current tax year. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November of the prior tax year.	\$ 0.259036 /\$100
57.	Current year voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.484866 /\$100
58.	Current year voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$ 0.324730 /\$100

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$ 0
60.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,641,633,027
61.	Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$ 0.000000 /\$100

³² Tex. Tax Code §26.041(d)
³³ Tex. Tax Code §26.041(i)
³⁴ Tex. Tax Code §26.041(d)
³⁵ Tex. Tax Code §26.04(c)
³⁶ Tex. Tax Code §26.04(c)
³⁷ Tex. Tax Code §26.045(d)
³⁸ Tex. Tax Code §26.045(i)

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
62.	Current year voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ 0.324730 /\$100

SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the sum of the prior 3 years Foregone Revenue Amounts divided by the current taxable value.³⁹ The Foregone Revenue Amount for each year is equal to that year’s adopted tax rate subtracted from that year’s voter-approval tax rate adjusted to remove the unused increment rate multiplied by that year’s current total value.⁴⁰ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the portion of the unused increment rate that was used must be backed out of the calculation for that year.

The difference between the adopted tax rate and adjusted voter-approval tax rate is considered zero in the following scenarios:

- a tax year in which a taxing unit affected by a disaster declaration calculates the tax rate under Tax Code Section 26.042;⁴¹
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a);⁴² or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval.⁴³

Individual components can be negative, but the overall rate will be the greater of zero or the calculated rate.

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit.⁴⁴

Line	Unused Increment Rate Worksheet	Amount/Rate
63.	Year 3 Foregone Revenue Amount. Subtract the 2023 unused increment rate and 2023 actual tax rate from the 2023 voter-approval tax rate. Multiply the result by the 2023 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2023 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.293320 /\$100 \$ 0.000000 /\$100 \$ 0.293320 /\$100 \$ 0.293320 /\$100 \$ 0.000000 /\$100 \$ 3,279,512.274 \$ 0
64.	Year 2 Foregone Revenue Amount. Subtract the 2022 unused increment rate and 2022 actual tax rate from the 2022 voter-approval tax rate. Multiply the result by the 2022 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2022 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.287248 /\$100 \$ 0.000000 /\$100 \$ 0.287248 /\$100 \$ 0.287248 /\$100 \$ 0.000000 /\$100 \$ 2,642,352.130 \$ 0
65.	Year 1 Foregone Revenue Amount. Subtract the 2021 unused increment rate and 2021 actual tax rate from the 2021 voter-approval tax rate. Multiply the result by the 2021 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2021 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.331841 /\$100 \$ 0.000000 /\$100 \$ 0.331841 /\$100 \$ 0.333339 /\$100 \$ -0.001498 /\$100 \$ 2,300,936.503 \$ -34,469
66.	Total Foregone Revenue Amount. Add Lines 63G, 64G and 65G	\$ 0 /\$100
67.	2024 Unused Increment Rate. Divide Line 66 by Line 21 of the <i>No-New-Revenue Rate Worksheet</i> . Multiply the result by 100	\$ 0.000000 /\$100
68.	Total 2024 voter-approval tax rate, including the unused increment rate. Add Line 67 to one of the following lines (as applicable): Line 49, Line 50 (counties), Line 58 (taxing units with additional sales tax) or Line 62 (taxing units with pollution)	\$ 0.324730 /\$100

³⁹ Tex. Tax Code §26.013(b)
⁴⁰ Tex. Tax Code §26.013(a)(1-a), (1-b), and (2)
⁴¹ Tex. Tax Code §§26.04(c)(2)(A) and 26.042(a)
⁴² Tex. Tax Code §§26.0501(a) and (c)
⁴³ Tex. Local Gov't Code §120.007(d)
⁴⁴ Tex. Local Gov't Code §120.007(d)

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴ This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

Line	De Minimis Rate Worksheet	Amount/Rate
69.	Adjusted current year NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i> .	0.164000
70.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,641,633,027
71.	Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 70 and multiply by \$100.	\$ 0.013730 /\$100
72.	Current year debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.140746 /\$100
73.	De minimis rate. Add Lines 69, 71 and 72.	\$ 0.318476 /\$100

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁸

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year.⁴⁹

This section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago. This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
74.	2023 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.293320 /\$100
75.	Adjusted 2023 voter-approval tax rate. Use the taxing unit’s Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2023 and the taxing unit calculated its 2023 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2023 worksheet due to a disaster, complete the applicable sections or lines of <i>Form 50-856-a, Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> . - or - If a disaster occurred prior to 2023 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2023, complete form 50-856-a, <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2023 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the years following the disaster. ⁵⁰ Enter the final adjusted 2023 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2023 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year’s worksheet.	\$ 0.000000 /\$100
76.	Increase in 2023 tax rate due to disaster. Subtract Line 75 from Line 74.	\$ 0.000000 /\$100
77.	Adjusted 2023 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 2,970,646,620
78.	Emergency revenue. Multiply Line 76 by Line 77 and divide by \$100.	\$ 0
79.	Adjusted 2023 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 3,461,198,348
80.	Emergency revenue rate. Divide Line 78 by Line 79 and multiply by \$100. ⁵¹	\$ 0.000000 /\$100

⁴⁴ Tex. Tax Code §26.04(c)(2)(B)
⁴⁵ Tex. Tax Code §26.012(8-a)
⁴⁷ Tex. Tax Code §26.063(a)(1)
⁴⁸ Tex. Tax Code §26.042(b)
⁴⁹ Tex. Tax Code §26.042(f)
⁵⁰ Tex. Tax Code §26.42(c)
⁵¹ Tex. Tax Code §26.42(b)

Line	Emergency Revenue Rate Worksheet	Amount/Rate
81.	Current year voter-approval tax rate, adjusted for emergency revenue. Subtract Line 80 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 68 (taxing units with the unused increment rate).	\$ <u>0.324730</u> /\$100

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

- No-new-revenue tax rate.** \$ 0.259036 /\$100
 As applicable, enter the current year NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax).
 Indicate the line number used: 26
- Voter-approval tax rate.** \$ 0.324730 /\$100
 As applicable, enter the current year voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 68 (adjusted for unused increment), or Line 81 (adjusted for emergency revenue).
 Indicate the line number used: 58
- De minimis rate.** \$ 0.318476 /\$100
 If applicable, enter the current year de minimis rate from Line 73.

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit’s certified appraisal roll or certified estimate of taxable value, in accordance with requirements in the Tax Code.⁵²

print here ➔ Harris County Tax Assessor-Collector
 Printed Name of Taxing Unit Representative

sign here ➔ _____ Date _____
 Taxing Unit Representative

⁵² Tex. Tax Code §§26.04(c-2) and (d-2)

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: August 5, 2024

Topic:

Approve a service agreement with Canon Financial Services for lease and support of the citywide copiers through Contract No. DIR-CPO-4437 for a total amount of \$275,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the expenditure. This amount is included in the FY 2023-2024 budget and will be included in annual budget request during the term of the contract.

Background:

Canon Financial Services has been providing lease and support services to the City for many years through a contract that assigns a front-end support team, Marimon DBA Flex Technology, that is dedicated to the City of Tomball to provide required support and service of the copiers in place.

The proposed services agreement will be for a new five-year agreement and includes the lease of the actual copiers, service maintenance fees, and copier supplies, excluding paper. Additionally, the services agreement contains a paper consumption fee that can range per month depending on the quantity of copies and prints processed, this is a standard practice with the services provided.

Based on the City’s adopted Procurement Policy, staff is requesting approval of a service agreement renewal for lease and support of citywide copiers through an existing DIR Contract for a five-year term, expiring August 5, 2029. The table below identifies the annual estimated contract amount that will be included in the Information Technology annual budget.

Annual Contract Amounts				
Contract Year One August 6, 2024 – August 5, 2025	Contract Year Two August 6, 2025 – August 5, 2026	Contract Year Three August 6, 2026 – August 5, 2027	Contract Year Four August 6, 2027 – August 5, 2028	Contract Year Five August 6, 2028 – August 5, 2029
\$55,000	\$55,000	\$55,000	\$55,000	\$55,000

*Contract totals are based off printing estimates and may change based on the total number of copies printed annually.

The proposed service agreement with Canon Financial Services will be for a total not-to-exceed contract amount of \$275,000 over the five-year contract term.

Origination: Information Technology

Recommendation:

Staff recommends approving the services agreement with Canon Financial Services for a total contract amount of \$275,000, for an annual not-to-exceed amount of \$55,000.

Party(ies) responsible for placing this item on agenda: Tom Wilson, Director of IT

FUNDING (IF APPLICABLE)

STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES
CONTRACT FOR PRODUCTS AND RELATED SERVICES

Canon U.S.A., Inc.

1. Introduction

A. Parties

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Canon U.S.A., Inc. (hereinafter "Vendor"), with its principal place of business at 1 Canon Park, Melville, New York 11747.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-419, on December 12, 2018, for Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile Equipment and Related Services; Document Imaging Services/Solutions; Enterprise Content Management Products, Software and Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-419 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Maintenance and Support Agreement; Appendix E, Master Operating Lease Agreement; Appendix F, Master Lease Agreement; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-419, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-419, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. For Lease transactions under this Contract the order of precedence shall be as follows: this Contract; Appendix E, Master Operating Lease Agreement; Appendix F, Master Lease Agreement, as applicable depending on the type of lease; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Maintenance and Support Agreement;

Vendor Contract No. _____

Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-419, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-419, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing lease transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E, then Appendix F, then Exhibit 1, and finally Exhibit 2. In the event of a conflict between the documents listed in this paragraph related to lease transactions, the controlling document shall be this Contract, then Appendix E or Appendix F, depending on the type of lease transaction, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The initial term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor, with one (1) optional two-year renewal and one (1) optional one-year renewal. Prior to expiration of each term, the contract will renew automatically under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile Equipment; Document Imaging Solutions, Enterprise Content Management Products as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services

Services available under this Contract are limited to services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

Vendor Contract No. _____

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three-quarters of one percent (0.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000.00 shall be \$750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Kelly A Parker, CTPM, CTCM
Director, Cooperative Contracts
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-1647
Facsimile: (512) 475-4759
Email: kelly.parker@dir.texas.gov

If sent to the Vendor:

Ed Friel
Canon U.S.A., Inc.
One Canon Park
Melville, NY 11747
Phone: (631) 330-4144
Email: isgbidadmin@cusa.canon.com

7. Software License, Service and Leasing Agreements

A. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such

Vendor Contract No. _____

provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.**

B. Maintenance and Support Agreement

Services provided under this Contract shall be in accordance with the Maintenance and Support Agreement as set forth in Appendix D of this Contract. No changes to the Maintenance and Support Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

C. Master Operating Lease Agreement

DIR and Vendor hereby agree that Vendor is authorized to utilize the Master Operating Lease Agreement in Appendix E of this Contract for Lessees that are Texas State Agencies or otherwise authorized to conduct lease transactions through DIR contracts.

D. Master Lease Agreement

DIR and Vendor hereby agree that Vendor is authorized to utilize the Master Lease Agreement in Appendix F of this Contract for DIR authorized entities as Lessees that are **not** Texas State Agencies or otherwise required by statute to utilize the Texas Public Finance Authority for such leasing transactions. Texas State Agencies that have the requisite capital authority and who are not required to utilize such authority via the Texas Public Finance Authority may or may not be eligible to utilize the Master Lease Agreement; each such agency must confer with its own counsel to make this determination.

E. Conflicting or Additional Terms

In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the

Vendor Contract No. _____

associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory.

Vendor shall not without prior written agreement from Customer's authorized signatory, require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer of Publisher.

8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

A. Section 5. Intellectual Property Matters is hereby replaced in its entirety as follows:

This contract does not contemplate, authorize or support acquisition of custom software products or services. If Vendor and Customer seek to contract for such product or service, they must use a separate contract or seek amendment with DIR of this contract. If DIR and Vendor decide to authorize customized software or hardware products, then the intellectual property language will be negotiated and applied.

B. Section 7. Contract Fulfillment and Promotion, D. Customer Site Preparation is hereby replaced in its entirety as follows:

Customers shall prepare and maintain its site in accordance with written instructions

Vendor Contract No. _____

furnished by Order Fulfiller prior to the scheduled delivery date of any product or service and shall bear the costs associated with the site preparation. To the extent there are any special rigging charges, such charges shall be in accordance with Appendix C, Pricing Index and will be quoted separately.

C. Section 8. Pricing, Purchase Orders, Invoices, and Payments, C. Customer Price, Paragraph 3. is hereby replaced in its entirety as follows:

3) If pricing for products or services available under this Contract is provided by the Vendor at a lower price to: (i) an eligible Customer who is not purchasing those products or services under this Contract or (ii) to any other customer under the same terms and conditions provided for the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted by Vendor or its resellers for a quantity of one (1) under like terms and conditions and does not apply to volume or special pricing purchases. Vendor shall notify DIR within ten (10) days and Appendix C of this Contract shall be amended to reflect the lower price.

D. Section 10. Vendor Responsibilities, A. Indemnification, Paragraph 2. Acts or Omissions is hereby replaced in its entirety as follows:

2) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY 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 the Vendor 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 SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

(Remainder of Page Intentionally Left Blank)

Vendor Contract No. _____

This Contract is executed to be effective as of the date of last signature.

Canon U.S.A., Inc.

Authorized By: Signature on File

Name: Shinichi Yoshida

Title: EVP & GM

Date: 09/17/2019

The State of Texas, acting by and through the Department of Information Resources

Authorized By: Signature on File

Name: Hershel Becker

Title: Chief Procurement Officer

Date: 09/19/2019

Office of General Counsel: M.H. 9/19/2019

**APPENDIX D TO DIR CONTRACT NO. DIR-CPO-4437
MAINTENANCE AND SUPPORT AGREEMENT (per Amendment 1)**

The Terms and Conditions of DIR Contract No. DIR-CPO-4437 (“Contract”) and all appendices and addendums thereto, including this Appendix D, Maintenance and Support Agreement (Agreement) are the only terms and conditions governing Maintenance and Support Services (Services) provided by Canon U.S.A., Inc. (“CUSA”) or any authorized Service Provider, Order Fulfiller, or Reseller (Vendor) in support of DIR Contract No. DIR-CPO-4437.

1. TERM. Maintenance for eligible customers (Customers) under DIR Contract No. DIR-CPO-4437 and this Agreement shall start on the date of installation (the “Start Date”) for newly installed equipment (inclusive of standard embedded Canon brand software) (the “Equipment”) for devices that are supported by Maintenance and Support Services, all of which are toner inclusive. For all other newly installed Equipment without a Maintenance and Support Agreement, the Start Date shall be at the end of the relevant Equipment warranty or 90 days from installation, whichever comes first. The Start Date is stated on the service order form for all previously in-place Equipment. DIR Contract No. DIR-CPO-4437 is for an initial one (1) year term and three (3) one (1) year optional renewal terms which may be exercised by Vendor’s issuance of thirty (30) days advanced written notice and Customer’s concurrence (which may be in the form of Customer Purchase Order) prior to the then-effective expiration date (each a “Renewal Term”).

2. CHARGES. Base maintenance charges shall be billed in advance and per image charges shall be billed in arrears. Payments shall be made in accordance with Appendix A, Section 7.J of DIR Contract No. DIR-CPO-4437. Taxes will be handled in accordance with Appendix A, Section 7.E of DIR Contract No. DIR-CPO-4437. Customer’s maintenance charges will appear on Customer’s periodic lease invoice along with standard lease charges. All lease and rentals include Maintenance Services which include consumable supplies such as, but not limited to photoconductor, drums, toner, staples, ink and developer excluding paper. Termination will be handled in accordance with Appendix A, Section 10.B of DIR Contract No. DIR-CPO-4437. Vendor may terminate this Agreement if Customer uses the consumables in a manner that is not intended by DIR Contract No. DIR-CPO-4437 or this Agreement. In the event Customer’s toner usage exceeds the published manufacturer specifications for conventional office image coverage by more than 10%, as initially determined by Vendor, Vendor may invoice Customer for such excess usage in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-CPO-4437. To the extent that Customer is invoiced for excess usage, Vendor will discuss the options available to the Customer regarding its toner and equipment usage needs. Customer may purchase additional toner from Vendor if required during the term. Customer shall bear all risk of loss, theft or damage to unused and all remaining consumables, which shall remain Vendor’s property and shall be returned promptly upon termination of this Agreement. Unless otherwise indicated on the service order form, Customer authorizes Vendor to use networked features of the Equipment including imageWARE Remote to receive software updates, activate features/new licenses and/or transmit use and service data accumulated by the Equipment over Customer’s network by means of an HTTPS protocol and to store, analyze and use such data for purposes related to servicing the Equipment and product improvement. Customer

**APPENDIX D TO DIR CONTRACT NO. DIR-CPO-4437
MAINTENANCE AND SUPPORT AGREEMENT (per Amendment 1)**

agrees to provide meter readings to Vendor, if applicable, in accordance with the meter read option selected by Vendor's normal procedures. Vendor may request a procedural change of the Customer's meter read options from time to time upon sixty (60) days written notice. If Vendor does not receive timely meter readings from Customer, Customer agrees to pay invoices that reflect Vendor's estimates of meter readings. Vendor reserves the right to verify the accuracy of any meter readings from time to time, and to invoice Customer for any shortfall in the invoice on the next periodic billing cycle invoice.

3. COVERED SERVICE. Vendor shall provide all routine preventive maintenance and emergency service necessary to keep the Equipment in good working order in accordance with this Agreement and Vendor's normal practice. Such service shall be performed during Customer's designated local regular business hours.

Customer shall afford Vendor reasonable access to the Equipment to perform on-site service. Vendor may terminate its maintenance obligations as to any Equipment if Customer relocates Equipment to a site outside of Vendor service territory. If any Equipment cannot be maintained in good working order through Vendor's routine Maintenance Service Schedule, Vendor may upon mutual agreement with Customer substitute comparable Equipment. Parts or Equipment replaced or removed by Vendor in connection with Maintenance Services hereunder shall become the property of Vendor and Customer disclaims any interest therein. Vendor shall make available to Customer from time to time upgrades and bug fixes for the software licensed as part of the Equipment ("Embedded Software") at no cost. Upgrades requested by Customer that exceed Maintenance Service obligations may be provided by Vendor at an additional cost in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-CPO-4437. Customer is required to use Vendor for installation of any upgrades and bug fixes for Equipment in which Customer does not have total ownership. To the extent that Customer owns the equipment, Vendor shall have no responsibility for any performance or other issues that may result from such installation other than those that were installed by Vendor. Embedded Software as used herein does not include third party application software which may be provided in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-CPO-4437 from the by Vendor to Customer. Application software or other product that is not listed in and is not in accordance with Appendix C, Pricing Index of DIR Contract No. DIR-CPO-4437 shall not be installed on any Equipment provided under the Contract.

4. DATA. Customer acknowledges that the hard drive(s) on the Equipment, including attached devices, may retain images, content or other data that Customer may store for purposes of normal operation of the Equipment ("Data"). Customer acknowledges that Vendor is not storing Data on behalf of Customer and that exposure or access to the Data by Vendor, if any, is purely incidental to the services performed by Vendor. Confidentiality shall be handled in accordance with Appendix A, Section 10.H of DIR Contract No. DIR-CPO-4437. Vendor agrees that all Equipment equipped with hard disk drives (e.g. printers, fax machines, scanners, multifunction devices) shall have the capability to securely erase data written to the hard drive prior to final disposition of the Equipment in accordance with Texas Administrative Code, Title 1, Chapter 202 (1 TAC 202). Documentation of completed hard disk drive

**APPENDIX D TO DIR CONTRACT NO. DIR-CPO-4437
MAINTENANCE AND SUPPORT AGREEMENT (per Amendment 1)**

erasure shall be made available to Customer, i.e. certification/validation/report. Neither Dealer nor any of their affiliates has an obligation to erase or overwrite Data upon Customer's return of the Equipment to Dealer or leasing company. Customer is solely responsible for: (i) Customer's compliance with applicable law and legal requirements pertaining to data privacy, storage, security, retention and protection; and (ii) all decisions related to erasing or overwriting Data. Without limiting the foregoing, Customer should, (a) enable the Hard Disk Drive (HDD) data erase functionality that is a standard feature on certain Equipment and/or (b) prior to return or other disposition of the Equipment, utilize the HDD (or comparable) formatting function (which may be referred to as "Initialized All Data/Settings" function) if found on the Equipment to perform a one pass overwrite of Data or, if Customer has higher security requirements. In accordance with Appendix C, Pricing Index of DIR Contract No. DIR-CPO-4437 Customer may purchase from Vendor an HDD Data Encryption Kit option which disguises information before it is written to the hard drive using encryption algorithms, a HDD Data Erase Kit that can perform up to a 3-pass overwrite of Data (for Equipment not containing data erase functionality as a standard feature), or a replacement hard drive (in which case Customer should properly destroy the replaced hard drive). The terms of this Section 4 shall solely govern as to Data, notwithstanding that any provisions of this Agreement or any separate confidentiality or data security or other agreement now or hereafter entered into between Customer and Vendor could be construed to apply to Data to the extent that it does not conflict with Customer data security policy.

5. OBLIGATION OF MAINTENANCE FUNDS. Vendor is not responsible for the monitoring of Customer machine usage to insure that billings do not exceed the dollar amounts indicated on the Equipment orders. As a result, cost estimates provided by the Vendor shall not be binding on Vendor.

6. EXCLUSION OF WARRANTIES AND LIMITATION OF LIABILITY. Warranties shall be handled in accordance with Appendix A, Section 7.C of DIR Contract No. DIR-CPO-4437. Limitation of Liability shall be handled in accordance with Appendix A, Section 10.K of DIR Contract No. DIR-CPO-4437. Vendor shall perform the Services described in this Appendix F in a professional and workman-like manner and in accordance with all applicable laws and regulations.

7. OCÉ ARIZONA EQUIPMENT. If a Customer Purchase Order references Océ Arizona Series Equipment, the following consumable items for the Océ Arizona Series are excluded from the Warranty and/or Maintenance set forth in the Agreement:

- Printheads (unless otherwise set forth on the Purchase Order)
- Table Vacuum Overlays
- UV Lamps & Lamp Filters
- Ink Filters
- Printheads (unless otherwise set forth on the Purchase Order)
- Table Vacuum Overlays
- UV Lamps & Lamp Filters
- Ink Filters

**APPENDIX D TO DIR CONTRACT NO. DIR-CPO-4437
MAINTENANCE AND SUPPORT AGREEMENT (per Amendment 1)**

8. OCÉ COLORADO EQUIPMENT. If a Customer Purchase Order references Océ Colorado Series Equipment. The following consumable items for the Océ Colorado are excluded from the Warranty and/or Maintenance set forth in the Agreement:

Colorado 16xx Knife
Take Up Spindle
Unwind Spindle

Customer hereby acknowledges that Océ Remote Services (also known as ORS) is a service diagnostics tool which is designed to reduce service visits, shorten service resolution times and minimize downtime. Vendor has incorporated several security measures, controls and user interaction aspects in the development of the Océ Remote Service functionality:

- Customer is in control as they determine when and if Vendor is allowed to connect remotely to the target device.
- Océ Remote Service only retrieves printer device information and no information about customer documents. Printer device information is secured with a password prior to transmission to Vendor.
- It is possible for a customer using Océ Remote Service to see a history of the information that has been sent to Vendor.
- Océ Remote Services uses Industry Standard HTTPS connection methods for all communication between the device and Vendor.

Data traffic between Customer and Vendor is mainly outbound, except when a Remote Assistance session is ongoing. In the latter case Customer is always in control and can initiate or turn-off the remote session at Customer's own discretion. ORS will be enabled on the following Equipment:

All Océ Colorado 1640 Printer(s)
Future Océ Colorado Printers

9. OCÉ PROCUT EQUIPMENT. If a Customer Purchase Order references Océ ProCut Equipment. The following modules and tool Inserts for the Océ ProCut are limited to a six (6) month Warranty:

Routing Modules
Universal Modules
Driven Rotary Tool
Oscillating Cutting Tools
Milling Spindles
Creasing Tools
Kiss-Cutting Tool
V-Cut Tool
Univ. Drawing Tool with pen
Universal Cutting Tool

OCÉ PRISMA SOFTWARE. If a Customer Purchase Order references support/maintenance service for Océ PRISMA software, the following terms shall apply:

Software Support; Modifications For this provision, "Software" is defined as Océ PRISMA software.

(a) Vendor will use reasonable efforts to correct reproducible errors in any current, unaltered release of Software caused by a defect or malfunction which prevents Customer from operating the Software in a manner consistent with Vendor's then current published specifications. Vendor, in its sole discretion, shall choose the method to correct or replace the Software. These methods may include, but are not limited to, telephone, remote and on-site support. Support of any Software modified by Customer or any third party not authorized in writing by Vendor, is not covered by this Agreement. If either Customer or a third party modifies the Software and, in Vendor's sole opinion, such modification affects the performance of the Software, to the extent allowable by DIR Contract No. DIR-CPO-4437, Customer shall pay Vendor by mutual agreement, at Vendor's then applicable rates, for all resulting support services.

**APPENDIX D TO DIR CONTRACT NO. DIR-CPO-4437
MAINTENANCE AND SUPPORT AGREEMENT (per Amendment 1)**

(b) Vendor will make Software revisions available at no charge for Software deemed by Vendor as “current” release versions to Customers covered under an active Vendor software maintenance contract. Software revisions shall be defined as enhancements, modifications, updates, and improvements to the Software that Vendor classifies as dot releases, meaning the Software revision code changes only in the fractional portion of the program level (i.e. v1.20 >v1.25> v1.41, etc.) (“Dot Release”). Dot Releases may contain both product improvements and new functionality. The improvements to the core product will be included at no charge. The new functionality portion of Dot Releases is optional and such new functional portions will be offered to Customers at prices in accordance to Appendix C, Pricing Index of the DIR Contract, DIR-CPO-4437. Installation of Dot Releases may, at Vendor’s sole discretion, be chargeable at Vendor’s Technical Services rates in accordance with Appendix C, Pricing Index of the DIR Contract No. DIR-CPO-4437 with minimum charges for service time, In addition, the cost of any server hardware modifications/upgrades required to run the Dot Releases are the Customer’s sole responsibility and shall be in accordance with Appendix C Pricing Index of the DIR Contract, DIR-CPO-4437.

(c) Vendor will make “new” Software releases available to Customers covered under an active Vendor software maintenance contract at upgrade prices in accordance with Appendix C Pricing Index of the DIR Contract, DIR-CPO-4437. New Software releases are defined as those enhancements, modifications, updates, new functionality and improvements that Vendor classifies as a “version release”, meaning the whole number portion of the Software version changes (i.e. v1.xx >v2.xx>v3.xx etc.) (“Version Release”). Installation of Version Releases may, at Vendor’s sole discretion, be chargeable at Vendor’s Technical Services rates in accordance with Appendix C, Pricing Index of the DIR Contract No. DIR-TSO-4437 with minimum charges for service time. In addition, the cost of any server hardware modifications/upgrades required to run the Version Release are the Customer’s sole responsibility and shall be in accordance with Appendix C, Pricing Index of the DIR Contract, DIR-CPO-4437.

(d) Support does not include: (i) administration of servers or database products; (ii) support of Software installed on equipment using “beta” or operating systems not supported by Vendor; (iii) resolution of network errors not directly related to Software; or (iv) installation, setup or support of third party products not supported by Vendor or software not acquired from Vendor. Maintenance does not include updates, upgrades and new releases or versions of third party products sold with or used in conjunction with Vendor Software. Vendor will provide support services for: (a) the latest Software Version Release (e.g.v5) following the date it is made generally available and (b) for the immediately prior Version Release (e.g. v4) during the twelve (12) month period following the date the latest Software Version Release (v5) is generally available. Software support shall terminate if Vendor declares end of life or end of development for such Software, and then only with at least ninety (90) days prior written notice.

(e) It is the responsibility of Customer to make and maintain adequate backups of data and configuration of Software. Vendor shall not be liable for any losses (of data or productivity or of any other kind) resulting from rebuilding or reconfiguring Software to the original, factory configuration. Reloading, rebuilding and reconfiguring of server software may, at Vendor’s sole discretion, be chargeable at Vendor’s then published Technical Services rates in accordance with Appendix C, Pricing Index of the DIR Contract, DIR-CPO-4437 with minimum charges for service time, Purchase and administration of anti-virus software is Customer’s responsibility. Assistance for installing and maintaining anti-virus software is outside the scope of standard support but is available from Vendor as a billable service upon request.

July 12, 2024

The City of Tomball
401 Market Street
Tomball, TX 77375

RE: Purchase/Lease Canon Texas DIR Contract DIR CPO-4437

To Whom it may concern:
Canon Financial Services
14904 Collections Center
Chicago, IL 60693

The City of Tomball would like to purchase/lease the Canon Equipment listed below using the State of Texas DIR Contract DIR-CPO-4437 pricing. Includes buyout for lease # 001-0820822-001. All return shipping and network setup are included under this DIR agreement.

Locations:

1. Marketing
2. Police Department
3. Public Works

Qty	Description
3	Canon imageRUNNER Advance DX C5840i - DIR
3	Cassette Feeding Unit-AQ1
3	Inner Finisher - L1
3	Inner 2/3 Hole Punching Unit – D1
3	GPR-61 TONER Black
3	GPR-61 TONER Cyan
3	GPR-61 TONER Magenta
3	GPR-61 TONER Yellow

Locations:

1. Municipal Court
2. Police Department
3. Fire Department

Qty	Description
3	Canon imageRUNNER Advance DX C3926i - DIR
3	Cassette Feeding Unit-AW1
3	Inner Finisher - L1
3	Inner 2/3 Hole Punching Unit – D1
3	GPR-66 TONER Black
3	GPR-66 TONER Cyan
3	GPR-66 TONER Magenta
3	GPR-66 TONER Yellow

Locations:

- 1. Municipal Court
- 2. Public Works

Qty	Description
3	Canon imagePRESS C265 - DIR
3	Booklet Finisher – AC2
3	2/3 Hole Punching Unit – A1
3	TONER T07 Black
3	TONER T07 Cyan
3	TONER T07 Magenta
3	TONER T07 Yellow

Locations:

- 1. (Xerox Phaser – Desktop Replacement)

Qty	Description
1	Canon imageRUNNER C568iF - DIR
1	Cassette Unit – AJ1
1	120/15amp Power Protection
1	TONER T04 Black
1	TONER T04 Cyan
1	TONER T04 Magenta
1	TONER T04 Yellow

Lease Term 60 Monthly Payments of \$3,885.56

Includes 22,5000 mono copies with overages at \$0.007 per copy.

Includes 25,000 color copies with overages at \$0.0564 per copy.

Customer Acceptance: City of Tomball

Lessor Acceptance:

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date



Contract Acknowledgement in lieu of Purchase Order

I, _____, as an authorized agent of _____ am making
(Purchasing Agent Name) *(Agency Name)*
the attached ***purchase / lease / rental*** as specified in agreement _____ under the
(circle procurement type) *(Purchase Agreement Number)*
terms and conditions of State/Association Contract Number DIR-CPO-4437.
(State/Association Contract Number)

Signature

Title

Date



14701 St. Mary's Ln.
Houston, TX 77079
713-856-2000

Lease Termination / Equipment Removal Form

For all equipment trade-ins, lease returns, and removals.

Sales Rep: Zac Stewart

Date: 7/12/2024

Fincial ID: 37330

Customer		Leasing Company	
City of Tomball 401 Market St Tomball, TX 77375		Lease Company:	CFS
Contact Name: Tom Wilson Phone: (281) 290-1407 E-mail: twilson@tomballtx.gov		Lease Number:	001-0820822-001
Buyout/Upgrade Check Payable To		Lease End Date:	8/31/2024
		Buyout Details	Removal Details
			Removal Date: ASAP
			Lease Copy? <input type="checkbox"/> (check)
			Letter of Intent? <input type="checkbox"/> (check)

Equipment Detail				
Make	Model	Serial	End Meter	Notes
Canon	imageRUNNER ADVANCE C5550i III	2JH06673		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C3525i III	2GH14131		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C3525i III	2GH14721		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C7570i III	2KS03042		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C7570i III	2KS02524		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C5550i III	2JH06662		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C5535i III	2KK04418		pick up for Return to CFS
Canon	imageRUNNER ADVANCE C5535i III	2KK04443		pick up for Return to CFS
0	0	0		
0	0			
		0		

Reason for Removal	Additional Comments
<input type="checkbox"/> 1. Customer Owned Trade In The Customer's signature below attests that the above equipment is owned by the customer and is free and clear of any liens or encumbrances. Upon completion of the associated sale, the title and ownership of this equipment is transferred to [TRANSFER TO COMPANY]. <input type="checkbox"/> 2. Lease Refinance-Buyout to be paid by Dealer to the leasing company <input checked="" type="checkbox"/> 3. Lease Return-Unit to be returned to leasing company (check A, B or C below) <input type="checkbox"/> 4. Lease Return-Unit trade in to Dealer (check A, B or C below) <input checked="" type="checkbox"/> A. Buyout to be paid by Dealer to the leasing company <input type="checkbox"/> B. Buyout to be paid by Dealer to the customer who will pay the leasing company <input type="checkbox"/> C. Buyout to be paid by the customer directly to the leasing company	

In case of option B or C, above, Dealer requires a copy of the Front and Back of the lease document. The Customer is responsible for notifying the Vendor with a "Letter of Intent" to return the equipment per the terms of the original lease and then provides Dealer with the return shipping instructions.

As an accommodation to our customer, Dealer will return the listed equipment to the leasing company. In order to do so, you must provide us with the "return authorization" (R/A) from your current leasing company. It is the customer's responsibility to request an R/A from the leasing company on a timely basis per the terms and conditions of the lease. Upon Dealer's receipt of the return authorization, we will ship the equipment, at our expense, to the location specified.

Customer Acceptance		Dealer Representative		Check Approval	
Authorized Signature	Date	Signature	Date	Signature	Date

Certificate Of Completion

Envelope Id: 22BD6DF8289F430A85C06D98AB1797B3	Status: Delivered
Subject: Complete with DocuSign: DIR Contract Letter -City of Tomball	
Source Envelope:	
Document Pages: 4	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Crystal Valadez
Time Zone: (UTC-07:00) Arizona	Crystal.valadez@flectg.com
	IP Address: 50.246.53.73

Record Tracking

Status: Original	Holder: Crystal Valadez	Location: DocuSign
7/12/2024 12:44:57 PM	Crystal.valadez@flectg.com	

Signer Events

Signature	Timestamp
Jessica Rogers	Sent: 7/12/2024 1:02:33 PM
jrogers@tomballtx.gov	Viewed: 7/12/2024 2:38:58 PM
Security Level: Email, Account Authentication (None)	

Electronic Record and Signature Disclosure:
 Accepted: 7/12/2024 2:38:58 PM
 ID: bab0ae27-6c6d-463e-86f0-3ee7c20feaca

In Person Signer Events

Signature	Timestamp
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Editor Delivery Events

Status	Timestamp
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Agent Delivery Events

Status	Timestamp
--------	-----------

Intermediary Delivery Events

Status	Timestamp
--------	-----------

Certified Delivery Events

Status	Timestamp
--------	-----------

Carbon Copy Events

Status	Timestamp
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Tom Wilson	COPIED	Sent: 7/12/2024 1:02:31 PM
twilson@tomballtx.gov		Viewed: 7/15/2024 5:47:02 AM
Security Level: Email, Account Authentication (None)		

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Zac Stewart	COPIED	Sent: 7/12/2024 1:02:32 PM
zachary.stewart@flectg.com		
Enterprise Print Specialist		
Security Level: Email, Account Authentication (None)		

Electronic Record and Signature Disclosure:
 Accepted: 5/31/2024 8:15:19 AM
 ID: ef2ee40f-cef1-48fc-8568-e85c494fa354

Witness Events

Signature	Timestamp
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Notary Events

Signature	Timestamp
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Envelope Summary Events

Status	Timestamps
Envelope Sent	7/12/2024 1:02:31 PM
Certified Delivered	7/12/2024 2:38:58 PM
Hashed/Encrypted	
Security Checked	

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Flex Technology Group-Sub Account (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Flex Technology Group-Sub Account:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: progers@flegtg.com

To advise Flex Technology Group-Sub Account of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at progers@flegtg.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Flex Technology Group-Sub Account

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to progers@flegtg.com and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Flex Technology Group-Sub Account

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to progers@flectg.com and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Flex Technology Group-Sub Account as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Flex Technology Group-Sub Account during the course of your relationship with Flex Technology Group-Sub Account.



Department of Information Resources

DIR-CPO-4437 Appendix A Standard Contract Terms and Conditions Cooperative Contracts

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The following terms and conditions shall govern the conduct of DIR and Successful Respondent during the term of the Contract.

1 CONTRACT SCOPE

Successful Respondent shall provide the products and/or services specified in the Contract for purchase by Customers. Terms used in this document shall have the meanings set forth below in Section [3 Definitions](#).

2 NO QUANTITY GUARANTEES

The Contract is not exclusive to Successful Respondent. Customers may obtain services from other sources during the term of the Contract. DIR makes no express or implied warranties whatsoever that any particular quantity or dollar amount of products and/or services will be procured through the Contract.

3 DEFINITIONS

3.1 Compliance Check

An audit of Successful Respondent's compliance with the Contract which may be performed by a third-party auditor, DIR Internal Audit department, DIR contract management staff, or their designees.

3.2 Contract

The DIR Contract between DIR and Successful Respondent into which this Appendix A is incorporated.

3.3 CPA

Refers to the Texas Comptroller of Public Accounts.

3.4 Customer

Any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a private school, as defined by Section 5.001, Education Code, a private or independent institution of higher education, as defined by Section 61.003, Education Code, a volunteer fire department, as defined by Section 152.001, Tax Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, a public safety entity, as defined by 47 U.S.C. Section 1401, or a county hospital, public hospital, or hospital district, the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code, and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001:

- A. A non-profit organization that provides educational, health or human services or assistance to homeless individuals;
- B. A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;
- C. Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;

- D. A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency’s clients;
- E. A local workforce development board created under Section 2308.253, Texas Government Code;
- F. A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;
- G. The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation’s successor entity under Section 74.1011, Texas Agriculture Code;
- H. A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and
- I. A nonprofit organization that provides affordable housing.

3.5 **Business day**

Shall mean business days, Monday through Friday, except for State and Federal holidays. If the Contract calls for performance on a day that is not a business day, then performance is intended to occur on the next business day.

3.6 **DIR**

Refers to the Texas Department of Information Resources.

3.7 **Effective Date**

Refers to the effective date of the Contract as set forth therein.

3.8 **Invoice**

Refers to a Customer approved instrument submitted by Successful Respondent for payment of services.

3.9 **Purchase Order**

Refers to Customer’s fiscal form or format, contract with Successful Respondent, or other document used by Customer to authorize the purchase of products or services from Successful Respondent under the Contract, including but not limited to a formal written purchase order, procurement card, electronic purchase order, or another authorized instrument.

3.10 **State**

Refers to the State of Texas.

3.11 **Statement of Work (SOW)**

Means a document entered into between Customer and Successful Respondent describing a specific set of activities and/or deliverables, which may include Work Product and Intellectual Property Rights, that Successful Respondent is to provide Customer, issued pursuant to the Contract.

3.12 **Subcontracting Plan**

Refers to **Appendix B**, Successful Respondent’s Historically Underutilized Business Subcontracting Plan.

3.13 **Successful Respondent**

Refers to the party identified as either “Successful Respondent” or “Vendor” in Section 1.1 of the Contract.

3.14 **Third-Party Provider**

Refers to an agent, affiliate, subcontractor, vendor, reseller, manufacturer, publisher, distributor, order fulfiller or other person or entity designated or directed by Successful Respondent to provide products or services to a Customer in performance of, related to, or in support of a Purchase Order issued under the Contract.

4 **GENERAL PROVISIONS**

4.1 **Entire Agreement**

The Contract, Appendices, and Exhibits constitute the entire agreement between DIR and Successful Respondent. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in the Contract, Appendices, or its Exhibits shall be binding or valid.

4.2 **Modification of Contract Terms and/or Amendments**

- A. The terms and conditions of the Contract shall govern all transactions by Customers under the Contract. The Contract may only be modified or amended upon mutual written agreement of DIR and Successful Respondent.
- B. DIR may amend the Contract upon thirty (30) calendar days written notice to Successful Respondent without the need for Successful Respondent's written consent: i) as necessary to satisfy a regulatory requirement imposed upon DIR by a governing body with the appropriate authority, or ii) as necessary to satisfy a procedural change due to DIR system upgrades or additions.
- C. Customers shall not have the authority to modify the terms of the Contract; however, additional Customer terms and conditions that do not conflict with the Contract and are acceptable to Successful Respondent may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Contract. Pre-printed terms and conditions on any Purchase Order issued by Customer hereunder will have no force and effect. In the event of a conflict between a Customer's Purchase Order and the Contract, the Contract term shall control.
- D. Customer(s) and Successful Respondent will negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Contract.

4.3 **Invalid Term or Condition**

- A. To the extent any term or condition in the Contract conflicts with the applicable Texas and/or United States law or regulation, such Contract term or condition is void and unenforceable. By executing a Contract which contains the conflicting term or condition, DIR makes no representations or warranties regarding the enforceability of such term or condition and DIR does not waive the applicable Texas and/or United States law or regulation which conflicts with the Contract term or condition.
- B. If one (1) or more term or condition in the Contract, or the application of any term or condition to any party or circumstance, is held invalid, unenforceable, or illegal in any respect by a final judgment or order of the State Office of Administrative Hearings or a court of competent

jurisdiction, the remainder of the Contract and the application of the term or condition to other parties or circumstances shall remain valid and in full force and effect.

4.4 Assignment

- A. DIR may assign the Contract without prior written approval to: i) a successor in interest (another state agency as designated by the Texas Legislature), or ii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority.
- B. A Customer may assign a Purchase Order issued under the Contract without prior written approval to: i) a successor in interest (another state agency as designated by the Texas Legislature), or ii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority.
- C. Successful Respondent shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the DIR. Any attempted assignment in violation of this provision is void and without effect.

4.5 Survival

All applicable Statements of Work that were entered into between Successful Respondent and a Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Successful Respondent shall survive expiration or termination of the Contract for the term of the Purchase Order, unless the Customer terminates the Purchase Order sooner. However, regardless of the term of the Purchase Order, no Purchase Order shall survive the expiration or termination of the Contract for more than three (3) years. In all instances of termination or expiration and no later than five (5) days after termination or expiration or upon DIR request, Successful Respondent shall provide a list, in accordance with the format requested by DIR (i.e., Excel, Word, etc.), of all surviving Statements of Work and Purchase Orders to the DIR Contract Manager and shall continue to report sales and pay the DIR Administrative Fees for the duration of all such surviving Statements of Work and Purchase Orders. Rights and obligations under the Contract which by their nature should survive, including, but not limited to the DIR Administrative Fee and any and all payment obligations invoiced prior to the termination or expiration hereof, obligations of confidentiality; and indemnification will remain in effect.

4.6 Choice of Law

The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. In any litigation where any state agency is a party, and subject to the requirements of Chapter 2260, Texas Government Code, the exclusive venue of any such suit arising under the Contract is fixed in the state courts of Travis County, Texas. If litigation does not involve any state agency, then venue is fixed in the state courts of the Texas county where the Customer is primarily situated, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the contracting Agency. Regardless of any provision anywhere in the Contract, no state agency or other Customer in any manner waives any defense or immunity whatsoever.

4.7 Limitation of Authority

Successful Respondent shall have no authority to act for or on behalf of the Texas Department of Information Resources or the State except as expressly provided for in the Contract; no other authority,

power or use is granted or implied. Successful Respondent may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State or DIR.

4.8 Proof of Financial Stability

Either DIR or Customer may require Successful Respondent to provide proof of financial stability prior to or at any time during the Contract term.

4.9 Data Location

Regardless of any other provision of the Contract or its incorporated or referenced documents, all of the data for State of Texas Customers shall remain, and be stored, processed, accessed, viewed, transmitted, and received, always and exclusively within the contiguous United States. A State of Texas Customer can specifically request otherwise; however, Successful Respondent shall notify DIR promptly after such request is made. For all Customers outside the State of Texas' jurisdiction, the question of data location shall be at the discretion of such Customers. **NOTE: CUSTOMERS SHOULD CONSIDER WHETHER THEY REQUIRE CONTIGUOUS US-ONLY DATA LOCATION AND HANDLING AND MAKE SUCCESSFUL RESPONDENT AWARE OF THEIR REQUIREMENTS.**

4.10 Independent Contractor

SUCCESSFUL RESPONDENT AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THE CONTRACT, IT IS FURNISHING SERVICES IN THE CAPACITY OF AN INDEPENDENT CONTRACTOR AND THAT SUCCESSFUL RESPONDENT IS NOT AN EMPLOYEE OF THE CUSTOMER, DIR, OR THE STATE OF TEXAS.

5 INTELLECTUAL PROPERTY MATTERS

5.1 Intellectual Property Matters Definitions

5.1.1 "Work Product"

Means any and all deliverables produced by Successful Respondent for Customer under a Statement of Work issued pursuant to the Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Effective Date, including but not limited to any:

- (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, configurations, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works),
- (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin,
- (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how,
- (iv) domain names,
- (v) any copies, and similar or derivative works to any of the foregoing,

- (vi) all documentation and materials related to any of the foregoing,
- (vii) all other goods, services or deliverables to be provided to Customer under the Contract or a Statement of Work, and
- (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Customer in connection with the Contract or a Statement of Work, or with funds appropriated by or for Customer or Customer's benefit:
 - a. by any Successful Respondent personnel or Customer personnel, or
 - b. any Customer personnel who then became personnel to Successful Respondent or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Successful Respondent or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5.1.2 "Intellectual Property Rights"

Means the worldwide legal rights or interests, including but not limited to all United States and foreign patents, copyrights, trademarks, service marks, trade secrets, moral rights, author's rights, reversionary rights, and any and all other intellectual property or similar rights, evidenced by or embodied in:

- i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how;
- ii) any work of authorship, including any copyrights, moral rights or neighboring rights;
- iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin;
- iv) domain name registrations; and
- v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

5.1.3 "Third Party IP"

Means the Intellectual Property Rights of any third party that is not a party to the Contract or a Purchase Order or Statement of Work issued under the Contract, and that is not directly or indirectly providing any goods or services to Customer under the Contract or a Purchase Order or Statement of Work issued under the Contract.

5.1.4 "Successful Respondent IP"

Shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Successful Respondent:

- i) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of Customer relating to the services or Work Product, or

- ii) after the Effective Date if such tangible or intangible items or things were independently developed by Successful Respondent outside Successful Respondent's provision of services or Work Product for Customer hereunder and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Successful Respondent or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Successful Respondent or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5.2 Ownership

As between Successful Respondent and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Successful Respondent. Successful Respondent specifically agrees that the Work Product shall be considered "works made for hire" and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Successful Respondent hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title, and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Successful Respondent acknowledges that Successful Respondent and Customer do not intend Successful Respondent to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8AM to 5PM) and upon reasonable prior notice to Successful Respondent, to all Successful Respondent materials, premises, and computer files containing the Work Product. Successful Respondent and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Successful Respondent.

5.3 Further Actions

Successful Respondent, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Successful Respondent's signature due to the dissolution of Successful Respondent or Successful Respondent's unreasonable failure to respond to Customer's repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Successful Respondent hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Successful Respondent's agent and Successful Respondent's attorney-in-fact to act for and in Successful Respondent's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Successful Respondent, provided however that no such grant of right to Customer is applicable if Successful Respondent fails to execute any document due to a good faith dispute by Successful Respondent with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Successful Respondent shall

cooperate, at Customer's sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

5.4 Waiver of Moral Rights

Successful Respondent hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Successful Respondent may now have or which may accrue to Successful Respondent's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Successful Respondent acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

5.5 Confidentiality

All documents, information and materials forwarded to Successful Respondent by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, and subject to the license granted by Customer to Successful Respondent under Section [5.8 Successful Respondent License to Use](#). Hereunder, Successful Respondent shall not use, disclose, or permit any person to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.

5.6 Injunctive Relief

The Contract is intended to protect Customer's proprietary rights pertaining to the Work Product, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Successful Respondent acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin any material breach of the intellectual property, use, and confidentiality provisions of the Contract, upon a request by Customer, without requiring proof of irreparable injury as same should be presumed.

5.7 Return of Materials Pertaining to Work Product

Upon the request of Customer, but in any event upon termination or expiration of the Contract, or a Statement of Work, Successful Respondent shall surrender to Customer all documents and things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by Successful Respondent or furnished by Customer to Successful Respondent, including all materials embodying the Work Product, any Customer confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This Section is intended to apply to all Work Product as well as to all documents and things furnished to Successful Respondent by Customer or by anyone else that pertain to the Work Product.

5.8 Successful Respondent License to Use

Customer hereby grants to Successful Respondent a non-transferable, non-exclusive, royalty-free, fully paid-up license to use any Work Product solely as necessary to provide the services to Customer. Except as provided in this Section, neither Successful Respondent nor any Subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.

5.9 Third-Party Underlying and Derivative Works

- A. To the extent that any Successful Respondent IP or Third Party IP are embodied or reflected in the Work Product, or are necessary to provide the services, Successful Respondent hereby grants to the Customer, or shall obtain from the applicable third party for Customer's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for Customer'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 Customer in conjunction with the Work Product, and
 - ii) authorize others to do any or all of the foregoing. Successful Respondent agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party IP.
- B. On request, Successful Respondent shall provide Customer with documentation indicating a third party's written approval for Successful Respondent to use any Third Party IP that may be embodied or reflected in the Work Product.

5.10 Agreement with Third Party Providers

Successful Respondent agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any Third Party Providers, prior to their providing such services or Work Product pursuant to the Contract, and that Successful Respondent shall maintain such written agreements at all times during performance of the Contract, which are sufficient to support all performance and grants of rights by Successful Respondent. Copies of such agreements shall be provided to the Customer promptly upon request.

5.11 License to Customer

Successful Respondent grants to Customer, at no additional charge, a world-wide, non-exclusive, perpetual, irrevocable, royalty free right and license, solely for the Customer's internal business purposes, to use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Successful Respondent IP embodied in or delivered to Customer in conjunction with the Work Product. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carryout Customer's internal business use of the Work Product. Except for the preceding license, all rights in Successful Respondent IP remain in Successful Respondent.

5.12 Successful Respondent Development Rights

To the extent not inconsistent with Customer's rights in the Work Product or as set forth herein, nothing in the Contract shall preclude Successful Respondent from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided hereunder, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Successful Respondent wishes to use the Work Product, or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Successful Respondent and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

6 TERMS AND CONDITIONS APPLICABLE TO STATE AGENCY PURCHASES ONLY

- A. Under Texas Government Code, Chapter 2054, Subchapter M, and DIR implementing rules, DIR state agency and Institution of Higher Education Customers must procure EIR that complies with the Accessibility Standards defined in the Texas Administrative Codes 1 TAC 206, 1 TAC 213, and in the Worldwide Web Consortium WCAG 2.0 AA technical standard as applicable, and when such products or services are available in the commercial marketplace or when such products are developed in response to procurement solicitations. Successful Respondent hereby represents, certifies, and warrants that it and its products and services comply with all relevant accessibility laws and standards.
- i) Upon request, and prior to a DIR Customer purchase, Successful Respondent must provide accurate Accessibility Conformance Reports (ACRs) created using the applicable sections of the Voluntary Product Accessibility Template® (VPAT®) Revised Section 508 Edition (Version 2.3 or higher) or links to ACRs located on manufacturer websites for Commercial Off the Shelf (COTS) products, including Software as a Service (SaaS), for each product or product family (as applicable) included in the submitted pricelist. Instructions on how to complete this document are included in the template itself. ACRs based on earlier versions of the VPAT® template will be accepted if such competed ACRs already exist, and there have been no changes to the product/service since the time of the original document completion.
 - ii) If Successful Respondent claims that a proposed product or family of products is exempt from accessibility requirements, it must specify the product(s) as such in "Notes" located in the product information section of the VPAT v.2.3 or higher, or as an additional note in the product information section of older VPAT versions of the form, specifying each exempt product or product family with a supporting statement(s) for this position.
 - iii) Upon request, and prior to a DIR customer purchase for IT development services, Successful Respondent must provide a completed, current, accurate, Vendor Accessibility Development Services Information Request (VADSIR) form for non-COTS offerings (such as IT related development services, services that include user accessed, online components, etc.) which documents Successful Respondent's capability or ability to produce accessible electronic and information resources.
 - iv) Additionally, Successful Respondent must ensure that EIR Accessibility criteria are integrated into key phases of the project development lifecycle including but not limited to

planning, design, development, functional testing, user acceptance testing, maintenance; and report accessibility status at key project checkpoints as defined by DIR customers.

- v) Upon request, and prior to a Customer purchase for COTS products, or IT development services, Successful Respondent must provide a completed, current, accurate, Policy Driven Adoption for Accessibility (PDAA) for Vendor Self-Assessment.
- vi) Also upon request, Successful Respondent must provide additional documentation that supports the information contained in the aforementioned completed forms. Examples may include but are not limited to: executed accessibility test plans and results, corrective actions plans, description of accessibility test tools, platforms, and methods, and prior work.

B. Purchase of Commodity Items (Applicable to State Agency Purchases Only)

- i) Texas Government Code, §2157.068 requires State agencies to buy commodity items, as defined below, in accordance with contracts developed by DIR, unless the agency obtains an exemption from DIR or a written certification that a commodity is not on DIR contract (for the limited purpose of purchasing from a local government purchasing cooperative).
- ii) Commodity items are commercially available software, hardware and technology services that are generally available to businesses or the public and for which DIR determines that a reasonable demand exists in two or more state agencies. Hardware is the physical technology used to process, manage, store, transmit, receive or deliver information. Software is the commercially available programs that operate hardware and includes all supporting documentation, media on which the software may be contained or stored, related materials, modifications, versions, upgrades, enhancements, updates or replacements. Technology services are the services, functions and activities that facilitate the design, implementation, creation, or use of software or hardware. Technology services include seat management, staffing augmentation, training, maintenance and subscription services. Technology services do not include telecommunications services. Seat management is services through which a state agency transfers its responsibilities to a vendor to manage its personal computing needs, including all necessary hardware, software and technology services.
- iii) Successful Respondent agrees to coordinate all State agency commodity item sales through existing DIR contracts. Institutions of higher education are exempt from this Section.

7 CONTRACT FULFILLMENT AND PROMOTION

7.1 Service, Sales and Support of the Contract

Successful Respondent shall provide service, sales, and support resources to serve all Customers. It is the responsibility of Successful Respondent to sell, market, and promote products and services available under the Contract. Successful Respondent shall use best efforts to ensure that potential Customers are made aware of the existence of the Contract. All contracts for and sales to Customers for products and services available under the Contract shall be in accordance with the Contract.

7.2 Internet Access to Contract and Pricing Information

A. Successful Respondent Webpage

Within thirty (30) calendar days from the Effective Date, Successful Respondent will establish and maintain a webpage specific to the services awarded under the Contract that is clearly distinguishable from other, non-DIR Contract offerings on Successful Respondent's website. Successful Respondent must use a web hosting service that provides a dedicated internet protocol (IP) address. Successful Respondent's website must have a Secure Sockets Layer (SSL) certificate and Customers must access Successful Respondent's website using Hyper Text Transfer Protocol Secure (HTTPS) and it will encrypt all communication between Customer browser and website. The webpage must include:

- i) a list with description of products and/or services awarded;
- ii) Successful Respondent contact information (name, telephone number and email address);
- iii) instructions for obtaining quotes and placing Purchase Orders;
- iv) the DIR Contract number with a hyperlink to the Contract's DIR webpage;
- v) a link to the DIR "Cooperative Contracts" webpage;
- vi) the DIR logo in accordance with the requirements of Section 7.9; and
- vii) any other information that the Contract indicates is required to be included on the webpage.

B. If Successful Respondent does not meet the webpage requirements listed above, DIR may cancel the Contract without penalty.

7.3 Accurate and Timely Contract Information

Successful Respondent warrants and represents that the website information specified in the above paragraph will be accurately and completely posted, maintained, and displayed in an objective and timely manner. Successful Respondent, at its own expense, shall correct any non-conforming or inaccurate information posted at Successful Respondent's website within ten (10) business days after written notification by DIR.

7.4 Webpage Compliance Checks

Periodic Compliance Checks of the information posted for the Contract on Successful Respondent's website will be conducted by DIR. Upon request by DIR, Successful Respondent shall provide verifiable documentation that pricing listed upon this website is compliant with the pricing as stated in the Contract.

7.5 Webpage Changes

Successful Respondent hereby consents to a link from the DIR website to Successful Respondent's website in order to facilitate access to Contract information. The establishment of the link is provided solely for convenience in carrying out the business operations of the State. DIR reserves the right to terminate or remove a link at any time, in its sole discretion, without advance notice, or to deny a future request for a link. DIR will provide Successful Respondent with subsequent notice of link suspension, termination or removal. Successful Respondent shall provide DIR with timely written notice of any change in URL or other information needed to access the site and/or maintain the link.

7.6 Use of Access Data Prohibited

If Successful Respondent stores, collects, or maintains data electronically as a condition of accessing Contract information, such data shall only be used internally by Successful Respondent for the purpose of implementing or marketing the Contract, and shall not be disseminated to third parties or used for other marketing purposes. The Contract constitutes a public document under the laws of the State and Successful Respondent shall not restrict access to Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

7.7 Responsibility for Content

Successful Respondent is solely responsible for administration, content, intellectual property rights, and all materials at Successful Respondent's website. DIR reserves the right to require a change of listed content if, in the opinion of DIR, it does not adequately represent the Contract.

7.8 Services Warranty and Return Policies

Successful Respondent will adhere to Successful Respondent's then-currently published policies concerning product and service warranties and returns. Such policies for Customers will not be more restrictive or more costly than warranty and return policies for other similarly situated customers for like products and services.

7.9 DIR and Customer Logos

Successful Respondent may use a Customer's logo only upon prior written approval of such Customer. Successful Respondent may use the DIR logo in the promotion of the Contract to Customers with the following stipulations:

- A. the logo may not be modified in any way,
- B. when displayed, the size of the DIR logo must be equal to or smaller than Successful Respondent's logo,
- C. the DIR logo is only used to communicate the availability of services under the Contract to Customers, and
- D. any other use of the DIR logo requires prior written permission from DIR.

7.10 Successful Respondent Logo

If DIR receives Successful Respondent's prior written approval, DIR may use Successful Respondent's name and logo in the promotion of the Contract to communicate the availability of services under the Contract to Customers. Use of the logo may be on the DIR website or on printed materials. Any use of Successful Respondent's logo by DIR must comply with and be solely related to the purposes of the Contract and any usage guidelines communicated to DIR from time to time. Nothing contained in the Contract will give DIR any right, title, or interest in or to Successful Respondent's trademarks or the goodwill associated therewith, except for the limited usage rights expressly provided by Successful Respondent.

7.11 Trade Show Participation

At DIR's discretion, Successful Respondent may be required to participate in no more than two (2) DIR sponsored trade shows each calendar year. Successful Respondent understands and agrees that participation, at Successful Respondent's expense, includes providing a manned booth display or similar presence. DIR will provide four (4) months advance notice of any required participation. Successful Respondent must display the DIR logo at all trade shows that potential Customers will attend. DIR

reserves the right to approve or disapprove of the location or the use of the DIR logo in or on Successful Respondent's booth.

7.12 **Orientation Meeting**

Within thirty (30) calendar days from execution of the Contract, Successful Respondent will be required to attend an orientation meeting to discuss the content and procedures of the Contract to include administrative requirements for reporting and administrative fee payments. The meeting will be held in the Austin, Texas area at a date and time mutually acceptable to DIR and Successful Respondent or by teleconference, at DIR's discretion. DIR shall bear no cost for the time and travel of Successful Respondent for attendance at the meeting.

7.13 **Performance Review Meetings**

Successful Respondent shall attend periodic meetings to review Successful Respondent's performance under the Contract at DIR's request. The meetings will be held in the Austin, Texas area at a date and time mutually acceptable to DIR and Successful Respondent or by teleconference, at DIR's discretion. DIR shall bear no cost for the time and travel of Successful Respondent for attendance at the meeting.

7.14 **DIR Cost Avoidance**

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the Contract. Upon request by DIR, Successful Respondent shall provide DIR with a detailed report of a representative sample of products or services sold under the Contract. The report shall contain: product or service description, list price, price to Customer under the Contract, and pricing from three (3) alternative sources under which DIR Customers can procure the products or services.

8 PURCHASE ORDERS, INVOICES, AND PAYMENTS

8.1 **Purchase Orders**

All Customer Purchase Orders will be placed directly with Successful Respondent. Accurate Purchase Orders shall be effective and binding upon Successful Respondent when accepted by Successful Respondent.

8.2 **Invoices**

- A. Invoices shall be submitted by Successful Respondent directly to Customer and shall be issued in compliance with Chapter 2251, Texas Government Code. All payments for services purchased under the Contract and any provision of acceptance of such services shall be made by the Customer to Successful Respondent. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Successful Respondent will agree to acceptable terms.
- B. Invoices must be timely and accurate. Each invoice must match Customer's Purchase Order and include any written changes that may apply, as it relates to services, prices, and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the products and services by the Customer.
- C. The DIR Administrative Fee shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

8.3 Payments

Customers shall comply with Chapter 2251, Texas Government Code, in making payments to Successful Respondent. The statute states that payments for goods and services are due thirty (30) calendar days after the goods are provided, the services completed, or a correct invoice is received, whichever is later. Payment under the Contract shall not foreclose the right to recover wrongful payments. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Successful Respondent will agree to acceptable terms.

8.4 Tax-Exempt

As per Section 151.309, Texas Tax Code, Customers under the Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under the Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j). Customers shall provide evidence of tax-exempt status to Successful Respondent upon request.

8.5 Travel Expense Reimbursement

Pricing for services provided under the Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<https://comptroller.texas.gov/purchasing/programs/travel-management/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under the Contract. The DIR Administrative Fee is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer. Customer reserves the right not to pay travel expenses which are not pre-approved in writing by the Customer.

9 CONTRACT ADMINISTRATION

9.1 Contract Managers

DIR and Successful Respondent will each provide a contract manager (“Contract Manager”) to support the Contract (respectively, the “DIR Contract Manager” and “Successful Respondent Contract Manager”). Information regarding each Contract Manager will be posted on the internet website designated for the Contract. DIR reserves the right to require a change in Successful Respondent Contract Manager if Successful Respondent Contract Manager is not, in the sole opinion of DIR, adequately serving the needs of the State.

9.1.1 DIR Contract Manager

The DIR Contract Manager’s duties include but are not limited to:

- A. monitoring compliance and management of the Contract,
- B. advising DIR of Successful Respondent’s performance under the Contract, and
- C. periodic verification of pricing and monthly reports submitted by Successful Respondent.

9.1.2 Successful Respondent Contract Manager

Successful Respondent Contract Manager’s duties shall include but are not limited to:

- A. supporting the marketing and management of the Contract,
- B. facilitating dispute resolution between Successful Respondent and Customers, and
- C. advising DIR of Successful Respondent's performance under the Contract.

9.2 Reporting and Administrative Fees

9.2.1 Reporting Responsibility

- A. Each month, Successful Respondent shall report all products and services purchased under the Contract. Successful Respondent shall file monthly reports to include monthly sales reports, subcontract reports, and pay the DIR Administrative Fees in accordance with the due dates specified in this Section.
- B. DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this Section, including but not limited to, Compliance Checks of Successful Respondent's applicable Contract books. Successful Respondent will provide all required documentation at no cost.

9.2.2 Detailed Monthly Report

- A. Using the Vendor Sales Report (VSR) portal, Successful Respondent shall provide DIR with a monthly report in the format required by DIR detailing sales activity under the Contract for the previous month period. This included months in which there are no sales. Reports may be submitted between the first (1st) and the fifteenth (15th) of each month and are due no later than the fifteenth (15th) calendar day of the month following the month of the sale. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. Per transaction, the monthly report shall include, at a minimum, the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated DIR Administrative Fee for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to Successful Respondent for correction in accordance with this Section.
- B. Successful Respondent shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in Contract termination.

9.2.3 Historically Underutilized Businesses Subcontract Reports

- A. Successful Respondent shall electronically provide each Customer with their relevant Historically Underutilized Business Subcontracting Report, pursuant to the Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.
- B. Reports shall be due in accordance with the CPA rules.

9.2.4 DIR Administrative Fee

- A. The DIR Administrative Fee shall be paid by Successful Respondent to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. DIR will review monthly sales reports, close the sales period, and notify Successful Respondent of the amount of the DIR Administrative Fee no later than the fourteenth (14th) calendar day of the month following the date of the reported sale. Successful Respondent shall pay the amount of the DIR Administrative Fee by the twenty-fifth (25th) calendar day of the second month following the date of the reported sale. For example, Successful Respondent reports January sales no later than February 15th; DIR closes January sales and notifies Successful Respondent of the amount of the DIR Administrative Fee by March 14th; Successful Respondent submits payment of the DIR Administrative Fee for January sales by March 25th.
- B. DIR may change the amount of the DIR Administrative Fee upon thirty (30) calendar days written notice to Successful Respondent without the need for an amendment to the Contract.
- C. To preserve the DIR Administrative Fee in place at the time of the sale of product or service, the calculation of the DIR Administrative Fee is based on the Purchase Order date for each sale.
- D. Successful Respondent shall reference the Contract number, reporting period, and DIR Administrative Fee amount on any remittance instruments.

9.2.5 Accurate and Timely Submission of Reports

- A. Successful Respondent shall submit reports and DIR Administrative Fee payments accurately and timely in accordance with the due dates specified in this Section. Successful Respondent shall correct any inaccurate reports or DIR Administrative Fee payments within three (3) business days upon written notification by DIR. Successful Respondent shall deliver any late reports or late DIR Administrative Fee payments within three (3) business days upon written notification by DIR. If Successful Respondent is unable to correct inaccurate reports or DIR Administrative Fee payments or deliver late reports and DIR Administrative Fee payments within three (3) business days, Successful Respondent shall contact DIR and provide a corrective plan of action, including the timeline for completion of correction. The corrective plan of action shall be subject to DIR approval.
- B. Should Successful Respondent fail to correct inaccurate reports or cure the delay in timely and accurate delivery of reports and payments within the corrective plan of action timeline, DIR reserves the right at DIR's expense to require an independent third-party audit of Successful Respondent's records as specified in Section [9.3 Records and Audit](#). DIR will select the auditor (and all payments to auditor will require DIR approval).
- C. Failure to timely submit three (3) reports or DIR Administrative Fee payments within any rolling twelve (12) month period may, at DIR's discretion, result in the addition of late fees of \$100/day for each day the report or payment is due (up to \$1000/month) or suspension or termination of Successful Respondent's Contract.

9.3 Records and Audit

- A. Acceptance of funds under the Contract by Successful Respondent acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Successful Respondent further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Successful Respondent shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Successful Respondent and the requirement to cooperate is included in any subcontract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.
- B. Successful Respondent shall maintain adequate records to establish compliance with the Contract until the later of a period of seven (7) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract, whichever is later. Such records shall include per transaction: Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.
- C. Successful Respondent shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, customer records including but not limited to contracts, agreements, purchase orders and statements of work, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the Compliance Checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking, and/or copying such books and records.
- D. Successful Respondent shall provide copies and printouts requested by DIR without charge. DIR shall use best efforts to provide Successful Respondent ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Successful Respondent's records. Successful Respondent's records, whether paper or electronic, shall be made available during regular office hours. Successful Respondent personnel familiar with Successful Respondent's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. Successful Respondent shall provide adequate office space to DIR staff during the performance of Compliance Check. If Successful Respondent is found to be responsible for inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Successful Respondent must pay within thirty (30) calendar days of receipt.

- E. For procuring State Agencies whose payments are processed by the CPA, the volume of payments made to Successful Respondent through the CPA and the administrative fee based thereon shall be presumed correct unless Successful Respondent can demonstrate to DIR's satisfaction that Successful Respondent's calculation of DIR's administrative fee is correct.

9.4 **Contract Administration Notification**

- A. Prior to execution of the Contract, Successful Respondent shall provide DIR with written notification of the following:
 - i) Successful Respondent Contract Manager's name and contact information,
 - ii) Successful Respondent sales representative name and contact information, and
 - iii) name and contact information of Successful Respondent personnel responsible for submitting reports and payment of DIR Administrative Fees.
- B. Upon execution of the Contract, DIR shall provide Successful Respondent with written notification of the DIR Contract Manager's name and contact information.

10 **SUCCESSFUL RESPONDENT RESPONSIBILITIES**

10.1 **Indemnification**

10.1.1 **Indemnities by Successful Respondent**

- A. Successful Respondent shall defend, indemnify, and hold harmless DIR, the State of Texas, and Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, resulting from, or related to:
 - i) any acts or omissions of Successful Respondent, its employees, or Third Party Providers in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
 - ii) any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights (an "Infringement") in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
 - iii) any breach, disclosure, or exposure of data or information of or regarding DIR or any Customer that is provided to or obtained by Successful Respondent in connection with the Contract, including DIR data, Customer data, confidential information of DIR or Customer, any personal identifying information, or any other protected or regulated data by Successful Respondent, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract; and
 - iv) tax liability, unemployment insurance or workers' compensation or expectations of benefits by Successful Respondent, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract.
- B. THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED

DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. FOR NON-STATE AGENCY CUSTOMERS, THE DEFENSE SHALL BE COORDINATED BY CUSTOMER'S LEGAL COUNSEL. SUCCESSFUL RESPONDENT AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER AND TO DIR OF ANY SUCH CLAIM.

10.1.2 Infringements

If Successful Respondent becomes aware of an actual or potential claim of an Infringement, or Customer provides Successful Respondent with notice of an actual or potential claim of an Infringement, Successful Respondent may (or in the case of an injunction against Customer, shall), at Successful Respondent's sole expense: (i) procure for Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

10.2 Property Damage

IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY OF CUSTOMER OR THE STATE DUE TO THE NEGLIGENCE, MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF SUCCESSFUL RESPONDENT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS, SUCCESSFUL RESPONDENT SHALL PAY THE FULL COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF THE PROPERTY, AT THE CUSTOMER'S SOLE ELECTION. SUCH COST SHALL BE DETERMINED BY THE CUSTOMER AND SHALL BE DUE AND PAYABLE BY SUCCESSFUL RESPONDENT NINETY (90) CALENDAR DAYS AFTER THE DATE OF SUCCESSFUL RESPONDENT'S RECEIPT FROM THE CUSTOMER OF A WRITTEN NOTICE OF THE AMOUNT DUE.

10.3 Taxes/Worker's Compensation/Unemployment Insurance

Successful Respondent agrees and acknowledges that during the existence of the Contract, Successful Respondent shall be entirely responsible for the liability and payment of Successful Respondent's and its employees' taxes of whatever kind, arising out of the performances in the Contract. Successful Respondent agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. Successful Respondent agrees and acknowledges that Successful Respondent and its employees, representatives, agents, and subcontractors shall not be entitled to any state benefit or benefit of another governmental entity Customer. Customer, DIR, and/or the State shall not be liable to Successful Respondent, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee or employee of another governmental entity Customer.

10.4 Successful Respondent Certifications

- A. Successful Respondent represents and warrants that, in accordance with Section 2155.005, Texas Government Code, neither Successful Respondent nor the firm, corporation, partnership, or institution represented by Successful Respondent, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Successful Respondent.
- B. Successful Respondent hereby certifies, represents, and warrants, on behalf of Successful Respondent that:
- i) it has not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;
 - ii) it is not currently delinquent in the payment of any franchise tax owed the State and is not ineligible to receive payment under Section 231.006, Texas Family Code, and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate;
 - iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
 - iv) it has not received payment from DIR or any of its employees for participating in the preparation of the Contract;
 - v) under Section 2155.004, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
 - vi) to the best of its knowledge and belief, there are no suits or proceedings pending or threatened against or affecting Successful Respondent, which if determined adversely to Successful Respondent, will have a material adverse effect on the ability to fulfill its obligations under the Contract;
 - vii) Successful Respondent and its principals are not suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration, nor is Successful Respondent subject to any Federal Executive Orders issued banning certain entities or countries.
 - viii) as of the Effective Date, it is not listed in any of the Divestment Statute Lists published on the Texas State Comptroller's website (<https://comptroller.texas.gov/purchasing/publications/divestment.php>);
 - ix) in the performance of the Contract, Successful Respondent shall purchase products and materials produced in the State of Texas when available at the price and time comparable to products and materials produced outside the state, to the extent that such is required under Section 2155.4441, Texas Government Code;

- x) all equipment and materials to be used in fulfilling the requirements of the Contract are of high-quality and consistent with or better than applicable industry standards, if any. All works and services performed pursuant to the Contract shall be of high professional quality and workmanship and according consistent with or better than applicable industry standards, if any;
- xi) to the extent Successful Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Successful Respondent is otherwise owed under the Contract may be applied toward any debt Successful Respondent owes the State of Texas until the debt is paid in full;
- xii) it is in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- xiii) the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certify that Successful Respondent will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, certify Successful Respondent shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;
- xiv) under Section 2155.006 and Section 2261.053, Texas Government Code, it is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
- xv) it has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, Successful Respondent acknowledges the applicability of Section 2155.444 and Section 2155.4441, Texas Government Code, in fulfilling the terms of the Contract;
- xvi) Customer's payment and their receipt of appropriated or other funds under this Agreement are not prohibited by Section 556.005 or Section 556.008, Texas Government Code;
- xvii) in accordance with Section 2271.002, Texas Government Code, by signature hereon, Successful Respondent does not boycott Israel and will not boycott Israel during the term of the Contract;
- xviii) in accordance with Section 2155.0061, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;
- xix) in accordance with Section 2252.152, Texas Government Code, it is not identified on a list prepared and maintained under Section 2270.0201 (previously 806.051) or Section 2252.153, Texas Government Code;
- xx) if Successful Respondent is required to make a verification pursuant to Section 2274.002, Texas Government Code, Successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of the Contract;
- xxi) if Successful Respondent is required to make a verification pursuant to Section 2274.002, Texas Government Code, Successful Respondent verifies that it (A) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (B) will not discriminate during the term of the contract against a firearm entity or firearm trade association;

- xxii) under Section 161.0085, Texas Health and Safety Code, Successful Respondent is not ineligible to receive the Contract;
 - xxiii) if Successful Respondent is required to make a certification pursuant to Section 2274.0101, Texas Government Code, (A) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Respondent is not held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure; (B) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Successful Respondent is not held or controlled by a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure; and (C) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure;
 - xxiv) if the services to be provided under a Purchase Order include cloud computing services, Successful Respondent shall comply with the requirements of the Texas Risk and Authorization Management Program (“TX-RAMP”), as provided by 1 TAC §§ 202.27 and 202.77, and the TX-RAMP Program Manual (“Program Manual”). Successful Respondent shall maintain program compliance and certification throughout the term of such Purchase Order, including providing all quarterly and ongoing documentation required by the Program Manual and any other continuous monitoring documentation or artifacts required by the Customer issuing such Purchase Order. Upon request from DIR or the Customer issuing such Purchase Order, Successful Respondent shall provide all documents and information necessary to demonstrate Successful Respondent’s compliance with TX-RAMP; and
 - xxv) all information provided by Successful Respondent is current, accurate, and complete.
- C. During the term of the Contract, Successful Respondent shall promptly disclose to DIR all changes that occur to the foregoing certifications, representations, and warranties. Successful Respondent covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations, and warranties and any changes thereto.
- D. In addition, Successful Respondent understands and agrees that if Successful Respondent responds to certain Customer pricing requests, then, in order to contract with the Customer, Successful Respondent may be required to comply with additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

10.5 Ability to Conduct Business in Texas

Successful Respondent shall be authorized and validly existing under the laws of its state of organization and shall be authorized to do business in the State of Texas in accordance with Texas Business Organization Code, Title 1, Chapter 9. Upon request by DIR, Successful Respondent shall provide all

documents and other information necessary to establish Successful Respondent's authorization to do business in the State of Texas and the validity of Successful Respondent's existence under the laws of its state of organization.

10.6 Equal Opportunity Compliance

Successful Respondent agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the State of Texas in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, Successful Respondent agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Successful Respondent under the Contract. If Successful Respondent is found to be not in compliance with these requirements during the term of the Contract, Successful Respondent agrees to take appropriate steps to correct these deficiencies. Upon request, Successful Respondent will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

10.7 Use of Subcontractors

If Successful Respondent uses any subcontractors in the performance of the Contract, Successful Respondent must make a good faith effort in the submission of its HUB Subcontracting Plan (HSP) in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised HSP approved by DIR's HUB Office shall be required before Successful Respondent can engage additional subcontractors in the performance of the Contract. A revised HSP approved by DIR's HUB Office shall be required before Successful Respondent can remove subcontractors currently engaged in the performance of the Contract. Successful Respondent shall remain solely responsible for the performance of its obligations under the Contract.

10.8 Responsibility for Actions

- A. Successful Respondent is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Successful Respondent nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.
- B. Successful Respondent, for itself and on behalf of its subcontractors, shall report to the DIR Contract Manager within five (5) business days any change to the information contained in the Certification Statement of **Exhibit A** of the RFO or Section [10.4, Successful Respondent Certifications](#) of this Appendix A to the Contract. Successful Respondent covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose employment of current or former State employees and their relatives and/or the status of conflicts of interest.

10.9 Confidentiality

- A. Successful Respondent acknowledges that DIR and Customers that are governmental bodies as defined by Section 552.003, Texas Government Code, are subject to the Texas Public Information Act. Successful Respondent also acknowledges that DIR and Customers that are state agencies will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Act.

- B. Under the terms of the Contract, DIR may provide Successful Respondent with information related to Customers. Successful Respondent shall not re-sell or otherwise distribute or release Customer information to any party in any manner.

10.10 Security of Premises, Equipment, Data and Personnel

- A. Successful Respondent or Third-Party Providers may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, information, files, and materials belonging to a Customer. Successful Respondent and Third-Party Providers shall preserve the safety, security, and the integrity of such personnel, premises, equipment, and other property, including data, information, files, and materials belonging to Customer, in accordance with the instruction of Customer and to the degree in which Successful Respondent or such Third-Party Provider protects its own information. Successful Respondent shall be responsible for damage to Customer's equipment, workplace, and its contents when such damage is caused by Successful Respondent or a Third-Party Provider. If Successful Respondent or Third-Party Provider fails to comply with Customer's security requirements, then Customer may immediately terminate the Purchase Order and related Service Agreement.
- B. If a Purchase Order is subject to Section 2054.138, Texas Government Code, Successful Respondent shall meet the security controls required by such Purchase Order, and shall periodically provide to the Customer evidence that Successful Respondent meets such required security controls.

10.11 Background and/or Criminal History Investigation

Prior to commencement of any services, background and/or criminal history investigation of Successful Respondent's employees and Third-Party Providers who will be providing services to the Customer under the Contract may be performed by the Customer or the Customer may require that Successful Respondent conduct such background checks. Should any employee or Third-Party Provider of Successful Respondent who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or Third-Party Provider in question.

10.12 Limitation of Liability

- A. For any claim or cause of action arising under or related to the Contract, to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages.
- B. Successful Respondent and a Customer may include in a Purchase Order a term limiting Successful Respondent's liability for damages in any claim or cause of action arising under or related to such Purchase Order; provided that any such term may not limit Successful Respondent's liability below two-times the total value of the Purchase Order. Such value includes all amounts paid and amounts to be paid over the life of the Purchase Order to Successful Respondent by such Customer as described in the Purchase Order.
- C. Notwithstanding the foregoing or anything to the contrary herein, any limitation of Successful Respondent's liability contained herein or in a Purchase Order shall not apply to: claims of bodily

injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under the Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

10.13 **Overcharges**

Successful Respondent hereby assigns to DIR any and all of its claims for overcharges associated with the Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

10.14 **Prohibited Conduct**

Successful Respondent represents and warrants that, to the best of its knowledge as of the date of this certification, neither Successful Respondent nor any subcontractor, firm, corporation, partnership, or institution represented by Successful Respondent, nor anyone acting for Successful Respondent or such subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated its response to the RFO directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

10.15 **Required Insurance Coverage**

- A. As a condition of the Contract, Successful Respondent shall provide the listed insurance coverage within five (5) business days of execution of the Contract if Successful Respondent is awarded services which require that Successful Respondent's employees perform work at any Customer premises or use vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, Successful Respondent shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to such Customer within five (5) business days following the execution of the Purchase Order. Successful Respondent may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. If Successful Respondent's services under the Contract will not require Successful Respondent to perform work on Customer premises, or to use vehicles (whether owned or otherwise) to conduct work on behalf of Customers, Successful Respondent may certify to the foregoing facts, and agree to provide notice and the required insurance if the foregoing facts change. The certification and agreement must be provided by executing the Certification of Off-Premise Customer Services in the form provided by DIR, which shall serve to meet the insurance requirements.
- B. All required insurance must be issued by companies that have an A rating and a minimum Financial Size Category Class of VII from AM Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as additional insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Successful Respondent thereunder. The minimum acceptable insurance provisions are as follows:

10.15.1 Commercial General Liability

Commercial General Liability must include \$1,000,000.00 per occurrence for Bodily Injury and Property Damage with a separate aggregate limit of \$2,000,000.00; Medical Expenses per person of \$5,000.00; Personal Injury and Advertising Liability of \$1,000,000.00; Products/Completed Operations aggregate Limit of \$2,000,000.00 and Damage to Premises Rented: \$50,000.00. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- A. Blanket contractual liability coverage for liability assumed under the Contract;
- B. Independent Contractor coverage;
- C. State of Texas, DIR, and Customer listed as an additional insured; and
- D. Waiver of Subrogation.

10.15.2 Workers' Compensation Insurance

Workers' Compensation Insurance and Employers' Liability coverage must include limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Title 5, Subtitle A, Texas Labor Code) and minimum policy limits for Employers' Liability of \$1,000,000 per accident, \$1,000,000 disease PER EMPLOYEE and \$1,000,000 per disease POLICY LIMIT.

10.15.3 Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned, and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- A. Waiver of subrogation;
- B. Additional insured.

10.16 Use of State Property

Successful Respondent is prohibited from using a Customer's equipment, location, or any other resources of a Customer, DIR, or the State of Texas for any purpose other than performing services under this Agreement. For this purpose, equipment includes, but is not limited to, copy machines, computers and telephones using State of Texas long distance services. Any charges incurred by Successful Respondent using a Customer's equipment for any purpose other than performing services under this Agreement must be fully reimbursed by Successful Respondent to such Customer immediately upon demand by such Customer. Such use shall constitute breach of contract and may result in termination of the Contract, the Purchase Order, and other remedies available to DIR and Customer under the Contract and applicable law.

10.17 Immigration

- A. Successful Respondent shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under the Contract.
- B. Pursuant to Chapter 673, Texas Government Code, Successful Respondent shall, as a condition of the Contract, also comply with the United States Department of Homeland Security's E-Verify system to determine the eligibility of:

- i) all persons 1) to whom the E-Verify system applies, and 2) who are hired by Successful Respondent during the term of the Contract to perform duties within Texas; and
 - ii) all subcontractors' employees 1) to whom the E-Verify system applies, and 2) who are hired by the subcontractor during the term of the Contract and assigned by the subcontractor to perform work pursuant to the Contract.
- C. Successful Respondent shall require its subcontractors to comply with the requirements of this Section and Successful Respondent is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Successful Respondent and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

10.18 Public Disclosure

No public disclosures or news releases pertaining to the Contract shall be made by Successful Respondent without prior written approval of DIR.

10.19 Product and/or Services Substitutions

Substitutions are not permitted without the prior written consent of DIR or Customer.

10.20 Secure Erasure of Hard Disk Managed Services Products and/or Services

Successful Respondent agrees that all managed service products and/or services equipped with hard disk drives (e.g., computers, telephones, printers, fax machines, scanners, multifunction devices) shall have the capability to securely erase, destroy, or render unreadable data written to the hard drive prior to final disposition of such managed service products and/or services, either at the end of the managed service product and/or services' useful life or at the end of the Customer's managed service product and/or services' useful life or the end of the related Purchase Order for such products and/or services, in accordance with 1 TAC 202 or NIST 800-88.

10.21 Deceptive Trade Practices; Unfair Business Practices

- A. Successful Respondent represents and warrants that neither Successful Respondent nor any of its subcontractors has been (i) found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, or (ii) has outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.
- B. Successful Respondent certifies that it has no officers who have served as officers of other entities who (i) have been found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations or (ii) have outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

10.22 Drug Free Workplace Policy

Successful Respondent shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (Financial Assistance), issued by the Office of Management and Budget (2 C.F.R. Part 280, Subpart F182) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

10.23 Public Information

- A. Pursuant to Section 2252.907, Texas Government Code, Successful Respondent is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
- B. Each State government entity should supplement the provision set forth in Section A, above, with the additional terms agreed upon by the parties regarding the specific format by which Successful Respondent is required to make the information accessible by the public.
- C. Successful Respondent represents and warrants that it will comply with the requirements of Section 552.372(a), Texas Government Code, where applicable. Except as provided by Section 552.374(c), Texas Government Code, the requirements of Subsection J, Chapter 552, Texas Government Code, may apply to the Contract or certain Purchase Orders, and Successful Respondent agrees that the Contract or such Purchase Orders can be terminated if Successful Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

10.24 Successful Respondent Reporting Requirements

Successful Respondent shall comply with Subtitle C, Title 5, Business & Commerce Code, Chapter 109, requiring computer technicians to report images of child pornography.

10.25 Cybersecurity Training

In accordance with Section 2054.5192, Texas Government Code, for any contract with a state agency or institution of higher education, if Successful Respondent, or a subcontractor, officer, or employee of Successful Respondent, will have access to a state computer system or database, then Successful Respondent shall ensure that such officer, employee, or subcontractor shall complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, as selected by Customer state agency or institution of higher education. The cybersecurity training program must be completed by such officer, employee, or subcontractor during the term of the Contract and during any renewal period. Successful Respondent shall verify to the Customer state agency or institution of higher education completion of the program by each such officer, employee, or subcontractor.

11 CONTRACT ENFORCEMENT

11.1 Enforcement of Contract and Dispute Resolution

- A. Successful Respondent and DIR agree to the following: (i) a party's failure to require strict performance of any provision of the Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision, (ii) for disputes not resolved in the normal course of business, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, (iii) except as provided in Sec. 2251.051 Texas Government Code, Successful Respondent shall continue performance while the dispute is being resolved, and (iv) actions or proceedings arising from the Contract shall be heard in a state court of competent jurisdiction in Travis County, Texas.
- B. Disputes arising between a Customer and Successful Respondent shall be resolved in accordance with the dispute resolution process of the Customer that is not inconsistent with the above. DIR shall not be a party to any such dispute unless DIR, Customer, and Successful Respondent agree in writing.

- C. State agencies are required by rule (34 TAC §20.108(b)) to report vendor performance through the Vendor Performance Tracking System (VPTS) on every purchase over \$25,000.00.

11.2 Termination

11.2.1 Termination for Non-Appropriation

11.2.1.1 Termination for Non-Appropriation by Customer

Customers may terminate Purchase Orders if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the governing body on behalf of local governments; ii) by the Texas legislature on behalf of state agencies; or iii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Successful Respondent will be provided ten (10) calendar days written notice of intent to terminate. In the event of such termination, Customer will not be in default or breach under the Purchase Order or the Contract, nor shall it be liable for any further payments ordinarily due under the Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

11.2.1.2 Termination for Non-Appropriation by DIR

DIR may terminate the Contract if funds sufficient to pay its obligations under the Contract are not appropriated: by the i) Texas legislature or ii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Successful Respondent will be provided thirty (30) calendar days written notice of intent to terminate. In the event of such termination, DIR will not be in default or breach under the Contract, nor shall it be liable for any further payments ordinarily due under the Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

11.2.2 Absolute Right

DIR shall have the absolute right to terminate the Contract without recourse in the event that: i) Successful Respondent becomes listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control; ii) Successful Respondent becomes suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration; or (iii) Successful Respondent is found by DIR to be ineligible to hold the Contract under Subsection (b) of Section 2155.006, Texas Government Code. Successful Respondent shall be provided written notice in accordance with Section 14.1, Notices, of intent to terminate.

11.2.3 Termination for Convenience

DIR may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days' written notice. A Customer may terminate a Purchase Order by giving the other party thirty (30) calendar days' written notice.

11.2.4 Termination for Cause

11.2.4.1 Contract

Either DIR or Successful Respondent may issue a written notice of default to the other upon the occurrence of a material breach of any covenant, certification, representation, warranty, or provision of the Contract, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Contract. Customers purchasing products or services under the Contract have no power to terminate the Contract for default.

11.2.4.2 Purchase Order

Customer or Successful Respondent may terminate a Purchase Order or other contractual document or relationship upon the occurrence of a material breach of any term or condition: (i) of the Contract, or (ii) included in the Purchase Order or other contractual document or relationship, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code, in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Purchase Order. Customer may immediately suspend or terminate a Purchase Order without advance notice in the event Successful Respondent fails to comply with confidentiality, privacy, security requirements, environmental, or safety laws or regulations, if such non-compliance relates or may relate to vendor provision of goods or services to the Customer.

11.2.5 Immediate Termination or Suspension

DIR may immediately suspend or terminate the Contract without advance notice if DIR receives notice or knowledge of potentially criminal violations by Successful Respondent (whether or not such potential violations directly impact the provision of goods or services under the Contract). In such case, Successful Respondent may be held ineligible to receive further business or payment but may be responsible for winding down or transition expenses incurred by Customer. DIR or Customer will use reasonable efforts to provide notice (to the extent allowed by law) to Successful Respondent within five (5) business days after the suspension or termination. Successful Respondent may provide a response and request an opportunity to present its position. DIR or Customer will review Successful Respondent's presentation but is under no obligation to provide formal response.

11.2.6 Customer Rights Under Termination

In the event the Contract expires or is terminated for any reason, a Customer shall retain its rights under the Contract and any Purchase Order issued prior to the termination or expiration of the Contract. The Purchase Order survives the expiration or termination of the Contract in accordance with Section [4.5](#).

11.2.7 Successful Respondent Rights Under Termination

In the event a Purchase Order expires or is terminated, a Customer shall pay all amounts due for products or services ordered prior to the effective expiration or termination date and ultimately accepted.

11.3 Force Majeure

DIR, Customer, or Successful Respondent may be excused from performance under the Contract or a Purchase Order for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order (each such event, an “Event of Force Majeure”), provided that the party experiencing such Event of Force Majeure has prudently and promptly acted to take any and all steps that are within the party’s control to ensure performance and to shorten the duration or impact of the Event of Force Majeure. The party suffering an Event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this Section, such non-performance shall not be deemed a default or a ground for termination. However, a Customer may terminate a Purchase Order if it is determined by such Customer that Successful Respondent will not be able to deliver services in a timely manner to meet the business needs of such Customer.

12 NON-SOLICITATION OF STATE EMPLOYEES

Successful Respondent shall not solicit, directly or indirectly, any employee of DIR who is associated with the Contract for a period of ninety (90) calendar days following the expiration or termination of the Contract. Further, Successful Respondent shall not solicit, directly or indirectly, any employee of a Customer who is associated with a Purchase Order for a period of ninety (90) calendar days following the expiration or termination of such Purchase Order.

13 WARRANTY

Customers may provide written notice to Successful Respondent of errors, inaccuracies, or other deficiencies in products or services provided by Successful Respondent under a Purchase Order within thirty (30) calendar days or receipt of an invoice for such products or services. Successful Respondent shall correct such error, inaccuracy, or other deficiency at no additional cost to Customer.

14 NOTIFICATION

14.1 Notices

All notices, demands, designations, certificates, requests, offers, consents, approvals, and other instruments given pursuant to the Contract shall be in writing and shall be validly given on: (i) the date of delivery if delivered by email, facsimile transmission, mailed by registered or certified mail, or hand delivered, or (ii) three (3) business days after being mailed via United States Postal Service. All notices under the Contract shall be sent to a party at the respective address indicated in the Contract or to such other address as such party shall have notified the other party in writing.

14.2 Handling of Written Complaints

In addition to other remedies contained in the Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office
Department of Information Resources
Attn: Public Information Officer
300 W. 15th Street, Suite 1300
Austin, Texas 78701
(512) 475-4759, facsimile

15 CAPTIONS

The captions contained in the Contract, Appendices, and its Exhibits are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

<END OF APPENDIX A>

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: August 5, 2024

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 - Consultation with the City Attorney regarding a Matter that the Attorney's Duty Requires to be Discussed in Closed Session
- Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-Director of Finance

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: _____