**Finance Committee**
**Meeting Agenda**
**January 23, 2024**
**5:00 PM**
**City Council Chambers**

**City Council Members:**

| | |
|---|---|
| **Gayatri Agnew** | **Ward 1, Position 2** |
| **Cindy Acree** | **Ward 2, Position 1** |
| **Bill Burckart** | **Ward 3, Position 2** |

*If the public would like to attend virtually, please log on at the following link:
https://us02web.zoom.us/j/89139307844?pwd=ZWMxNVhRby9RVElhd1pyZzluVmdHZz09

**Call to Order/Roll Call**

**City Council Items To Be Considered**

1. **Section I Item 4 on City Council Agenda: Resolution entering into an agreement for Data Storage Replacement** — **Resolution**

   Authorizing an agreement with Heartland Business Systems for System Data Storage replacement through participation in TIPS Contract #220105. No budget adjustment is needed.

2. **Section I Item 5 on City Council Agenda: Resolution Authorizing an Agreement for a Citywide Access Control System Upgrade** — **Resolution**

   Authorizing an agreement with Advantage Security Technologies for the procurement and installation of Keri Systems Door Access Control system through participation in TIPS Contract # 220605. No Budget Adjustment is required.

3. **Section I Item 7 on City Council Agenda: Ordinance Waiving Bidding for the Purchase of Police Uniforms and Equipment from Galls, LLC** — **Ordinance***

   This is a request for a waiver of bid for the purchase of police uniforms and equipment from Galls, LLC. This includes dispatch uniforms, patrol uniforms, bike team uniforms, SWAT uniforms, bomb squad uniforms, leather gear, ballistic vest and other soft uniform items such as coats, jackets, rain gear, hats, and informal uniforms. No budget adjustment is needed.

4. **Section I Item 8 on City Council Agenda: Ordinance Waiving Bidding for the Purchase of Fire Department Uniforms from Galls, LLC** — **Ordinance***

This is a request for a waiver of bid to allow for the purchase of fire uniforms from Galls, LLC in Springdale, Arkansas. The 2024 budget total allotment is $163,382.00. Emergency Clause requested due to hiring of new personnel that were given a basic a basic set of uniforms since uniform purchase was cut off in Oct. of 2023 due to shipping delays. No budget adjustment is needed.

5. **Section I Item 9 on City Council Agenda: Ordinance Waiving Bidding to Bound Tree Medical for EMS Medications & Supplies** — **Ordinance***

Approval of an Ordinance requesting Waiver of Bid to Bound Tree Medical in the amount of $50,000.00 for the purchase of medical supplies and medications for the ambulance service. No budget adjustment is needed.

6. **Section I Item 10 on City Council Agenda: Ordinance Waiving Bidding to Henry Schein Medical For EMS Medications & Supplies** — **Ordinance***

Approving an Ordinance requesting Waiver of Bid to Henry Schein Medical in the amount of $60,000.00 for the purchase of medical supplies and medications for the ambulance service. This is a budgeted item. No budget adjustment is needed.

7. **Section I Item 12 on City Council Agenda: Resolution authorizing the Purchase of Two (2) Backhoes** — **Resolution**

Resolution to enter into an agreement with Riggs Cat to purchase two (2) currently leased 2023 420 Backhoes for a total of $250,000.00 plus applicable taxes. No budget adjustment is needed.

8. **Section I Item 14 on City Council Agenda: Resolution to accept an EPA Grant for Stream Banks at McKissic Creek & Little Sugar Creek** — **Resolution**

Resolution seeking City Council approval to accept an EPA grant in the amount of $153,461.00 to assess and plan development for stream banks at McKissic Creek and Little Sugar Creek in Bentonville. A budget adjustment is needed to accept funds.

9. **Section I Item 15 on City Council Agenda: Resolution for Water Conservation Resource Center for Stream Bank Restoration Design Services** — **Resolution**

Authorizing the Mayor and City Clerk to enter into an agreement with Water Conservations Resource Center (WCRC) in a total amount not to exceed of $151,461.00, including reimbursable expenses, for stream restoration design services for associated with the EPA grant award.  No budget adjustment is needed.

10. **Section I Item 18 on City Council Agenda: Resolution approving Change Order for Sewer Line Repairs at NE A Street and Lawrence Plaza** — **Resolution**

    Resolution allowing the Mayor and City Clerk to authorize Change Order #1 with Flintco
    for the installation of sewer service lines at NE A Street and Lawrence Plaza for the Quilt of Parks Project in the amount of $25,613.00.  A budget adjustment is needed.

11. **Section I Item 19 on City Council Agenda: Resolution accepting a TAP Grant for SW Bentonville Trail** — **Resolution**

    Resolution accepting a Transportation Alternatives Program (TAP) Grant, in the amount of $400,000.00, for the future construction of the SW Bentonville Trail.  No budget adjustment is needed.

12. **Section I Item 20 on City Council Agenda: Resolution approving a Grant from the Walmart Foundation for E-Bike Program** — **Resolution**

    The Parks and Recreation Department is requesting the Council approve a grant award in the amount of $250,000.00, to contribute to an E-Bike Rebate Program for Bentonville residents.  A budget adjustment is needed to recognize and appropriate funds.

13. **Section I Item 21 on City Council Agenda: Resolution approving Change Order #001 to Cemetery Columbaria/Committal Shelter Project** — **Resolution**

    Staff requests approval of Change Order #001 with C.R. Crawford in the amount of $53,910.00 for additional earthwork at the cemetery columbaria/committal shelter project site.  Once site work began, it was discovered that soil conditions on the southern half of the project site were worse than original pre-construction testing showed.  A budget adjustment is needed.

# City of Bentonville, Arkansas Agenda Item Form

## Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Dennis Hayes |
| **Phone:** | 479-271-3127 | **For Department(s):** | IT / Interdepartmental |
| **Email:** | dhayes@bentonvillear.com | | |

## Item Type (Check all that apply)

- ☐ Informational
- ☐ Bid Award
- ☐ Enter into an Agreement
- ☐ Change Order
- ☐ Recognizing Funds
- ☐ Budget Adjustment
- ☐ Waiver of Bid
- ☐ Emergency Clause
- ☐ Ordinance
- ☑ Resolution
- ☐ Informational

## Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution entering into an agreement for Data Storage Replacement |
| **Action Recommendation & Justification:** | Authorizing an agreement with Heartland Business Systems for System Data Storage replacement through participation in TIPS Contract #220105. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | This Project is in the 2024 budget. It replaces equipment going out of support and will ensure we have adequately supported storage for our City departments digital data. Use of a purchasing cooperative is allowed pursuant to Arkansas State Statute 19-11-249 as the awarded contract has already gone through a competitive bid process. Participation in a Co-Op contract is allowed after Purchasing as determined that the solicitation is in line with the City's Purchasing Policy. |
| **Amount for Approval:** | $ $222,352.59 |

## Budget Impact

**Is this Item Budgeted?** ☑ YES ☐ NO ☐ ITEM HAS NO COST ☐ OTHER:____________________

## Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☐ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):____________________

*Budget Impact Notes for Consideration (Optional):*

# Statement of Work

## City of Bentonville

**STORAGE REFRESH – DATA MIGRATION**

SOW Prepared By:

**Jennifer Bricker**
Solutions Consultant
Heartland Business Systems, LLC
3775 N. Mall Ave. Suite 4
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Phone: (479) 332-6945
lshepard@hbs.net

**Travis Mickelberry**
Principal Engineer
Heartland Business Systems, LLC
1602 Republic
Springfield, MO, 65804
Phone: (816) 507-8640
tmickelberry@hbs.net

# Project Overview

This Statement of Work ("SOW") reflects the services and material to be provided by Heartland Business Systems, LLC, (hereinafter referred to as "HBS") for City of Bentonville (hereinafter referred to as "Customer Abrv." or "Customer").

The City of Bentonville has reached out to HBS for assistance with installing/configuring 1 new Dell-EMC Unity Array as well as migrating data off the old storage array and onto the new.

The objectives of the project are:

- To replace the existing Unity 450f with newer hardware.
- To migrate data from the Unity 450f to newer hardware.

# Project Scope

HBS will provide the following services (hereinafter referred to as the "Scope"):

This project is expected to take less than 2 weeks to complete from the project kick-off. In the event that an extension to the project timeline is required, the parties shall utilize the Change Order process.

## In Scope

- Assist customer with data gathering for Pre-Engagement Questionnaire (PEQ)
- Unity NIC Configuration (mgmt and data)
- Unity System Configuration
- Update Unity to latest GA code level if needed
- Create Unity LUNS to be presented as Vmware VMFS Datastores
- Map new Unity LUNS to ESXi Hosts
- Perform Storage Re-scan in vCenter to ensure new Datastores are present
- Create 1 test VM on Datastore01. vMotion Test VM from Datastore01 to Datastore02
- Move Test VM back to Datastore01 from Datastore02
- Migrate up to 5 VMs from the Unity 450f to the Unity 480f leveraging Vmware Storage vMotion
- Create 5 LUNS/Datastores on the Unity 480f to be used by the Windows File Server Failover Cluster Manager
- Map new LUNS to ESXi Hosts
- Perform Storage Re-scan in vCenter to ensure new Datastores for are present
- Attach new LUNS/Datastores to the VM named Data01 as RDM type and assign Drive Letters within the Windows OS
- Attach new LUNS/Datastores to the VM named Data02 as RDM type and assign Drive Letters within the Windows OS
- Attach new LUNS/Datastores to the VM named Data03 as RDM type and assign Drive Letters within the Windows OS
- Make sure newly created LUNS for WFCS are present in Windows Server Failover Clustering (WSFC)
- Create ESXi Host Affinity Rules to keep Data01, Data02 and Data03 on different Hosts for WFCS Configuration
- Use Robocopy tool to copy User/Department Shares and User Profiles from the Unity 450f to the Unity 480f

- Two 1 hour 1 on 1 Knowledge Transfer Sessions with the City of Bentonville IT Staff

## Out of Scope

- 
- Project management is not included for this project.
- Any work or material not specifically identified in this document is not included in this Agreement. The out-of-scope items shall include the following: Deployment of any additional equipment not specifically listed in this SOW or Quote for the project.
- Dependent applications issues not caused by migration
- Firewall changes – Heartland Business Systems will advise on any necessary changes
- Any work or material not specifically identified in this document is not included in this Agreement.

## Additional Requirements and Conditions

- HBS and Customer will both ensure that adequate resources, for which each respective party is responsible, are available when needed throughout the duration of this engagement. The timely completion of this engagement will depend on the availability of the necessary Customer personnel.
- HBS Engineering shall provide updates to Customer regarding the project. The Solutions Consultant shall be the Customer's primary contact for any questions regarding billing.
- The timely completion of this engagement will also depend on the availability and delivery of the product(s) associated with this SOW from other vendors. Any shipping and delivery dates are approximate and are not guaranteed and are subject to the current availability of products from third party vendors, production schedules of third party vendors, and supply chain delays and shortages, all of which are outside the control of HBS. Such delays may extend the duration of the project and may result in budget impacts and increased time to manage resources against the estimated product delivery. In the event that a delay may impact the project, the parties shall utilize the change order process in order to address the impacts of such delay.
- Any potential dependencies discovered prior to or during implementation will be communicated to Customer and HBS to determine impact to the timing, scope and pricing for the project, and the parties shall utilize the Change Order process as necessary.

### Customer Responsibilities

*Site and System(s) Readiness*

The items listed below shall be the responsibility of the customer:

- Customer to provide remote access prior to and throughout the project
- Customer will do the initial Racking/Cabling/IP Config of the new Unity 480f
- Customer will provide sufficient ports and connections for 1Gb (1x for mgmt.) and 10Gb (4x for data traffic) as well as 2 NEMA 515 for Unity 450f connectivity
- Customer will provide enough Rack Space for installing the new equipment (Unity 450f)

### *Working Conditions and Access*

The items listed below shall apply to the extent applicable:

- Customer will provide a Single Point of Contact with decision making ability to interface with HBS. This person is responsible for signing off on Scope of Work and Change Order documents throughout the project.
- Customer will provide Subject Matter Experts (SMEs) when required by project personnel and/or project activities. If delays in the project timeline are a result of delayed access to SME personnel or any other Customer delays, Customer may be subject to additional charges.
- Customer will provide HBS with access, including all password and logins, to required existing network or system assets listed in the scope.
- Customer will provide HBS with proper access and workspace areas at Customer locations that includes internet, physical and remote access to in scope infrastructure or systems.
- Customer will allow the HBS engineer to connect their computer to Customer network in order to perform their duties. HBS will allow Customer to examine said notebook for current anti-virus software, if needed.
- Customer will allow HBS unescorted access to computer rooms, equipment closets and the general facility. If unescorted access is not available, Customer shall assign access levels appropriately and coordinate escorts.
- Customer will provide adequate access and credentials required for the assessment of all components or systems listed in the scope.
- Customer will provide remote access prior to, and throughout, the project if required.
- Customer will have working Internet access available where the work will be performed.
- Customer is responsible for resolving problems outside the SOW that are beyond the control of HBS. These shall include but not be limited to software/firmware bugs, vendor engineering support cases, hardware failures, telecommunication circuits, server issues, desktop issues, the acts or omissions of any third party, or any other occurrence not caused by HBS. HBS can assist with these out-of-scope issues through the Change Order process or on a time and materials basis.

### *Testing, Notification and Change Control*

- Customer will provide advanced notification of any network outages or changes during the implementation period.
- Customer will assist with the creation of and perform user acceptance testing and post-migration end-point validations.
- HBS and Customer will provide 48-hour notification of any schedule changes.
- Customer will assist with the design, testing and validation of the project Deliverables .
- Customer and HBS agree that work shall progress when Customer staff is not available to participate.

# Deliverables

**The following are the deliverables HBS will provide to Customer (hereinafter referred to as "Deliverables") for this project:**

**Any change to the Deliverables listed below will require a Change Order.**

| # | Deliverables |
|---|---|
| 1 | Implementation of one new Unity 480f Storage Array |
| 2 | Migration of VM's, File Data and User Profiles from the old Storage Array to the new Storage Array |
| 3 | KT Session with IT Staff to go over the New Environment Components |

# Fixed Fee Pricing

- **This SOW is fixed fee. Any additional work required under a Change Order will also be billed to City of Bentonville**

**Service and equipment identified in this SOW do not include any taxes that may be applicable. Any such taxes shall be specified on an invoice as a separate line item.**

# Project Completion

**Project will be complete when all Deliverables have been provided to Customer.**

**Customer will have seven (7) business days to review the Deliverables for the project. If HBS does not receive a written notice of rejection describing the basis for rejection within this period, the Deliverables will be considered accepted.**

**After the completion of the project, support may be obtained by contacting the HBS Account Manager. Support will be billed at an agreed upon rate for services rendered.**

# Change Management

**Additional products and services beyond the In-Scope deliverables listed above are considered out of scope and require a Change Order executed by the parties before any such work can be performed. Any additions, deletions, or modifications to the Agreement, regardless of change to project value, require a Change Order.**

# Terms

**Binding Agreement. This SOW describes the professional services and/or products, and results to be provided by HBS. Upon execution, this SOW shall be contractually binding on the parties. The HBS Standard Terms and Conditions are also made part of this Agreement.**

Order of Precedence. Any ambiguity or inconsistency between or among the statements of this SOW and the Standard Terms and Conditions shall be resolved by giving priority and precedence in the following order:

- Statement of Work
- Standard Terms and Conditions

Work Hours. All professional services work will be completed during the normal business hours of 8:00 am – 5:00 pm Monday - Friday Central Time. Any work occurring after 5:00 pm or before 8:00 am or on weekends is subject to a bill rate of 1.5 times the normal rate, unless the parties agree otherwise in writing. In the event that any change to the above-stated work hours is required, whether due to shipping or delivery delays or any other reason, the parties shall utilize the Change Order process.

General. No other promises have been made related to this SOW except for those stated in this SOW. This SOW supersedes all other agreements or promises related to this project and SOW. HBS shall not be responsible for any delay caused by the Customer or its vendors or contractors, equipment or shipping delays, or any other occurrence not caused by HBS.

Confidentiality. Each party may have access to confidential information concerning the methodologies, pricing, and business practices of the other. Neither party shall make any use of such information of the other party except in connection with the exercise of its rights and responsibilities under this SOW.

## Approval

An authorized signature below indicates acceptance of all terms of this SOW. The individual signing warrants and represents that the individual is a duly authorized representative with full authority to enter into this Agreement on behalf of the individual's organization.

| City of Bentonville | Heartland Business Systems, LLC |
|---|---|
| ______________________________ | ______________________________ |
| Authorized Signature | Authorized Signature |
| ______________________________ | ______________________________ |
| Printed Name / Title | Printed Name / Title |
| ______________________________ | ______________________________ |
| Date | Date |

HEARTLAND BUSINESS SYSTEMS

| Unity Upgrade 2024 | Quote #310198 v4 |
|---|---|

| Prepared For: | Prepared By: | Date Issued: |
|---|---|---|
| **Bentonville, City of** | **Fayetteville, AR Office** | **01.03.2024** |
| Don Chase<br>1000 SW 14th Street<br>Bentonville, AR 72712 | Jennifer Bricker<br>3775 N Mall Ave Suite 4<br>Fayetteville, AR 72703 | Expires: **01.18.2024** |
| **P:** (479) 271-3127 | **P:** 4793326945 | |
| **E:** don.chase@bentonville.arkansas.gov | **E:** jbricker@hbs.net | |

| Unity Upgrade | | Price | Qty | Ext. Price |
|---|---|---|---|---|
| ***This quote includes promotional quarter end discounting and must be purchased by January 18th to receive shown pricing. *** | | | | |
| 210-ASNQ | **Unity XT 480F DPE 25 x 2.5 Dell FLD RCK LL** | $8,794.33 | 1 | $8,794.33 |
| 406-BBNB | **Unity 2X4 Port Card 25GbE OPT AF** | $2,947.89 | 1 | $2,947.89 |
| 343-BBMO | **Unity DPE Install Kit AF** | $92.34 | 1 | $92.34 |
| 876-5098 | **Dell Hardware Limited Warranty** | $6.22 | 1 | $6.22 |
| 876-5117 | **ProSupport Plus Mission Critical 4-Hour 7x24 Onsite Service with Emergency Dispatch 3 Years** | $391.43 | 1 | $391.43 |
| 876-5119 | **ProSupport Plus Mission Critical 4-Hour 7x24 Onsite Service with Emergency Dispatch 2 Years Extended** | $1,036.35 | 1 | $1,036.35 |
| 876-5122 | **Prosupport Plus Mission Critical 7x24 Technical Support and Assistance 5 Years** | $2,889.39 | 1 | $2,889.39 |
| 400-BFUQ | **Unity F 7.68TB ALL FLASH 25X2.5 SSD** | $6,999.79 | 18 | $125,996.22 |
| 565-BBHV | **Unity 2X4 Port IO 25GbE OPT AF** | $2,588.29 | 1 | $2,588.29 |
| 826-9574 | **ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Medium Capacity SSD Add-On, 5 Years** | $2,752.89 | 18 | $49,552.02 |
| | | Subtotal | | **$194,294.48** |

| Cisco Cables | | Price | Qty | Ext. Price |
|---|---|---|---|---|
| SFP-25G-AOC7M= | **5GBASE Active Optical SFP28 Cable, 7M** | $504.32 | 4 | $2,017.28 |
| | | Subtotal | | **$2,017.28** |

| ENET Cables | * Optional | Price | Qty | Ext. Price |
|---|---|---|---|---|
| SFP-25G-AOC7M-ENC | **ENET Cisco Compatible SFP-25G-AOC7M TAA Compliant Functionally Identical 25GBASE-AOC SFP28 to SFP28 Active Optical Cable (AOC) Assembly 7m - Programmed, Tested, and Supported in the USA, Lifetime Warranty** | $152.44 | 4 | $609.76 |
| | | * Optional Subtotal | | **$609.76** |

| HBS Implementation Services | | Price | Qty | Ext. Price |
|---|---|---|---|---|
| HBS-FF-PROJECT | **Fixed Fee Project** | $6,750.00 | 1 | $6,750.00 |
| | | Subtotal | | **$6,750.00** |

| TIPS | | Price | Qty | Ext. Price |
|---|---|---|---|---|

HEARTLAND BUSINESS SYSTEMS

| TIPS | Price | Qty | Ext. Price |
|---|---|---|---|
| TIPS Contract #220105 | | | |

## Non-Returnable/Non-Refundable Language

**Dell Note:**

Customer understands that all orders for Dell are final when accepted by Dell. No cancellations, returns, exchanges or refunds are allowed.

| Quote Summary | Amount |
|---|---|
| Unity Upgrade | $194,294.48 |
| Cisco Cables | $2,017.28 |
| HBS Implementation Services | $6,750.00 |
| Subtotal: | **$203,061.76** |
| Estimated Tax: | **$19,290.83** |
| Total: | **$222,352.59** |

| *Optional Expenses | One-Time |
|---|---|
| ENET Cables | $609.76 |

"This quote may not include applicable sales tax, shipping, handling and/or delivery charges. Final applicable sales tax, shipping, handling and/or delivery charges are calculated and applied at invoice. The above prices are for hardware/software only, and do not include delivery, setup or installation by Heartland ("HBS") unless otherwise noted. Installation by HBS is available at our regular hourly rates, or pursuant to a prepaid HBSFlex Agreement. This configuration is presented for convenience only. HBS is not responsible for typographical or other errors/omissions regarding prices or other information. Prices and configurations are subject to change without notice. HBS may modify or cancel this quote if the pricing is impacted by a tariff. A 15% restocking fee will be charged on any returned part. Customer is responsible for all costs associated with return of product and a $25.00 processing fee. No returns are accepted by HBS without prior written approval. This quote expressly limits acceptance to the terms of this quote, and HBS disclaims any additional terms. Customer may issue a purchase order for administrative purposes only. By providing your "E-Signature," you acknowledge that your electronic signature is the legal equivalent of your manual signature, and you warrant that you have express authority to execute this agreement and legally bind your organization to this proposal and all attached documents. Any purchase that the customer makes from HBS is governed by HBS' Standard Terms and Conditions ("ST&Cs") located at http://www.hbs.net/standard-terms-and-conditions, which are incorporated herein by reference. The ST&Cs are subject to change. When a new order is placed, the ST&Cs on the above-stated website at that time shall apply. If customer has signed HBS' ST&Cs version 2020.v1.0 or later, or the parties have executed a current master services agreement, the signed agreement shall supersede the version on the website. Certain purchases also require customer to be bound by end user terms and conditions. A list of end user terms and conditions related to various manufacturers and vendors is set forth at https://www.hbs.net/End-User-Agreements. Any purchase that customer makes is also governed by the applicable end user terms and conditions, which are incorporated herein by reference. If customer has questions about whether end user terms and conditions apply to a purchase, customer shall contact HBS. Any order(s) that exceeds the credit limit assigned by HBS shall require upfront payment from customer in an amount determined by HBS. HBS shall make this determination at the time of the order, unless customer has previously submitted the required onboarding paperwork. In such event, HBS shall make this determination at the time of quoting. QT.2023.v1.0"

### Acceptance

| **Fayetteville, AR Office** | **Bentonville, City of** |
|---|---|
| [redacted] | |
| Signature / Name | Signature / Name — Initials |
| 01/03/2024 | |
| Date | Date |

# TIPS VENDOR AGREEMENT

**Between** Heartland Business Systems, LLC **and**

(Company Name)

**THE INTERLOCAL PURCHASING SYSTEM (TIPS),**

a Department of Texas Education Service Center Region 8 for

**TIPS RFP 220105 Technology Solutions, Products and Services**

**General Information**

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

# Terms and Conditions

**Freight**

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

**Warranty Conditions**

All new supplies equipment and services shall include ***manufacturer's minimum standard warranty*** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

**Customer Support**

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

**Agreements**

Agreements for purchase will normally be put into effect by means of a contract, agreement, or purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion. Vendor accepts and understands that when a purchase order or similar purchase document is sent from a customer through TIPS to the Vendor, TIPS is recording the purchase and verifying whether the purchase is within the parameters of the TIPS Contract only. Vendor agrees that TIPS is not a legal party to the purchase order or similar purchase document and TIPS is not responsible for identifying fraud, mistakes, or misrepresentations for the specific order. Vendor agrees that any purchase order or similar purchase document issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. A Vendor that accepts a purchase order or similar purchase document and fulfills an order, even when processed through TIPS, is representing that the vendor has carefully reviewed the purchase order or similar purchase document for legality, authenticity, and accuracy.

**Tax exempt status**

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

**Assignments of Agreements**

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

**Disclosures**

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends 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 this Agreement.

- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.

- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

**Term of Agreement and Renewals**

The Agreement with TIPS is for approximately five (5) years with an option for renewal for an additional one (1) consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base five-year term. Whether or not to offer the extension is at the sole discretion of TIPS.

**"Start Date" for Term Calculation Purposes Only:** Regardless of actual award/effective date of Contract, for Agreement "term" calculation purposes only, the Agreement "start date" is the last day of the month that

Award Notifications are anticipated as published in the Solicitation.

**Example:** If the anticipated award date published in the Solicitation is May 22, 2020 but extended negotiations delay award until June 27, 2020 the end date of the resulting initial “five-year” term Agreement, (which is subject to an extension(s)) will still be May 31, 2025 in this example.

**“Termination Date”:** The scheduled Agreement “termination date” shall be the last day of the month of the month of the Original Solicitation’s Anticipated Award Date plus five years.

**Example:** If the original term is approximately five years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original five-year term shall be May 31, 2025 in this example.

**Extensions:** Any extensions of the original term shall begin on the next day after the day the original term expires.

**Example Following the Previous Example:** If TIPS offers a one-year extension, the expiration of the extended term shall be May 31, 2026 in this example.

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

TIPS reserves the right to solicit proposals at any time it is in the best interest of TIPS and/or its members.

**Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.**
No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

**Shipments**
The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

**Invoices**
Each invoice or pay request shall include the TIPS Member’s purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

**Payments**

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

**Pricing**

Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

**Participation Fees and Reporting of Sales to TIPS by Vendor**

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

**Reporting of Sales to TIPS by Vendor**

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

**Indemnity**

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

**State of Texas Franchise Tax**

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

**Miscellaneous**

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

**Purchase Order Pricing/Product Deviation**

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

**Termination for Convenience of TIPS Agreement Only**

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

**TIPS Member Purchasing Procedures**

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.

- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

**Licenses**

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statue or regulation.

**Novation**

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

**Site Requirements (*only when applicable to service or job*)**

**Cleanup**: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered sex offender restrictions:** For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Safety Measures**

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking**

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

**Marketing**

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

**Supplemental Agreements**

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

**Survival Clause**

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

**Legal obligations**

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

**Audit rights**

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by

TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

**Force Majeure**

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

**Choice of Law**

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

**Venue, Jurisdiction and Service of Process**

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

**Project Delivery Order Procedures**

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

**Status of TIPS Members as Related to This Agreement**

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

**Vendor's Resellers as Related to This Agreement**

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

**Support Requirements**

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

**Incorporation of Solicitation**

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

**SECTION HEADERS OR TITLES**

THE SECTON HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITES OF THE PARTIES TO THIS DOCUMENT.

**STATUTORY REQUIREMENTS**

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the

TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX,75686
And by an email sent to bids@tips-usa.com

**Insurance Requirements**

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

| | |
|---|---|
| **General Liability** | $1,000,000 each Occurrence/ Aggregate |
| **Automobile Liability** | $300,000 Includes owned, hired & non-owned |
| **Workers' Compensation** | Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. |
| **Umbrella Liability** | $1,000,000 |

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

# Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation**: All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS**: If Vendor is hosting a custom TIPS website, updated pricing when

effective. TIPS shall be notified when prices change in accordance with the award.

- **Back Ordered Products**: If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

# TIPS Vendor Agreement Signature Form

RFP 220105 Technology Solutions, Products and Services

Company Name Heartland Business Systems, LLC

Address 1700 Stephen Street, P.O. Box 347

City Little Chute State WI Zip 54140

Phone (920) 788-7220 Fax (920) 788-7739

Email of Authorized Representative legal@hbs.net

Name of Authorized Representative Peter Helander

Title CEO

Signature of Authorized Representative [redacted]

Date 2/2/2022

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Repre[redacted]

Approved by ESC Regi[redacted]

Date 4/29/2022

# NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.

# 220105 Addendum 1
# Heartland Business Systems, LLC
# Supplier Response

## Event Information

Number: 220105 Addendum 1
Title: Technology Solutions, Products and Services
Type: Request for Proposal
Issue Date: 1/6/2022
Deadline: 2/18/2022 03:00 PM (CT)
Notes: **IF YOU ALREADY HOLD TIPS CONTRACT 200105 TECHNOLOGY SOLUTIONS, PRODUCTS AND SERVICES ("200105") OR 210101 TECHNOLOGY SOLUTIONS, PRODUCTS AND SERVICES ("210101"), YOU DO NOT NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU WISH TO REPLACE 200105 OR 210101 AT THIS TIME. IF YOU HOLD 200105 OR 210101, CHOOSE TO RESPOND HEREIN, AND ARE AWARDED ON THIS CONTRACT, YOUR 200105 OR 2101101 WILL BE TERMINATED AND REPLACED BY THIS CONTRACT.**

**IF YOU HOLD ANY OF THE FOLLOWING TIPS CONTRACTS AND YOU DO *NOT* HOLD 200105 OR 2101101, PER TIPS PRIOR NOTIFICATION, YOU MUST RESPOND TO THIS SOLICITATION BECAUSE YOUR SPECIFIC CONTRACT IS BEING CONSOLIDATED INTO OR REPLACED BY THIS CONTRACT.**

- **TIPS 190103 Web and Cloud Computing Services**

- **TIPS 181203 Management Software and Services**

- **TIPS 181204 Notification Systems**

**TIPS RESERVES THE RIGHT TO ISSUE, REBID, OR CANCEL ANY PLANNED SOLICITATIONS AT ANY TIME AS NECESSARY FOR THE NEEDS OF TIPS, TIPS VENDORS, AND TIPS MEMBERS.**

## Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

## Heartland Business Systems, LLC Information

Address: 1700 Stephen Street
Little Chute, WI 54140
Phone: (920) 788-7720

By submitting your response, you certify that you are authorized to represent and bind your company.

| | |
|---|---|
| Jonathan Groh, Staff Attorney | legal@hbs.net |
| *Signature* | *Email* |

*Submitted at 2/17/2022 9:02:29 AM*

## Requested Attachments

### Agreement Signature Form
220105 Agreement Signature Form - Signed.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

### All Other Certificates
*No response*

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

### Pricing Form 2
220105 Pricing Form 2.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

### Reference Form
220105 Reference_Form.xlsx

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

### Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
*No response*

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at https://www.tips-usa.com/assets/documents/docs/CIQ.pdf.

### Proposed Goods and Services
HBS Line Card.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

### D/M/WBE Certification OPTIONAL
*No response*

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

**Warranty** *No response*

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

**Vendor Agreement** 220105 Vendor Agreement - Completed.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

**Pricing Form 1** 220105 Pricing Form 1.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

**Supplementary** *No response*

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

**Logo and Other Company Marks** *No response*

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the “Response Attachment” tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

**Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION** *No response*

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

**Disclosure of Lobbying Activities Standard Form LLL** *No response*

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, “disclosure Form to Report Lobbying,” in the Response attachments section.

**Confidentiality Claim Form** 220105 Confidentiality Claim Form - Signed.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

**Current W-9 Tax Form** [Untitled].pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

## Bid Attributes

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| 1 | **Yes - No**<br>Disadvantaged/Minority/Women Business Enterprise - D/M/WBE/Federal HUBZone (Required by some participating governmental entities). Vendor certifies that their firm is a D/M/WBE or HUBZone? Vendor must upload proof of certification to the ”Response Attachments” D/M/WBE CERTIFICATES section.<br>NO |
| 2 | **Yes - No**<br>Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at https://comptroller.texas.gov/purchasing/vendor/hub/.<br><br>Proof may be submitted. Vendor must upload proof of certification to the “Response Attachments” HUB CERTIFICATES section.<br>No |

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| 3 | **Yes - No**<br>The Vendor can provide services and/or products to all 50 US States?<br>No |
| 4 | **States Served:**<br>If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)<br>WI, MN, MI, IA, IL, NE, MO, AR, AZ, TX, KS, OK |
| 5 | **Company and/or Product Description:**<br>This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)<br>HBS provides complete, local, end-to-end technology solutions. We assist with any technology need, solve problems, and exceed expectations. At every level of the company, we are committed to providing high-quality services to each of our clients.<br><br>With multiple locations in the Midwest, HBS serves commercial, public sector and small to medium business with results-driven information technology services.<br><br>Everything we do is to help clients achieve their full potential. We are committed to developing long-term trusting relationships with clients large or small, across all industries.<br><br>We help clients achieve their full potential by providing end-to-end customized technology solutions backed by a local team of highly skilled experts. |
| 6 | **Primary Contact Name**<br>Primary Contact Name<br>Brad Ellingsworth |
| 7 | **Primary Contact Title**<br>Primary Contact Title<br>General Manager - Missouri/Arkansas |
| 8 | **Primary Contact Email**<br>Primary Contact Email<br>bellingsworth@hbs.net |
| 9 | **Primary Contact Phone**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>4173430265 |
| 10 | **Primary Contact Fax**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>9207887739 |
| 11 | **Primary Contact Mobile**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>*No response* |

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| 12 | **Secondary Contact Name**<br>Secondary Contact Name<br>Jennifer Bricker |
| 13 | **Secondary Contact Title**<br>Secondary Contact Title<br>Solutions Consultant |
| 14 | **Secondary Contact Email**<br>Secondary Contact Email<br>jbricker@hbs.net |
| 15 | **Secondary Contact Phone**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>8705301444 |
| 16 | **Secondary Contact Fax**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>*No response* |
| 17 | **Secondary Contact Mobile**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>*No response* |
| 18 | **Admin Fee Contact Name**<br>Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.<br>Sarah Sullivan |
| 19 | **Admin Fee Contact Email**<br>Admin Fee Contact Email<br>ap@hbs.net |
| 20 | **Admin Fee Contact Phone**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>9207887720 |
| 21 | **Purchase Order Contact Name**<br>Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.<br>Carrie Evers |
| 22 | **Purchase Order Contact Email**<br>Purchase Order Contact Email<br>ar@hbs.net |

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| 23 | **Purchase Order Contact Phone**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>9207887720 |
| 24 | **Company Website**<br>Company Website (Format - www.company.com)<br>www.hbs.net |
| 25 | **Entity D/B/A's and Assumed Names**<br>Please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the legal name under which you responded to this solicitation unless you organize otherwise with TIPS after award.<br>*No response* |
| 26 | **Primary Address**<br>Primary Address<br>1700 Stephen Street |
| 27 | **Primary Address City**<br>Primary Address City<br>Little Chute |
| 28 | **Primary Address State**<br>Primary Address State (2 Digit Abbreviation)<br>WI |
| 29 | **Primary Address Zip**<br>Primary Address Zip<br>54140 |
| 30 | **Search Words:**<br>Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)<br>technology, information technology, technology solutions, technology services |
| 31 | **Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**<br>Most of our members receive Federal Government grants or other funding and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200, etc. Your answers will determine if your award will be designated as eligible for TIPS Members to utilize federal funds with your company.<br><br>Do you want TIPS Members to be able to spend Federal funds, at the Member's discretion, with you?<br>Yes |

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| 32 | **Yes - No**<br>Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:<br><br>(A) has its principal place of business in Texas;<br><br>OR<br><br>(B) employs at least 500 persons in Texas?<br><br>This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.<br>No |
| 33 | **Company Residence (City)**<br>Vendor's principal place of business is in the city of?<br>Little Chute |
| 34 | **Company Residence (State)**<br>Vendor's principal place of business is in the state of?<br>Wisconsin |
| 35 | **Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**<br>Remember this is a ***MINIMUM*** discount percentage. So, be sure that the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGHOUT THE LIFE OF THE CONTRACT.<br><br>CAUTION: BE CERTAIN YOU CAN HONOR THIS ***MINIMUM*** DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.<br><br>What is the ***MINIMUM*** percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale. Please note that any specific greater discount offered for a particular product, brand, or service listed in Vendor's proposal will control and Vendor will be required to honor that greater specific discount, in excess of the minimum discount, for that particular product, brand, or service for the life of the contract.<br><br>Must answer with a number between 0% and 100%.<br>5% |

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| 36 | **MINIMUM Discount Term**<br>Does the vendor agree to at least offer, for the life of the Agreement, the Minimum Discount Percentage off list or catalog proposed by Vendor in response to the Attribute entitled "Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION"? TIPS will utilize this response to satisfy the Long Term Cost scoring evaluation criteria. A "YES" answer will be awarded the maximum 10 points for this criterion out of the 100 total points and a "NO" answer is awarded 0 points.<br><br>YES |
| 37 | **Yes - No**<br>If awarded on this TIPS Contract, for the duration of the Contract, Vendor agrees to provide, upon request, their then current catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on Vendor's TIPS Contract.<br><br>"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:<br><br>A. is regularly maintained by the manufacturer or Vendor of an item; and<br>B. is either published or otherwise available for inspection by a customer during the purchase process;<br>C. to which the minimum discount proposed by the proposing Vendor may be applied.<br>YES |
| 38 | **TIPS Administration Fee**<br>By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member. |
| 39 | **Yes - No**<br>Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?<br><br>TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.<br>Agreed |
| 40 | **TIPS Administration Fee Paid by Vendor - Not Charged to Customer**<br>Vendor understands and agrees that it owes TIPS a TIPS Administration Fee (published in the RFP/RCSP document) on every TIPS sale made under an awarded TIPS Contract. Vendor further understands and agrees that Vendor shall submit pricing with this proposal which includes and accounts for the TIPS Administration Fee and ***shall never*** separately charge the TIPS Member Customer the TIPS fee or add the TIPS Administration Fee line item to an invoice or similar purchase document. Submission of this proposal is Vendor's certification that Vendor agrees to this mandatory term. |
| 41 | **Additional Discounts?**<br>Do you offer additional discounts to TIPS members for large order quantities or large scope of work?<br>Yes |
| 42 | **Years in Business as Proposing Company**<br>Years in business as proposing company?<br>32 |

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| 43 | **Resellers:**<br>Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.<br><br>EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.<br><br>(If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award).<br>No |
| 44 | **Right of Refusal**<br>The proposing vendor has the right not to sell under the awarded agreement with a TIPS member at vendor's discretion unless required by law. |
| 45 | **NON-COLLUSIVE BIDDING CERTIFICATE**<br>By submission of this bid or proposal, the Bidder certifies that:<br><br>1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;<br><br>2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:<br><br>3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;<br><br>4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.<br><br>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. |
| 46 | **CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**<br>Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO<br><br>If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.<br>The Form CIQ is one of the attachments to this solicitation.<br><br>There is an optional upload for this form provided if you have a conflict and must file the form<br>No |
| 47 | **Filing of Form CIQ**<br>If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?<br>No |

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| 48 | **Regulatory Standing**<br>I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.<br>Yes |
| 49 | **Regulatory Standing**<br>Regulatory Standing explanation of no answer on previous question.<br>*No response* |
| 50 | **Antitrust Certification Statements (Tex. Government Code § 2155.005)**<br>By submission of this bid or proposal, the Bidder certifies that:<br><br>I affirm under penalty of perjury of the laws of the State of Texas that:<br><br>(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;<br><br>(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;<br><br>(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;<br><br>(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company. |

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| 51 | **Suspension or Debarment Instructions**<br>Instructions for Certification:<br><br>1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.<br><br>2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.<br><br>3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.<br><br>4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participants,” “person,” “primary covered transaction,” “principal,” “proposal” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.<br><br>5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.<br><br>6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.<br><br>7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.<br><br>8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.<br><br>9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment. |
| 52 | **Suspension or Debarment Certification**<br>By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.<br><br>Yes |

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| 53 | **Non-Discrimination Statement and Certification**<br>In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.<br><br>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.<br><br>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3)<br>email: program.intake@usda.gov.<br><br>(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)<br><br>All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.<br><br>Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.<br>☑ Yes, I certify (Yes) |
| 54 | **2 CFR PART 200 Contract Provisions Explanation**<br>Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:<br><br>The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.<br><br>The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.<br><br>In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable. |

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| 55 | **2 CFR PART 200 Contracts**<br>Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.<br><br>Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.<br><br>Does vendor agree?<br>Yes |
| 56 | **2 CFR PART 200 Termination**<br>Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess<br>of $10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and<br>TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor<br>would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.<br><br>Does vendor agree?<br>Yes |
| 57 | **2 CFR PART 200 Clean Air Act**<br>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).<br><br>Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of<br>an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.<br><br>Does vendor agree?<br>Yes |

58 **2 CFR PART 200 Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

Yes

59 **2 CFR PART 200 Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $250,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of $250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify that it is in compliance with the Clean Air Act?

Yes

60 **2 CFR PART 200 Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with
maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

Yes

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| 61 | **2 CFR PART 200 Rights to Inventions**<br>If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.<br><br>Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.<br><br>Does vendor agree?<br>Yes |
| 62 | **2 CFR PART 200 Domestic Preferences for Procurements**<br>As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stag through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).<br><br>Does vendor agree?<br>Yes |
| 63 | **2 CFR PART 200 Ban on Foreign Telecommunications**<br>Federal grant funds may not be used to purchase equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.<br><br>Does vendor agree?<br>Yes |

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| 64 | **2 CFR PART 200 Contract Cost & Price**<br>For contracts more than the simplified acquisition threshold currently set at $250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.<br><br>Does Vendor Agree?<br>Yes |
| 65 | **FEMA Fund Certifications**<br>Submission of this proposal is Vendor's certification that Vendor agrees to this term. Vendor certifies that **IF and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:<br><br>(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.<br><br>(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.<br><br>(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.<br><br>(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.<br><br>(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract. |
| 66 | **Certification of Compliance with the Energy Policy and Conservation Act**<br>When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.<br><br>Does Vendor agree?<br>Yes |

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| 67 | **Certification Regarding Lobbying**<br>Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds<br><br>Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.<br><br>The undersigned certifies, to the best of his or her knowledge and belief, that:<br><br>(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.<br><br>(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “disclosure Form to Report Lobbying,” in accordance with its instructions.<br><br>(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.<br><br>I HAVE NOT Lobbied per above |
| 68 | **If you answered "I HAVE lobbied" to the above Attribute Question**<br>If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform. |
| 69 | **Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**<br>Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?<br><br>IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.<br><br>YES |

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| 70 | **ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**<br>ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,<br>do you agree to comply with the following federal requirements?<br>Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.<br><br>(b) Affirmative steps must include:<br><br>(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;<br><br>(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;<br><br>(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;<br><br>(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;<br><br>(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and<br><br>(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.<br>YES |
| 71 | **Indemnification**<br>The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from<br>indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as<br>ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for<br>any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently<br>performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on<br>behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in<br>the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to<br>indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated<br>damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified<br>with "to the extent permitted by the Constitution and laws of State of Texas."<br><br>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree<br>to these terms?<br>☑ Yes, I Agree (Yes) |

| 72 | **Remedies**<br>The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue<br>and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution<br>of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived<br>under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any<br>issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a<br>prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee<br>equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and<br>will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if<br>signed, shall thereafter be enforceable as provided by the laws of the State of Texas.<br><br>Do you agree to these terms?<br>Yes, I Agree |
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| 73 | **Remedies Explanation of No Answer**<br>*No response* |
| 74 | **Choice of Law**<br>The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.<br>THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.<br><br>Do you agree to these terms?<br>Agreed |
| 75 | **Venue, Jurisdiction and Service of Process**<br>Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.<br><br>Do you agree to these terms?<br>Agreed |

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| 76 | **Infringement(s)**<br>The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.<br><br>Do you agree to these terms?<br>Yes, I Agree |
| 77 | **Infringement(s) Explanation of No Answer**<br>*No response* |
| 78 | **Contract Governance**<br>Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.<br>☑ Yes, I Agree (Yes) |
| 79 | **Payment Terms and Funding Out Clause**<br>Payment Terms:<br><br>TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.<br><br>Funding Out Clause:<br><br>Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.<br><br>See statute(s) for specifics or consult your legal counsel.<br><br>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.<br><br>Do you agree to these terms?<br>☑ Yes, I Agree (Yes) |

| 80 | **Insurance and Fingerprint Requirements Information**<br><u>Insurance</u><br><br>If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.<br><br><u>Fingerprint</u><br><br>It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834 & 22.08341. Statutory language may be found at: http://www.statutes.legis.state.tx.us/<br><br>If the vendor has staff that meet both of these criterion:<br><br>(1) will have continuing duties related to the contracted services; and<br><br>(2) has or will have direct contact with students<br><br>Then you have ”covered” employees for purposes of completing the attached form.<br><br>TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.<br><br>See form in the next attribute to complete entitled:<br>Texas Education Code Chapter 22 Contractor Certification for Contractor Employees |
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**Texas Education Code Chapter 22 Contractor Certification for Contractor Employees**

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

**NONE (Section A)** of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

**OR**

**SOME (Section B)** or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

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| 82 | **Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**<br>SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a “construction contract” includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. “Construction contracts” are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES. |
| 83 | **Texas Government Code 2270 & 2271 Verification Form**<br>Texas Government Code 2270 & 2271 Verification Form<br><br>If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2271 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.<br><br>Our entity further certifies that it is is not listed on and we do not do business with companies prohibited by Texas Government Code 2270 or that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf<br><br>I swear and affirm that the above is true and correct.<br>YES |
| 84 | **Logos and other company marks**<br>Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the “Response Attachment” tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred<br><br>Potential uses of company logo:<br><br>* Your Vendor Profile Page of TIPS website<br><br>* Potentially on TIPS website scroll bar for Top Performing Vendors<br><br>* TIPS Quarterly eNewsletter sent to TIPS Members<br><br>* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing) |

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| 85 | **Solicitation Deviation/Compliance**<br>Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?<br>Yes |
| 86 | **Solicitation Exceptions/Deviations Explanation**<br>If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.<br>TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.<br>In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.<br>*No response* |
| 87 | **Agreement Deviation/Compliance**<br>Does the vendor agree with the language in the Vendor Agreement?<br>Yes |
| 88 | **Agreement Exceptions/Deviations Explanation**<br>If the proposing Vendor desires to deviate form the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.<br>*No response* |
| 89 | **Felony Conviction Notice**<br>Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.” Subsection (b) states “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.” (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.<br><br>Select A., B. or C.<br><br>A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.<br><br>OR B.My firm is not owned nor operated by anyone who has been convicted of a felony, OR<br><br>C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.<br>B. Firm not owned nor operated by felon; per above |

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| 90 | **If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**<br>If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.<br><br>1. Name of Felon(s)<br><br>2. The named person's role in the firm, and<br><br>3. Details of Conviction(s).<br>*No response* |
| 91 | **Required Confidentiality Claim Form**<br>Required Confidentiality Claim Form<br>This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the “Attachments” section, complete according to the instructions on the form, then upload the completed form, with any confidential attachments, if applicable, to the “Response Attachments” section titled “Confidentiality Form” in order to provide to TIPS the completed form titled, “CONFIDENTIALITY CLAIM FORM”. THIS REQUIRED PROCESS IS THE ONLY WAY TO DEEM PROPOSAL DOCUMENTATION CONFIDENTIAL ANY OTHER CONFIDENTIAL DESIGNATION WILL BE DISREGARDED UNLESS THE DOCUMENT IS IDENTIFIED BY AND ATTACHED TO THE REQUIRED FORM. By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.<br>Read the form carefully before completing and if you have any questions, email bids@tips-usa.com. |
| 92 | **Member Access to Vendor Proposal**<br>Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor’s acceptance of this TIPS Contract constitutes Vendor’s consent to the disclosure of Vendor’s comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party. By submitting this proposal, Vendor certifies the foregoing. |
| 93 | **Choice of Law clauses with TIPS Members**<br>If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.<br>Agreed |
| 94 | **Venue of dispute resolution with a TIPS Member**<br>In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.<br>Agreed |
| 95 | **Automatic renewal of contracts or agreements with TIPS or a TIPS member entity**<br>This clause **<u>DOES NOT</u>** prohibit multiyear contracts or agreements with TIPS member entities.<br>Because TIPS and TIPS members are governmental entities subject to laws that control appropriations of funds during their fiscal years for contracts and agreements to provide goods and services, does the Vendor agree to limit any automatic renewal clauses of a contract or agreement executed as a result of this TIPS solicitation award to not longer than "month to month" and at the TIPS contracted rate.<br>Agreed |

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| 96 | **Indemnity Limitation with TIPS Members**<br>Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".<br><br>**Agreement is a required condition to award of a contract resulting from this Solicitation.**<br>Agreed |
| 97 | **Arbitration Clauses**<br>Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?<br>Agreed |
| 98 | **Required Vendor Sales Reporting**<br>By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. |
| 99 | **Upload of Current W-9 Required**<br>Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. |
| 100 | **CERTIFICATION REGARDING BOYCOTTING CERTAIN ENERGY COMPANIES (Texas law as of September 1, 2021)**<br>**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**<br>If (a) company is not a sole proprietorship; (b) company has ten (10) or more full-time employees; and (c) this contract has a value of $100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 13 (87th session), the company hereby certifies and verifies that the company, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, does not boycott energy companies and will not boycott energy companies during the term of the contract. For purposes of this contract, the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit. The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." *See* Tex. Gov't Code § 809.001(1). |

101 **CERTIFICATION PROHIBITING DISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**

If (a) company is not a sole proprietorship; (b) company has at least ten (10) full-time employees; (c) this contract has a value of at least $100,000 that is paid wholly or partly from public funds; (d) the contract is not excepted under Tex. Gov't Code § 2274.003 of SB 19 (87th leg.); and (e) governmental entity has determined that company is not a sole-source provider or governmental entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Pursuant to Tex. Gov't Code Ch. 2274 of SB 19 (87th session), the company hereby certifies and verifies that the company, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. For purposes of this contract, "discriminate against a firearm entity or firearm trade association" shall mean, with respect to the entity or association, to: "(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. *See* Tex. Gov't Code § 2274.001(3) of SB 19. "Discrimination against a firearm entity or firearm trade association" does not include: "(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association." *See* Tex. Gov't Code § 2274.001(3) of SB 19.

102 **CERTIFICATION REGARDING CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree to the following required by Texas law as of September 1, 2021:**

Proposing Company is prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant to the company direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the Proposing Company for product warranty and support purposes. Company, certifies that neither it nor its parent company nor any affiliate of company or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including 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 designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country. For purposes of this contract, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." *See* Tex. Gov't Code § 2274.0101(2) of SB 1226 (87th leg.). The company verifies and certifies that company will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

103 **Acknowledgement**

By submitting this proposal, Vendor certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if found to be necessary by the proposing vendor, vendor has sought the advice of counsel in understanding all portions of the solicitation.

**ADDENDUM NO. 1 TIPS 220105 TECHNOLOGY SOLUTIONS, PRODUCTS AND SERVICES**

This Addendum #1 ***does not*** require action from responding Vendors and ***does not*** require resubmission for Vendors who have already submitted. It is only to correct a misstatement originally included in Page 7 of the solicitation attachment entitled "220105 RFP Specifications." The original Page 7 of the solicitation attachment entitled "220105 RFP Specifications" mistakenly stated at the top of the page that, "This solicitation is seeking providers for: Safety Equipment, Supplies and Services." This Addendum No. 1 corrects it to properly state, "This solicitation is seeking providers for: Technology Solutions, Products and Services."

**TIPS RFP 220105 Technology Solutions, Products and Services**

REFERENCES

Please provide three (3) references from three different entities, preferably from school districts or other governmental entiti the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

**Verify your references emails are deliverable and that they agree to provide a reference. Failure to do this may delay the evaluation process.**

You may provide more than three (3) references.

| Entity Name | Contact Person | VALID EMAIL IS REQUIRED | Phone |
|---|---|---|---|
| City of Fayetteville, Arkansas | Brad Fulmer, Asst IT Director | bfulmer@fayetteville-ar.gov | 479-575-8217 |
| City of Fort Smith, Arkansas | Steve Dimmitt, Interim IT Director | steve.dimmitt@fortsmithar.gov | 479-788-8901 |
| City of Rogers, Arkansas | Ryan Breese, Director of Information Technology | rbreese@rogersar.gov | 479-986-6826 |
| North Arkansas College | Aaron Bueg, Director of Information Technology | abueg@northark.edu | 870-391-3113 |
| Rogers Public School District | Debbie Skinner, Systems Manager | debbie.skinner@rpsar.net | 479-631-3595 |
| Springdale Public School District | Paul Miller, Director of Technology and Innovation | pmiller2@sdale.org | 479-750-8771 |
| | | | |
| | | | |
| | | | |
| | | | |

TIPS RFP # 220105

## Required Confidential Information Status Form

Heartland Business Systems, LLC.

**Name of company**

Peter Helander, CEO

**Printed Name and Title of Authorized Company Officer** declaring below the confidential status of material

| 1700 Stephen Street, P.O. Box 347 | Little Chute | WI | 54140 | (920) 788-7720 |
|---|---|---|---|---|
| **Address** | **City** | **State** | **ZIP** | **Phone** |

**ALL VENDORS MUST COMPLETE THE ABOVE SECTION**

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), **you must attach a copy of all claimed confidential materials to this COMPLETED form, name the combined PDF documents "CONFIDENTIAL", and upload the combined, confidential documents with your proposal submission.** If a document is not attached, it will not be considered confidential. The copy uploaded will be the sole indicator of which material in your proposal, if any, you deem confidential in the event TIPS/ESC 8 receives a Public Information Request. If ESC 8 receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For documents deemed confidential by you in this manner, ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination. Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, to TIPS Members. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party.

**ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW**

**OPTION 1:**

I DO CLAIM **parts of my proposal to be confidential and *DO NOT* desire to expressly waive** a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OT TOTAL PAGES THAT ARE CONFIDENTIAL.

**ATTACHED** ARE COPIES OF____________PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature____________________ Date __________

---------------------------- OR ----------------------------

**OPTION 2:**

I DO NOT CLAIM **any of my proposal to be confidential, complete the section below.**

**Express Waiver: I desire to expressly waive** any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signa[redacted] Date 2-15-22

Confidentiality Claim Form Rev 10292021SR

# Heartland Business Systems

SERVICES

SOLUTIONS

## MANAGED SERVICES

- SQL Monitoring
- Network Monitoring
- Collabguard (Cisco)
- Help Desk (Managed Service Desk?)
- End Point Management
- Infrastructure

## PROFESSIONAL SERVICES

- Virtual/CIO - Enterprise Performance Management
- Business Consulting
- Network Cabling
- Project Management
- Business Analysis
- Digital & IT Strategy
- Organizational Change Management

## BUSINESS APPLICATIONS

### BUSINESS PRODUCTIVITY

- Office 365
- Dynamics 365 for Sales
- Microsoft Teams
- SharePoint
- OneDrive
- Power Apps
- Power Automate

### DATA ANALYTICS & BUSINESS INTELLIGENCE

- Power BI
- Data Warehouse Strategy
- Dashboard in a Day
- Data Strategy Workshop
- Power BI Jumpstart
- Power BI Showcase

### APPLICATION DEVELOPMENT

- Custom App Development
- IoT Development
- Mobile App Development
- Website App Development

### DATABASE MANAGEMENT

- SQL Server Consolidation
- SQL Server Management
- SQL Health Check

### ERP SOLUTIONS

- Dynamics GP
- Dynamics Business Central
- ERP Selection
- ERP Consulting

## COLLABORATION

- Audio Visual
- Enterprise Video Conferencing
- Distance Learning
- Digital Signage
- Paging
- Entertainment Systems
- Audio Solutions
- Unified Communications
- Webex
- Microsoft Teams Voice

## CYBER SECURITY

### ASSESSMENTS & COMPLIANCE

- Assessments
- Risk Management
- Security Awareness
- Vulnerability Assessments
- Penetration Testing

### DATA PROTECTION

- Data Security
- Backup & Replication
- Disaster Recovery
- Malware Protection
- Firewalls
- Email Security
- Cloud Security
- Multi-Factor Authentication

### FIREWALLS

## INFRASTRUCTURE

### CABLING

### CLOUD

- Public (Azure)
- Private
- Hybrid

### DATA CENTER

- Storage
- Hyperconverged
- Virtualization
- Server

### HARDWARE & DEVICES

- Mobile Workforce

### NETWORKING

- SD-WAN
- Wireless
- Enterprise Mobility

### PHYSICAL SECURITY

- Video Surveillance
- Security Cameras
- Door Access
- Paging
- Notification System
- Life Safety

**RESOLUTION NO. ______________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH HEARTLAND BUSINESS SYSTEMS, LLC, FOR DATA STORAGE UPGRADES, IN AN AMOUNT NOT TO EXCEED TWO HUNDRED TWENTY-TWO THOUSAND THREE HUNDRED FIFTY-TWO DOLLARS AND FIFTY-NINE CENTS ($222,352.59); AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Bentonville Information Technology Department requests to enter into an agreement with Heartland Business Systems, LLC to replace an existing Unity 450f with newer hardware and to migrate data to said newer hardware;

**WHEREAS**, the City procures this service under The Interlocal Purchasing System (TIPS) contract #220105 which has been approved by the Purchasing Manager; and

**WHEREAS**, this is a budgeted item.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS.**

Section 1: That the Mayor and City Clerk are hereby authorized to enter into an agreement with Heartland Business Systems, LLC for the purchase of data storage upgrades, in an amount not to exceed two hundred twenty-two thousand three hundred fifty-two dollars and fifty-nine cents ($222,352.59);

Section 2: Due to this purchase being procured under TIPS contract which has already been bid and is allowable by State law and the City's Purchasing Policy, the requirements of competitive bidding do not apply;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Ordinances: All Ordinances of the City Council, or parts of Ordinances of the City Council, in conflict herewith are hereby repealed to the extent of such conflict.

**PASSED and APPROVED this _____ day of _______________, 2024.**

**APPROVED:**

**ATTEST:**

______________________________
**STEPHANIE ORMAN, Mayor**

______________________________
**KIRBY ROMINES, City Clerk**

THE CITY OF BENTONVILLE

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Dennis Hayes |
| **Phone:** | 479-271-3127 | **For Department(s):** | IT / Interdepartmental |
| **Email:** | dhayes@bentonvillear.com | | |

### Item Type (Check all that apply)

- ☐ Informational
- ☐ Bid Award
- ☐ Enter into an Agreement
- ☐ Change Order
- ☐ Recognizing Funds
- ☐ Budget Adjustment
- ☐ Waiver of Bid
- ☐ Emergency Clause
- ☐ Ordinance
- ☑ Resolution
- ☐ Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution authorizing an agreement for a citywide Access Control System Upgrade |
| **Action Recommendation & Justification:** | Authorizing an agreement with Advantage Security Technologies for the procurement and installation of Keri Systems Door Access Control system through participation in TIPS Contract # 220605. No Budget Adjustment is required. |
| **Additional Comments for Consideration (Optional):** | This is in the 2024 Budget. Funding was allocated by department. The project is to replace current access control system and software which is no longer supported by manufacturer. Use of a purchasing cooperative is allowed pursuant to Arkansas State Statute 19-11-249 as the awarded contract has already gone through a competitive bid process. Participation in a Co-Op contract is allowed after Purchasing as determined that the solicitation is in line with the City's Purchasing Policy. |
| **Amount for Approval:** | $ 442,026.86 |

### Budget Impact

**Is this Item Budgeted?** ☑ YES ☐ NO ☐ ITEM HAS NO COST ☐ OTHER:____________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☐ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):____________________

*Budget Impact Notes for Consideration (Optional):*

**ADVANTAGE SECURITY**

3324 Vicksburg • Fort Smith, AR 72903
479-474-9191 • dgriebel@advantage-security.net

# PROPOSAL

| NAME/ADDRESS | PROJECT | DATE |
|---|---|---|
| **City of Bentonville** | **Access Control Upgrade** | **06/29/2023** |

| DESCRIPTION |
|---|

Advantage Security to upgrade the City of Bentonville access control system to Keri Access Control across multiple buildings. Upgrade is to use existing card readers and lock hardware.

**MW Public Works Maintenance**
Keri 4 door controller x2
Power Supply x1
RIM modules x8
Surge Protector x1
Battery x1
4x4 Module
**Material: $7525.15**
**Labor: $1560.00**
**(does not include tax)**

~~**MW Electric Admin and Bays**~~
~~Keri 4 door controller x8~~
~~RIM Module x16~~
~~Altronix Power Supply x2~~
~~Surge Protector x2~~
~~Batteries x2~~
~~4x4 Module x2~~
~~**Material: $24979.70**~~
~~**Labor: $2600.00**~~
~~**(does not include tax)**~~

**MW Water Admin and Bay**
Keri 4 door controller x4
RIM Module x15 Altronix
power supply x2 x~~1~~
Surge protector x2 x~~1~~
Battery x2 ~~x~~1
4x4 Module x2 **Material:**
**$13844.26 Labor:**
**$2600.00**
**(does not include tax)**

**MW Street and Traffic**
Keri 4 door controller x3
RIM module x10 Power
supply x2
Surge protector x2
Battery x1
4x4 Module x2 **Material:**
**$4016.50 Labor:**
**$2080.00**
**(does not include tax)**

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# PROPOSAL

**MW Street and Engineering**
Keri 4 door controller x2
RIM module x8
Power supply x1
Surge protector x1
Battery x1
4x4 Module x2
**Material: $7525.15**
**Labor: $1560.00**
**(does not include tax)**

**MW Inventory**
Keri 4 door controller x2
RIM module x8
Power supply x1
Surge protector x1
Battery x1
4x4 module x2
**Material: $7621.22**
**Labor: $1872.00**
**(does not include tax)**

**MW Fuel Station**
Keri ~~4~~ 2 door controller
x1 RIM module x2
Power supply x1
Surge protector x1
Battery x1
4x4 Module x1 ~~x2~~
**Material: $2979.42**
**Labor: $520.00**
**(does not include tax)**

**MW Electric Bays**
Keri 4 door controller x2
RIM module x8
Power supply x1
Surge protector x1
Battery x1
4x4 module x1 ~~x2~~
**Material: $7758.88**
**Labor: $1170.00**
**(does not include tax)**

**MW Electric Admin**
Keri 4 door controller x2
RIM module x8
Power supply x2 ~~x1~~
Surge protector x1
Battery x1
4x4 module x2
**Material: $7599.62**
**Labor: $1440.00**
**(does not include tax)**

ADVANTAGE SECURITY

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# PROPOSAL

**MW Auction Building**
Keri 4 door controller x1
RIM module x4
Power supply x1
Surge protector x1
Battery x1
4x4 module x1 ~~x2~~
**Material: $4407.48**
**Labor: $780.00**
**(does not include tax)**

**MW 2nd Floor**
Keri 4 door controller x2
~~x1~~

RIM module x6 ~~x4~~
Power supply x1
Surge protector x1
Battery x1
4x4 module x1 ~~x2~~
**Material: $4407.48**
**Labor: $780.00 (does not include tax)**

**ABS Building**
Keri 4 door controller x6
RIM module x24 Power supply x3
Surge protector x3
Battery x3
4x4 module x2 **Material: $27642.48 Labor: $4160.00**
**(does not include tax)**

**District Court**
Keri 4 door controller x4
RIM module x12
Surge protector x2 Power supply x2 Battery x2 4x4 module x2 **Material: $14864.58 Labor: $2160.00**
**(does not include tax)**

**Municipal Building**
Keri 4 door controller x16 RIM module x64
Surge protector x10
Power supply x10
Battery x10
4x4 module x4 **Material: $53063.81 Labor: $10800.00**
**(does not include tax)**

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# PROPOSAL

**PD Evidence**
Keri 4 door controller x2
RIM module x8
Surge protector x1
Power supply x1
Keri 2 door controller x1
Battery x1
4x4 module x2
**Material: $10501.50**
**~~Labor: $1560.00~~**
**(does not include tax)**

**PD Main Closet**
Keri 4 door controller x4
RIM module x18
Surge protector x2
Power supply x2
Keri 2 door controller x1
Battery x2
4x4 module x2
**Material: $16179.47**
**~~Labor: $2400.00~~**
**(does not include tax)**

**PD Electric Closet 908**
Keri 4 door controller x2
RIM module x8
Surge protector x1
Power supply x1
Battery x1
4x4 module x2
**Material: $9036.25**
**~~Labor: $1872.00~~**
**(does not include tax)**

**PD Dispatch Center**
Keri 4 door controller x5
RIM Module x18
Surge protector x3
Power supply x3
Battery x3
4x4 module x2
**Material: $18200.85**
**~~Labor: $3360.00~~**
**(does not include tax)**

**Fire House 7**
Keri 4 door controller x2
RIM module x10
Surge protector x1
Power supply x2
Keri 2 door controller x1
Battery x2
4x4 module x1 ~~x2~~
**Material: $10858.64**
**Labor: $2340.00**
**(does not include tax)**

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# PROPOSAL

**Fire House 6**
Keri 4 door controller x2
RIM modules x8
Surge Protector x1
Power supply x1
Battery x1
4x4 module x1 ~~x2~~
**Material: $8930.92**
**Labor: $1560.00**
**(does not include tax)**

**Fire House 5**
Keri 4 door controller x1
RIM modules x3
Surge Protector x1
Power supply x1
Battery x1
4x4 module x1 ~~x2~~
**Material: $6286.28**
**Labor: $585.00**
**(does not include tax)**

**Fire House 4**
Keri 2 door controller x1
RIM modules x2
Surge protector x1
Power supply x1
Battery x1
4x4 modules x1 ~~x2~~
**Material: $5140.10**
**Labor: $520.00**
**(does not include tax)**

**Fire House 3**
Keri 4 ~~2~~ door controller x1

RIM modules x2 Surge protector x1 Power supply x1 Battery x1
4x4 modules x1 ~~x2~~
**Material: $5138.90**
**Labor: $480.00**
**(does not include tax)**

**Fire House 2**
Keri 4 ~~2~~ door controller x1
RIM modules x3
Surge protector x1
Power supply x1
Battery x1
4x4 modules x1 ~~x2~~
**Material: $6284.33**
**Labor: $520.00**
**(does not include tax)**

ADVANTAGE SECURITY

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# PROPOSAL

**Fire House 1**
Keri 4 door controller x5
RIM modules x18
Surge protector x2
Power supply x2
Battery x2
4x4 Module x2
**Material: $17422.38**
**Labor: $3510.00**
**(does not include tax)**

**Airport Access Control**
Keri 4 door controller x1
Power supply
RIM modules x4
Surge protector x1
Battery x1
4x4 modules x1 ~~x2~~
**Material: $4304.82**
**Labor: $520.00**
**(does not include tax)**

**Animal Services**
Keri 4 door controller x4
RIM modules x8
Power supply 1
Surge protector x1
Battery x1
4x4 modules x1 ~~x2~~
**Material: $7474.47**
**Labor: $1560.00**
**(does not include tax)**

**City Hall**
Keri 4 door controller x2
RIM modules x8
Power supply x2
Surge protector x2
Battery x2
4x4 modules x2
**Material: $7832.85**
**Labor: $1872.00**
**(does not include tax)**

**Bentonville Community Center**
Keri 4 ~~2~~ door controller x8 Rim modules x14
Power supply x6 ~~x4~~
Surge protector x4
Battery x10
4x4 modules x1 ~~x2~~
**Material: $19,236.26 ~~Labor: $2730.00~~**
**(does not include tax)**

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# PROPOSAL

**AT&T Building**
Keri 4 door controller x2
RIM modules x8
Power supply x1
Surge protector x1
Battery x1
4x4 modules x2
**Material: $7,525.15**
**Labor: $1,560.00**
**(does not include tax)**

**Bentonville Public Library**
Keri Keri 2 door controller x1
RIM module x2
Power supply x1
Surge protector x1
Battery x1
4x4 module x2
**Material: $2,952.84**
**Labor: $624**
**(does not include tax)**

**DAC**
Keri 4 door controller x1
RIM modules x4
Surge protector x1
Push to exit button x2
Power supply x1
Battery x1
4x4 modules x2
**Material: $4693.45**
**Labor: $780.00**
**(does not include tax)**

**Lawrence Plaza**
Keri 2 door controller x1
RIM modules x2
Surge protector x1
Power supply x1
Battery x1
4x4 modules x2
**Material: $1884.38**
**Labor: $480.00**
**(does not include tax)**

**Melvin Ford**
Keri 2 door controller x1
RIM modules x2
Power supply x1
Surge protector x1
Battery x1
4x4 modules x2
**Material: $3,342.02**
**Labor: $520.00**
**(does not include tax)**

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# PROPOSAL

**TIPSTAPS Contract #220605**

**Proposal is valid for 30 days. Material guaranteed to be as specified. Any change or modification from these specifications which will incur additional cost will be done only upon written change order and will be charged over and above this estimate. All work will be completed according to standard practices. Our workers are fully covered by Workman's Compensation Insurance.**

**AR Contractors License #0343171223**
**Regulated by: Arkansas Board of Private Investigators and Private Security Agencies, #1 State Police Plaza Drive, Little Rock, AR 72209**

**ACCEPTANCE OF PROPOSAL:**
**The above prices, specifications and conditions are satisfactory and are accepted. We authorize Advantage Security Technologies to do the work as specified.**

______________________________________________________
**Authorized Company Representative (print)**

______________________________________________________ _____/_____/_____
**Authorized Company Representative (signature)** **Date Accepted**

# TIPS VENDOR AGREEMENT

**Between _____<u>Advantage Security Technologies</u>_________________and**

(Company Name)

**THE INTERLOCAL PURCHASING SYSTEM (TIPS),**

a Department of Texas Education Service Center Region 8 for

**TIPS RFP 220605 MRO (Maintenance, Repair and Operations of Facilities and Grounds) Supplies, Equipment, Tool Rental, Sales and Services**

**General Information**

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

# Terms and Conditions

**Freight**

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award. Shipping method is determined by the vendor and the Member/Customer at the time of the quote/purchase by the Member/Customer and satisfactory shipping methods and costs are agreed upon at that time.

**Warranty Conditions**

All new supplies equipment and services shall include <u>***manufacturer's minimum standard warranty***</u> unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

**Customer Support**

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

**Agreements**

Agreements for purchase will normally be put into effect by means of a contract, agreement, or purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion. <u>Vendor accepts and understands that when a purchase order or similar purchase document is sent from a customer through TIPS to the Vendor, TIPS is recording the purchase and verifying whether the purchase is within the parameters of the TIPS Contract only. Vendor agrees that TIPS is not a legal party to the purchase order or similar purchase document and TIPS is not responsible for identifying fraud, mistakes, or misrepresentations for the specific order. Vendor agrees that any purchase order or similar purchase document issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. A Vendor that accepts a purchase order or similar purchase document and fulfills an order, even when processed through TIPS, is representing that the vendor has carefully reviewed the purchase order or similar purchase document for legality, authenticity, and accuracy.</u>

**Tax exempt status**

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

**Assignments of Agreements**

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company, where permitted by TIPS.

**Disclosures**

- Vendor and TIPS affirm that they, or any authorized employees or agents, have not given, offered to give, nor 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 this Agreement.

- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.

- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

**Term of Agreement and Renewals**

The Agreement with TIPS is for approximately four years and eleven months ending on July 31, 2027 with an option for renewal for an additional one consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the

Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term in writing. TIPS may or may not exercise some or all of the available extension(s) provided in the original solicitation beyond the base term. Whether or not to offer some or all of the extension is at the sole discretion of TIPS.

**"Termination Date":** The scheduled Agreement "termination date" shall be July 31, 2027.

**Extensions:** Any extensions of the original term shall begin on the next day after the day the original term expires unless otherwise specified.

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

**Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.**

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

**Shipments**

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

**Invoices**

Each invoice or pay request shall include the Vendor's TIPS Contract number, the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

**Payments**

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

**Pricing**

Price increases will be honored according to the terms of the solicitation and vendor proposal. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

**Participation Fees and Reporting of Sales to TIPS by Vendor**

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller, or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

**Reporting of Sales to TIPS by Vendor**

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to properly report or render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

**Indemnity**

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per

Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

**State of Texas Franchise Tax**
By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

**Miscellaneous**
The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

**Purchase Order Pricing/Product Deviation**
If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

**Termination for Convenience of TIPS Agreement Only**
TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

**TIPS Member Purchasing Procedures**
Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

**Licenses**
Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful

provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statue or regulation.

**Novation**

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

**Site Requirements (*only when applicable to service or job*)**

**Cleanup**: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered sex offender restrictions:** For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety Measures**

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking**

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

**Marketing**

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

**Supplemental Agreements**

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

**Survival Clause**

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

**Legal obligations**

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

**Audit rights**

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

**Force Majeure**

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

**Choice of Law**

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

**Venue, Jurisdiction and Service of Process**

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

**Project Delivery Order Procedures**

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

**Status of TIPS Members as Related to Vendors Contract Information**

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

**Vendor's Resellers as Related to This Agreement**

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller as the law allows.

**Support Requirements**
If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserve the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

**Incorporation of Solicitation**
The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same, and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

**SECTION HEADERS OR TITLES**
THE SECTON HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITES OF THE PARTIES TO THIS DOCUMENT.

**STATUTORY REQUIREMENTS**
Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX,75686
And by an email sent to bids@tips-usa.com

**Insurance Requirements**

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

| | |
|---|---|
| **General Liability** | $1,000,000 each Occurrence/ Aggregate |
| **Automobile Liability** | $300,000 Includes owned, hired & non-owned |
| **Workers' Compensation** | Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. |
| **Umbrella Liability** | $1,000,000 |

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

# Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation**: All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS**: If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products**: If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

# TIPS Vendor Agreement Signature Form

RFP 220605 MRO (Maintenance, Repair and Operations of Facilities and Grounds) Supplies, Equipment, Tool Rental, Sales and Services

Company Name Advantage Security Technologies

Address 3324 Vicksburg Street

City Fort Smith State AR Zip 72906

Phone 479-474-9191 Fax

Email of Authorized Representative dgriebel@advantage-security.net

Name of Authorized Representative Damon Griebel

Title Vice President

Signature of Authorized Representative [redacted]

Date 7/11/22

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Representative Signature [redacted]

Approved by ESC Region 8 [redacted]

Date 8/25/2022

## NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.

# 220605

# Advantage Security Technologies

Advantage Security Technologies

# Supplier Response

## Event Information

| | |
|---|---|
| Number: | 220605 |
| Title: | MRO (Maintenance, Repair and Operations of Facilities and Grounds) Supplies, Equipment, Tool Rental, Sales and Services |
| Type: | Request for Proposal |
| Issue Date: | 6/2/2022 |
| Deadline: | 7/15/2022 03:00 PM (CT) |
| Notes: | IF YOU ALREADY HOLD TIPS CONTRACT 210304 MRO ("210304"),YOU DO NOT NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU WISH TO REPLACE 210304 AT THIS TIME. IF YOU HOLD 210304 , CHOOSE TO RESPOND HEREIN, AND ARE AWARDED ON THIS CONTRACT, YOUR 210304 CONTRACT WILL BE TERMINATED AND REPLACED BY THIS CONTRACT. THERE IS NO ADVANTAGE TO REPLACING YOUR 210304 CONTRACT WITH THIS CONTRACT UNLESS YOU ARE DISPLEASED WITH SOME LIMITATION, PRICING/DISCOUNTS OR OTHERWISE, THAT YOUR ENTITY SUBMITTED IN YOUR ORIGINAL 210304 PROPOSAL. |

## Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

## Advantage Security Technologies Information


| | |
|---|---|
| Contact: | Advantage Security Technologies |
| Address: | 3324 Vicksburg Street<br>Fort Smith, AR 72903 |
| Phone: | (479) 474-9191 |
| Email: | swarren@advantage-security.net |
| Web Address: | www.advantage-security.net |


By submitting your response, you certify that you are authorized to represent and bind your company.

| | |
|---|---|
| Shannon Warren | swarren@advantage-security.net |
| *Signature* | *Email* |

*Submitted at 7/15/2022 11:56:57 AM (CT)*

## Requested Attachments

### Agreement Signature Form

220605 Agreement Signature Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

### All Other Certificates

*No response*

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

### Pricing Form 2

220605 Pricing Form 2.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

### Reference Form

220605 Reference_Form.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

### Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

*No response*

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at https://www.tips-usa.com/assets/documents/docs/CIQ.pdf.

### Proposed Goods and Services

AST Website.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

### D/M/WBE Certification OPTIONAL

*No response*

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

### Warranty

Sample Warranty.pdf

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

### Vendor Agreement

Vendor Agreement Signature Form.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

### Pricing Form 1

220605 Pricing Form 1.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

### Supplementary

*No response*

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

### Logo and Other Company Marks

AST Logo.jpg

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the “Response Attachment” tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

### Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION

*No response*

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

### Disclosure of Lobbying Activities Standard Form LLL

*No response*

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, “disclosure Form to Report Lobbying,” in the Response attachments section.

### Confidentiality Claim Form

Confidential Information Status Form.pdf

REQUIRED CONFIDENTIALITY FORM. PLEASE READ CAREFULLY AND FOLLOW THE INSTRUCTIONS. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

### Current W-9 Tax Form

Advantage W9.pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

## Bid Attributes

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| 1 | **Yes - No**<br>Disadvantaged/Minority/Women Business Enterprise - D/M/WBE/Federal HUBZone (Required by some participating governmental entities). Vendor certifies that their firm is a D/M/WBE or HUBZone? Vendor must upload proof of certification to the ”Response Attachments” D/M/WBE CERTIFICATES section.<br>YES |

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| 2 | **Yes - No**<br>Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at https://comptroller.texas.gov/purchasing/vendor/hub/.<br><br>Proof may be submitted. Vendor must upload proof of certification to the “Response Attachments” HUB CERTIFICATES section.<br>No |
| 3 | **Yes - No**<br>The Vendor can provide services and/or products to all 50 US States?<br>No |
| 4 | **States Served:**<br>If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)<br>AR, OK, MO |
| 5 | **Company and/or Product Description:**<br>This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)<br>Advantage Security Technologies - we're a low voltage company that provides and installs fire alarms, access control, CCTV, security systems and structured cabling. We also provide fire extinguisher inspection and service, fire alarm inspections and service on all systems. |
| 6 | **Primary Contact Name**<br>Primary Contact Name<br>Shannon Warren |
| 7 | **Primary Contact Title**<br>Primary Contact Title<br>Business Development Manager |
| 8 | **Primary Contact Email**<br>Primary Contact Email<br>swarren@advantage-security.net |
| 9 | **Primary Contact Phone**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>4794749191 |
| 10 | **Primary Contact Fax**<br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br>4796464469 |

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| 11 | **Primary Contact Mobile**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4796440345 |
| 12 | **Secondary Contact Name**<br>Secondary Contact Name<br>Damon Griebel |
| 13 | **Secondary Contact Title**<br>Secondary Contact Title<br>Vice President |
| 14 | **Secondary Contact Email**<br>Secondary Contact Email<br>dgriebel@advantage-security.net |
| 15 | **Secondary Contact Phone**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4794749191 |
| 16 | **Secondary Contact Fax**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4796464469 |
| 17 | **Secondary Contact Mobile**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4797218289 |
| 18 | **Admin Fee Contact Name**<br>Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.<br>Shannon Warren |
| 19 | **Admin Fee Contact Email**<br>Admin Fee Contact Email<br>swarren@advantage-security.net |

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| 20 | **Admin Fee Contact Phone**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4794749191 |
| 21 | **Purchase Order Contact Name**<br>Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.<br>Shannon Warren |
| 22 | **Purchase Order Contact Email**<br>Purchase Order Contact Email<br>swarren@advantage-secuirty.net |
| 23 | **Purchase Order Contact Phone**<br><br>Enter 10 digit phone number. (No dashes or extensions)<br>Example: 8668398477<br><br>4796440345 |
| 24 | **Company Website**<br>Company Website (Format - www.company.com)<br>www.advantage-security.com |
| 25 | **Entity D/B/A's and Assumed Names**<br>Please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the legal name under which you responded to this solicitation unless you organize otherwise with TIPS after award.<br>*No response* |
| 26 | **Primary Address**<br>Primary Address<br>3324 Vicksburg Street |
| 27 | **Primary Address City**<br>Primary Address City<br>Fort Smith |
| 28 | **Primary Address State**<br>Primary Address State (2 Digit Abbreviation)<br>AR |
| 29 | **Primary Address Zip**<br>Primary Address Zip<br>72906 |

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| 30 | **Search Words:**<br>Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)<br>Low Voltage, Fire Alarm, Cameras, CCTV, Access Control, Security Systems, Structured Cabling, Fire Extinguishers, Axis Cameras, Keri Systems, Alarm.com, Honeywell, Valcom, Potter Fire Alarm, Milestone VMS, Video Intercom Lockdown, Biometerics, Cloudbased, Intrusion, Primeter, Creditentials, Active Shooter, |
| 31 | **Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**<br>Most of our members receive Federal Government grants or other funding and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200, etc. Your answers will determine if your award will be designated as eligible for TIPS Members to utilize federal funds with your company.<br><br>Do you want TIPS Members to be able to spend Federal funds, at the Member's discretion, with you?<br>Yes |
| 32 | **Yes - No**<br>Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:<br><br>(A) has its principal place of business in Texas;<br><br>OR<br><br>(B) employs at least 500 persons in Texas?<br><br>This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.<br>No |
| 33 | **Company Residence (City)**<br>Vendor's principal place of business is in the city of?<br>Fort Smith |
| 34 | **Company Residence (State)**<br>Vendor's principal place of business is in the state of?<br>AR |

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| 35 | **Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**<br>Remember this is a ***MINIMUM*** discount percentage. So, be sure that the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGHOUT THE LIFE OF THE CONTRACT.<br><br>CAUTION: BE CERTAIN YOU CAN HONOR THIS ***MINIMUM*** DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.<br><br>What is the ***MINIMUM*** percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale. Please note that any specific greater discount offered for a particular product, brand, or service listed in Vendor's proposal will control and Vendor will be required to honor that greater specific discount, in excess of the minimum discount, for that particular product, brand, or service for the life of the contract.<br><br>Must answer with a number between 0% and 100%.<br>10% |
| 36 | **MINIMUM Discount Term**<br><br>Does the vendor agree to at least offer, for the life of the Agreement, the Minimum Discount Percentage off list or catalog proposed by Vendor in response to the Attribute entitled "Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION"? TIPS will utilize this response to satisfy the Long Term Cost scoring evaluation criteria. A "YES" answer will be awarded the maximum 10 points for this criterion out of the 100 total points and a "NO" answer is awarded 0 points.<br><br>YES |
| 37 | **Yes - No**<br><br>If awarded on this TIPS Contract, for the duration of the Contract, Vendor agrees to provide, upon request, their then current catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on Vendor's TIPS Contract.<br><br>"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:<br><br>A. is regularly maintained by the manufacturer or Vendor of an item; and<br>B. is either published or otherwise available for inspection by a customer during the purchase process;<br>C. to which the minimum discount proposed by the proposing Vendor may be applied.<br><br>YES |

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| 38 | **TIPS Administration Fee**<br>By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member. |
| 39 | **Yes - No**<br>Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?<br><br>TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.<br>Agreed |
| 40 | **TIPS Administration Fee Paid by Vendor - Not Charged to Customer**<br><br>Vendor understands and agrees that it owes TIPS a TIPS Administration Fee (published in the RFP/RCSP document) on every TIPS sale made under an awarded TIPS Contract. Vendor further understands and agrees that Vendor shall submit pricing with this proposal which includes and accounts for the TIPS Administration Fee and ***shall never*** separately charge the TIPS Member Customer the TIPS fee or add the TIPS Administration Fee line item to an invoice or similar purchase document. Submission of this proposal is Vendor's certification that Vendor agrees to this mandatory term. |
| 41 | **Additional Discounts?**<br>Do you offer additional discounts to TIPS members for large order quantities or large scope of work?<br>Yes |
| 42 | **Years in Business as Proposing Company**<br>Years in business as proposing company?<br>8 |
| 43 | **Resellers:**<br>Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.<br><br>EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.<br><br>(If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award).<br>No |
| 44 | **Right of Refusal**<br>The proposing vendor has the right not to sell under the awarded agreement with a TIPS member at vendor's discretion unless required by law. |

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| 45 | **NON-COLLUSIVE BIDDING CERTIFICATE**<br>By submission of this bid or proposal, the Bidder certifies that:<br><br>1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;<br><br>2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:<br><br>3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;<br><br>4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.<br><br>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. |
| 46 | **CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**<br>Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO<br><br>If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.<br>The Form CIQ is one of the attachments to this solicitation.<br><br>There is an optional upload for this form provided if you have a conflict and must file the form<br>No |
| 47 | **Filing of Form CIQ**<br>If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?<br>No |
| 48 | **Regulatory Standing**<br>I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.<br>Yes |
| 49 | **Regulatory Standing**<br>Regulatory Standing explanation of no answer on previous question.<br>*No response* |

| 50 | **Antitrust Certification Statements (Tex. Government Code § 2155.005)**<br>By submission of this bid or proposal, the Bidder certifies that:<br><br>I affirm under penalty of perjury of the laws of the State of Texas that:<br><br>(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;<br><br>(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;<br><br>(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;<br><br>(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company. |
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| 51 | **Suspension or Debarment Instructions**<br>Instructions for Certification:<br><br>1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.<br><br>2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.<br><br>3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.<br><br>4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participants,” “person,” “primary covered transaction,” “principal,” “proposal” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.<br><br>5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.<br><br>6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.<br><br>7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.<br><br>8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.<br><br>9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment. |
| 52 | **Suspension or Debarment Certification**<br>By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.<br><br>Yes |

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| 53 | **Non-Discrimination Statement and Certification**<br>In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.<br><br>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.<br><br>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3)<br>email: program.intake@usda.gov.<br><br>(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)<br><br>All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.<br><br>Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.<br>☑ Yes, I certify (Yes) |
| 54 | **2 CFR PART 200 Contract Provisions Explanation**<br>Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:<br><br>The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.<br><br>The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.<br><br>In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable. |

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| 55 | **2 CFR PART 200 Contracts**<br>Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.<br><br>Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.<br><br>Does vendor agree?<br>Yes |
| 56 | **2 CFR PART 200 Termination**<br>Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess<br>of $10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and<br>TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor<br>would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.<br><br>Does vendor agree?<br>Yes |
| 57 | **2 CFR PART 200 Clean Air Act**<br><br>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).<br><br>Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of<br><br>an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.<br><br>Does vendor agree?<br>Yes |

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| 58 | **2 CFR PART 200 Byrd Anti-Lobbying Amendment**<br>Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.<br><br>Does vendor agree?<br>Yes |
| 59 | **2 CFR PART 200 Federal Rule**<br>Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $250,000)<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of $250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).<br><br>Does vendor certify that it is in compliance with the Clean Air Act?<br>Yes |
| 60 | **2 CFR PART 200 Procurement of Recovered Materials**<br>A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with<br>maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.<br><br>Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?<br>Yes |

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| 61 | **2 CFR PART 200 Rights to Inventions**<br><br>If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.<br><br>Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.<br><br>Does vendor agree?<br><br>Yes |
| 62 | **2 CFR PART 200 Domestic Preferences for Procurements**<br><br>As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stag through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).<br><br>Does vendor agree?<br><br>Yes |

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| 63 | **2 CFR PART 200 Ban on Foreign Telecommunications**<br><br>Federal grant funds may not be used to purchase equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).<br><br>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use “covered telecommunications”, as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.<br><br>Does vendor agree?<br><br>Yes |
| 64 | **2 CFR PART 200 Contract Cost & Price**<br><br>For contracts more than the simplified acquisition threshold currently set at $250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor’s TIPS pricing and pricing terms proposed.<br><br>Does Vendor Agree?<br><br>Yes |

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| 65 | **FEMA Fund Certifications**<br><br>Submission of this proposal is Vendor's certification that Vendor agrees to this term. Vendor certifies that **IF and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:<br><br>(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.<br><br>(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.<br><br>-<br><br>(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.<br><br>(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.<br><br>(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract. |
| 66 | **Certification of Compliance with the Energy Policy and Conservation Act**<br><br>When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.<br><br>Does Vendor agree?<br><br>Yes |

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| 67 | **Certification Regarding Lobbying**<br>Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds<br><br>Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.<br><br>The undersigned certifies, to the best of his or her knowledge and belief, that:<br><br>(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.<br><br>(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “disclosure Form to Report Lobbying,” in accordance with its instructions.<br><br>(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.<br><br>I HAVE NOT Lobbied per above |
| 68 | **If you answered "I HAVE lobbied" to the above Attribute Question**<br>If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform. |
| 69 | **Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**<br>Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?<br><br>IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.<br><br>YES |

**70** **ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,
do you agree to comply with the following federal requirements?
Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

YES

**71** **Indemnification**

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from
indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as
ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for
any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently
performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on
behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in
the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to
indemnify must be deleted or qualified with ''to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated
damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified
with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree
to these terms?

☑ Yes, I Agree (Yes)

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| 72 | **Remedies**<br>The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue<br>and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution<br>of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived<br>under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any<br>issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a<br>prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee<br>equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and<br>will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if<br>signed, shall thereafter be enforceable as provided by the laws of the State of Texas.<br><br>Do you agree to these terms?<br>Yes, I Agree |
| 73 | **Remedies Explanation of No Answer**<br>*No response* |
| 74 | **Choice of Law**<br>The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.<br>THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.<br><br>Do you agree to these terms?<br>Agreed |
| 75 | **Venue, Jurisdiction and Service of Process**<br><br>Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.<br><br>Do you agree to these terms?<br>Agreed |

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| 76 | **Infringement(s)**<br>The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.<br><br>Do you agree to these terms?<br>Yes, I Agree |
| 77 | **Infringement(s) Explanation of No Answer**<br>*No response* |
| 78 | **Contract Governance**<br>Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.<br>☑ Yes, I Agree (Yes) |
| 79 | **Payment Terms and Funding Out Clause**<br>Payment Terms:<br><br>TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.<br><br>Funding Out Clause:<br><br>Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.<br><br>See statute(s) for specifics or consult your legal counsel.<br><br>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.<br><br>Do you agree to these terms?<br>☑ Yes, I Agree (Yes) |

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| 80 | **Insurance and Fingerprint Requirements Information**<br>Insurance<br><br>If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.<br><br>Fingerprint<br><br>It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834 & 22.08341. Statutory language may be found at: http://www.statutes.legis.state.tx.us/<br><br>If the vendor has staff that meet both of these criterion:<br><br>(1) will have continuing duties related to the contracted services; and<br><br>(2) has or will have direct contact with students<br><br>Then you have "covered" employees for purposes of completing the attached form.<br><br>TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.<br><br>See form in the next attribute to complete entitled:<br>Texas Education Code Chapter 22 Contractor Certification for Contractor Employees |

| 81 | **Texas Education Code Chapter 22 Contractor Certification for Contractor Employees**<br>Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.<br><br>Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:<br><br>(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.<br><br>I certify that:<br><br>**NONE (Section A)** of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.<br><br>**OR**<br><br>**SOME (Section B)** or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:<br><br>(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.<br><br>(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.<br><br>(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.<br><br>(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.<br><br>Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.<br>None |
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| 82 | **Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**<br>SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a “construction contract” includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. “Construction contracts” are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES. |
| 83 | **Texas Government Code 2270 & 2271 Verification Form**<br>Texas Government Code 2270 & 2271 Verification Form<br><br>If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2271 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.<br><br>Our entity further certifies that it is is not listed on and we do not do business with companies prohibited by Texas Government Code 2270 or that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf<br><br>I swear and affirm that the above is true and correct.<br><br>YES |

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| 84 | **Logos and other company marks**<br>Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the “Response Attachment” tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred<br><br>Potential uses of company logo:<br><br>* Your Vendor Profile Page of TIPS website<br><br>* Potentially on TIPS website scroll bar for Top Performing Vendors<br><br>* TIPS Quarterly eNewsletter sent to TIPS Members<br><br>* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing) |
| 85 | **Solicitation Deviation/Compliance**<br>Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?<br>Yes |
| 86 | **Solicitation Exceptions/Deviations Explanation**<br>If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.<br>TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.<br>In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.<br>*No response* |
| 87 | **Agreement Deviation/Compliance**<br>Does the vendor agree with the language in the Vendor Agreement?<br>Yes |
| 88 | **Agreement Exceptions/Deviations Explanation**<br>If the proposing Vendor desires to deviate form the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.<br>*No response* |

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| 89 | **Felony Conviction Notice**<br>Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.” Subsection (b) states “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.” (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.<br><br>Select A., B. or C.<br><br>A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.<br><br>OR B.My firm is not owned nor operated by anyone who has been convicted of a felony, OR<br><br>C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.<br>B. Firm not owned nor operated by felon; per above |
| 90 | **If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**<br>If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.<br><br>1. Name of Felon(s)<br><br>2. The named person's role in the firm, and<br><br>3. Details of Conviction(s).<br>*No response* |
| 91 | **Required Confidentiality Claim Form**<br><br>Required Confidentiality Claim Form<br><br>This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the “Attachments” section, complete according to the instructions on the form, then upload the completed form, with any confidential attachments, if applicable, to the “Response Attachments” section titled “Confidentiality Form” in order to provide to TIPS the completed form titled, “CONFIDENTIALITY CLAIM FORM”. THIS REQUIRED PROCESS IS THE ONLY WAY TO DEEM PROPOSAL DOCUMENTATION CONFIDENTIAL ANY OTHER CONFIDENTIAL DESIGNATION WILL BE DISREGARDED UNLESS THE DOCUMENT IS IDENTIFIED BY AND ATTACHED TO THE REQUIRED FORM. By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.<br><br>Read the form carefully before completing and if you have any questions, email bids@tips-usa.com. |

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| 92 | **Member Access to Vendor Proposal**<br><br>Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Contract constitutes Vendor's consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party. By submitting this proposal, Vendor certifies the foregoing. |
| 93 | **Choice of Law clauses with TIPS Members**<br>If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.<br>Agreed |
| 94 | **Venue of dispute resolution with a TIPS Member**<br>In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.<br>Agreed |
| 95 | **Automatic renewal of contracts or agreements with TIPS or a TIPS member entity**<br>This clause **DOES NOT** prohibit multiyear contracts or agreements with TIPS member entities.<br>Because TIPS and TIPS members are governmental entities subject to laws that control appropriations of funds during their fiscal years for contracts and agreements to provide goods and services, does the Vendor agree to limit any automatic renewal clauses of a contract or agreement executed as a result of this TIPS solicitation award to not longer than "month to month" and at the TIPS contracted rate.<br>Agreed |
| 96 | **Indemnity Limitation with TIPS Members**<br>Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".<br><br>**Agreement is a required condition to award of a contract resulting from this Solicitation.**<br>Agreed |
| 97 | **Arbitration Clauses**<br>Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?<br>Agreed |

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| 98 | **Required Vendor Sales Reporting**<br>By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. |
| 99 | **Upload of Current W-9 Required**<br><br>Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. |
| 100 | **CERTIFICATION REGARDING BOYCOTTING CERTAIN ENERGY COMPANIES (Texas law as of September 1, 2021)**<br>**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**<br><br>If (a) company is not a sole proprietorship; (b) company has ten (10) or more full-time employees; and (c) this contract has a value of $100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 13 ($87^{th}$ session), the company hereby certifies and verifies that the company, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, does not boycott energy companies and will not boycott energy companies during the term of the contract. For purposes of this contract, the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit. The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." *See* Tex. Gov't Code § 809.001(1). |

101 **CERTIFICATION PROHIBITING DISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**

If (a) company is not a sole proprietorship; (b) company has at least ten (10) full-time employees; (c) this contract has a value of at least $100,000 that is paid wholly or partly from public funds; (d) the contract is not excepted under Tex. Gov't Code § 2274.003 of SB 19 (87th leg.); and (e) governmental entity has determined that company is not a sole-source provider or governmental entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 19 (87th session), the company hereby certifies and verifies that the company, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. For purposes of this contract, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. *See* Tex. Gov't Code § 2274.001(3) of SB 19. “Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.” *See* Tex. Gov't Code § 2274.001(3) of SB 19.

102 **CERTIFICATION REGARDING CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree to the following required by Texas law as of September 1, 2021:**

Proposing Company is prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant to the company direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the Proposing Company for product warranty and support purposes. Company, certifies that neither it nor its parent company nor any affiliate of company or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including 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 designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country. For purposes of this contract, “critical infrastructure” means “a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.” *See* Tex. Gov't Code § 2274.0101(2) of SB 1226 (87th leg.). The company verifies and certifies that company will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

| 103 | **Acknowledgement**<br><br>By submitting this proposal, Vendor certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if found to be necessary by the proposing vendor, vendor has sought the advice of counsel in understanding all portions of the solicitation. |
|---|---|

**TIPS RFP 220605 MRO (Maintenance, Repair and Operations of Facilities and Grounds) Supplies, Equipment, Tool Rental,**

**ALL INFORMATION MUST BE TYPED AND FORM MUST BE UPLOADED IN EXCEL FORMAT. DO NOT HANDWRITE REFERENCES AND**

REFERENCES

Please provide three (3) references from three different entities, preferably from school districts or other governmental entities who have us the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

**Verify your references emails are deliverable and that they agree to provide a reference. Failure to do this may delay the evaluation**

You may provide more than three (3) references.

| Entity Name | Contact Person | VALID EMAIL IS REQUIRED | Phone |
|---|---|---|---|
| Fort Smith Public Schools | Shawn Shaffer | eshaffer@fortsmithschools.org | 479-719-4932 |
| Fort Chaffee Military Base | Stewart "Ed" Broyles | stewart.e.broyles.nfg@mail.mil | 479-719-4004 |
| Lyons College | Jeremaih Cherwien | jeremiah.cherwien@lyon.edu | 870-307-7078 |
| Berryville Schools | Ed Wallace | EWallace@bobcat.k12.ar.us | 870-480-4620 |
| | | | |

**TIPS RFP #** 220605

## Required Confidential Information Status Form

Advantage Security Technologies

**Name of company**

Damon Griebel - Vice President

**Printed Name and Title of Authorized Company Officer** declaring below the confidential status of material

| 3324 Vicksburg Street | Fort Smith | AR | 72906 | 479-474-9191 |
|---|---|---|---|---|
| **Address** | **City** | **State** | **ZIP** | **Phone** |

**ALL VENDORS MUST COMPLETE THE ABOVE SECTION**

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), **you must attach a copy of all claimed confidential materials to this COMPLETED form, name the combined PDF documents "CONFIDENTIAL", and upload the combined, confidential documents with your proposal submission**. If a document is not attached, it will not be considered confidential. The copy uploaded will be the sole indicator of which material in your proposal, if any, you deem confidential in the event TIPS/ESC 8 receives a Public Information Request. If ESC 8 receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For documents deemed confidential by you in this manner, ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination. Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, to TIPS Members. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party.

**ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW**

**OPTION 1:**

I **DO CLAIM** **parts of my proposal to be confidential and *DO NOT* desire to expressly waive** a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OT TOTAL PAGES THAT ARE CONFIDENTIAL.

**ATTACHED** ARE COPIES OF ________________ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature ____________________________________ Date ______________

---------------------------------------- **OR** ----------------------------------------

**OPTION 2:**

**I DO NOT CLAIM any of my proposal to be confidential, complete the section below.**

**Express Waiver:** **I desire to expressly waive** any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signa[redacted] ______________ Date 7/11/22

Confidentiality Claim Form Rev 10292021SR

ADVANTAGE
SECURITY

**CONTRACTOR'S WARRANTY**

The contractor signatory below, Advantage Security, hereby guarantees that the construction performed on the project know as _________________________, to be free from defects in material and workmanship for a period of one year from the date of substantial completion.

This Standard Limited Warranty applies and is limited as follows:

1. To the property only as long as it remains in the possession of the original owner named above.
2. To the construction work that has not been subject to accident, misuse or abuse.
3. To the construction work that has not been modified, altered, defaced, or had repairs made or attempted by others.
4. That contractor be immediately notified in writing within ten (10) days of first knowledge of defect by owner or his agent.
5. That contractor shall be given first opportunity to make any repairs, replacements or corrections to the defective construction at no cost to owner within a reasonable period of time.
6. Under no circumstances shall contractor be liable by virtue of this warranty or otherwise for damage to any person or property whatsoever for any special, indirect, secondary or consequential damages of any nature however arising out of the use or inability to use because of the construction defects

Damon Griebel
Contractor Name

3324 Vicksburg Street Fort Smith, AR 72903 479-646-6083
Address & Phone

[redacted]

ADVANTAGE
SECURITY

www.advantage-security.net

AST website has everything that we provide and install on it, please take a look at our website for all information about our company and the list of different brand names products that we install.

**RESOLUTION NO. ______________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH ADVANTAGE SECURITY TECHNOLOGIES, FOR THE PURCHASE AND INSTALLATION OF KERI SYSTEMS DOOR ACCESS CONTROL SYSTEM, IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED FORTY-TWO THOUSAND TWENTY-SIX DOLLARS AND EIGHTY-SIX CENTS ($442,026.86); AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Bentonville Information Technology Department requests to enter into an agreement with Advantage Security to replace the current access control system and software which is no longer supported by the manufacturer;

**WHEREAS**, the City procures this service under The Interlocal Purchasing System (TIPS) contract #220605 which has been approved by the Purchasing Manager; and

**WHEREAS**, this is a budgeted item.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS.**

Section 1: That the Mayor and City Clerk are hereby authorized to enter into an agreement with Advantage Security Technologies for the purchase and installation of Keri Systems Door Access Control system, in an amount not to exceed four hundred forty-two thousand twenty-six dollars and eighty-six cents ($444,026.86);

Section 2: Due to this purchase being procured under TIPS contract, which has already been bid and is allowable by State law and the City's Purchasing Policy, the requirements of competitive bidding do not apply;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Ordinances: All Ordinances of the City Council, or parts of Ordinances of the City Council, in conflict herewith are hereby repealed to the extent of such conflict.

**PASSED and APPROVED this _____ day of _______________, 2024.**

**APPROVED:**

______________________________
**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________
**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Ray Shastid |
| **Phone:** | 479-271-3170 | **For Department(s):** | Police |
| **Email:** | ray.shastid@bentonville.arkansas.gov | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [ ] Budget Adjustment
- [x] Waiver of Bid
- [ ] Emergency Clause

- [x] Ordinance
- [ ] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Ordinance Waiving Bidding for the Purchase of Police Uniforms and Equipment from Galls, LLC |
| **Action Recommendation & Justification:** | This is a request for a waiver of bid for the purchase of police uniforms and equipment from Galls, LLC. This includes dispatch uniforms, patrol uniforms, bike team uniforms, SWAT uniforms, bomb squad uniforms, leather gear, ballistic vest and other soft uniform items such as coats, jackets, rain gear, hats, and informal uniforms. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | Due to being determined the sole source provider for public safety uniforms and uniform accessories for the City's public safety departments, as explained in the attached Memos, it is impracticable to solicit bids for the purchase of these items. Being located in Springdale, this provider promotes safety and convenience by allowing local, timely and cost effective uniform measuring, fitting, alterations, and availability. |
| **Amount for Approval:** | $ 156,550.00 |

### Budget Impact

**Is this Item Budgeted?** [x] YES [ ] NO [ ] ITEM HAS NO COST [ ] OTHER:________________________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted (check all that apply)** [ ] General Fund [ ] Utility Fund [ ] Street Fund [ ] Other(s):________________________________

*Budget Impact Notes for Consideration (Optional):*

# MEMORANDUM

PURCHASING OFFICE

**TO:** ADMINISTRATION

**FROM:** Kelsi Frederick, Purchasing Manager

**DATE:** January 5, 2024

**SUBJECT:** The purchase of public safety uniforms and uniform accessories.

---

In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories. On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; a copy of this Memo is attached.

In January 2024, Purchasing has reviewed the information from previous years and consulted with the City's Police and Fire Departments, determining that there had been no change to sole source justification, or the information included in the original Memo/found in the original review of public safety uniforms and uniform accessory purchases. The current GSA Cooperative Contract (47QSWA21D008H) is used, when possible, by the Police and Fire Departments to obtain co-op pricing for certain items from Galls, LLC.

Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Kelsi Frederick

(479) 271-3115

kfrederick@bentonvillear.com

MEMORANDUM

PURCHASING DEPARTMENT

**TO:** City Council, Administration

**FROM:** Gladys Shoemake, Purchasing Manager

**DATE:** January 19, 2022

**SUBJECT:** The purchase of public safety uniforms and uniform accessories

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In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories. On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; the information resulting from the original review and Memo has been included in this Memo.

In January 2022, Purchasing reviewed the information in the March 13, 2020 Memo and consulted with the City's Police and Fire Departments, determining that there had been no change to the sole source justification in the original Memo; however, there will be an upcoming change in the Government Services Administration (GSA) Cooperative (Co-Op) Contract referenced in the original Memo. This Contract is used when possible by the Police and Fire Departments to obtain co-op pricing for certain items. The updated information has been included below:

**Original GSA Contract Number Utilized: GS-07F-0157M**

**Original GSA Contract Expiration Date: January 31, 2022**

**New GSA Contract Number: 47QSWA21D008H**

I have reviewed the information related to this new Contract number with the GSA Government Point of Contact, and have confirmed that the new Contract has the same terms, conditions, and pricing as the original contract. Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Gladys Shoemake

(479) 271-3115

gshoemake@bentonvillear.com

**Attachments:** Information from the original Memo describing the review of the City's purchase of public safety uniforms and accessories (March 2020)

MEMORANDUM

PURCHASING DEPARTMENT

**Information from Original Review:**

In 2019, the Purchasing Office conducted an internal review of public safety uniform and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories.

The following are important factors considered during this review:

- Public safety uniforms consist of non-typical uniform types, such as police (which require expedited alterations and repairs) and fire clothing types, but also require the purchase of various small accessories. Other City Departments, not in the public safety sector, use more standardized uniforms, such as khaki pants or jeans and polo shirts and jackets.
  - Purchasing determined that the various accessories needed by public safety staff, such as holsters for various weapons, make the uniform needs for these Departments unique from other City Departments. Furthermore, these additional needs make it difficult to determine spending thresholds applicable to different procurement methods (bidding, cooperative contract use etc.) due to the different types of the items (ex. purchase of pants/shirts vs. purchase of holsters/belts) .

- Galls offers a Springdale, Arkansas location, which allows the public safety Departments to pick up/drop off uniforms according to their availability.

- Galls has consistently been acquiring other local public safety uniform providers, such as Cruise Uniforms (now a Galls company), drastically limiting the vendor pool that would be potential bidders, if bidding these uniform types was determined practical.

- According to the Police Department, Galls/Cruise is the only local provider that allows pick-up and alterations; the Police Department utilizes and relies on these services frequently.

- Some Galls items are available through the Federal Cooperative (Co-Op), GSA, via utilization of Contract GS-07F-0157M. Both Departments utilize this cooperative pricing when applicable.

  - Pursuant to §19-11-249, use of a Co-Op is permitted. When Departments request to purchase from a Co-Op, Purchasing conducts a review of the Co-Op contract to determine if the contract is in line with both Arkansas State Law and City purchasing procedures, as well as if the purchases from the contract can be accurately tracked and verified.

  - Due to the nature of how the Federal Co-Op offerings are organized, and the wide array of available options in public safety uniform accessories, Purchasing determined that it was not feasible to expect public safety departments to accurately track and confirm all pricing offered through the cooperative using solely cooperative contract participation.

Based on the above factors and the nature of public safety uniform needs, Purchasing has determined Galls, LLC to be sole source for the City's public safety uniform purchases.

Pursuant to §14-58-303, the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical, may be waived by ordinance by the City's governing body. In accordance with this Statute, Purchasing recommends that the City's public safety Departments waive competitive bidding for the purchase of these uniforms and accessories from Galls, using GSA Federal Co-Op pricing and alternate cost options offered by Galls to realize cost savings when applicable.

# MEMORANDUM

PURCHASING OFFICE

**TO:** ADMINISTRATION

**FROM:** Gladys Shoemake, Purchasing Manager

**DATE:** January 3, 2023

**SUBJECT:** The purchase of public safety uniforms and uniform accessories.

In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories.

On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; a copy of this Memo is attached.

In January 2023, Purchasing reviewed the information in the March 13, 2020 Memo and consulted with the City's Police and Fire Departments, determining that there had been no change to the information included in the original Memo/found in the original review of public safety uniforms and uniform accessory purchases.

Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Gladys Shoemake

(479) 271-3115

gshoemake@bentonvillear.com

# ORDINANCE NO. ___________

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF UNIFORMS FOR THE BENTONVILLE POLICE DEPARTMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT, NOT TO EXCEED ONE HUNDRED FIFTY-SIX THOUSAND FIVE HUNDRED FIFTY DOLLARS ($156,550.00), WITH GALLS LLC, FOR THIS PURCHASE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Bentonville Police Department requires a standardized and centralized provider for uniforms and accessories;

**WHEREAS**, Galls LLC is the sole provider for such uniforms and accessories in the area, and bidding would not result in competitive submittals; and

**WHEREAS**, this agreement will be funded with budgeted monies.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

Section 1: The Mayor and City Clerk are authorized to enter into a contract with Galls LLC, for the purchase of uniforms and uniform accessories for the Bentonville Police Department, in an amount not to exceed one hundred fifty-six thousand five hundred fifty dollars ($156,550.00);

Section 2: This purchase will be made using budgeted funds;

Section 3: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council; therefore, waives the requirements of competitive bidding for the purchase of uniforms and uniform accessories for the Bentonville Police Department;

Section 4 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

**PASSED this _____ day of _________________, 2024.**

**APPROVED:**

________________________________

**STEPHANIE ORMAN, Mayor**

**ATTEST:**

________________________________

**KIRBY ROMINES, City Clerk**

THE CITY OF BENTONVILLE

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Marcus Williams |
| **Phone:** | 479-271-3151 | **For Department(s):** | Fire |
| **Email:** | mwilliams@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [ ] Budget Adjustment
- [x] Waiver of Bid
- [x] Emergency Clause

- [x] Ordinance
- [ ] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Ordinance Waiving Bidding for the Purchase of Fire Department Uniforms from Galls, LLC |
| **Action Recommendation & Justification:** | This is a request for a waiver of bid to allow for the purchase of fire uniforms from Galls, LLC in Springdale, Arkansas. The 2024 budget total allotment is $163,382.00. Emergency Clause requested due to hiring of new personnel that were given a basic a basic set of uniforms since uniform purchase was cut off in Oct. of 2023 due to shipping delays. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | Due to being determined the sole source provider for public safety uniforms and uniform accessories for the City's public safety departments, as explained in the attached Memos, it is impracticable to solicit bids for the purchase of these items. Being located in Springdale, this provider promotes safety and convenience by allowing local, timely and cost effective uniform measuring, fitting, alterations, and availability. Galls also carries a GSA contract #47QSWA21D008H |
| **Amount for Approval:** | $ 163,382.00 |

### Budget Impact

**Is this Item Budgeted?** [x] YES [ ] NO [ ] ITEM HAS NO COST [ ] OTHER:____________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) [ ] General Fund [ ] Utility Fund [ ] Street Fund [ ] Other(s):____________

*Budget Impact Notes for Consideration (Optional):*

# MEMORANDUM

PURCHASING OFFICE

**TO:** ADMINISTRATION

**FROM:** Kelsi Frederick, Purchasing Manager

**DATE:** January 5, 2024

**SUBJECT:** The purchase of public safety uniforms and uniform accessories.

In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories. On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; a copy of this Memo is attached.

In January 2024, Purchasing has reviewed the information from previous years and consulted with the City's Police and Fire Departments, determining that there had been no change to sole source justification, or the information included in the original Memo/found in the original review of public safety uniforms and uniform accessory purchases. The current GSA Cooperative Contract (47QSWA21D008H) is used, when possible, by the Police and Fire Departments to obtain co-op pricing for certain items from Galls, LLC.

Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Kelsi Frederick

(479) 271-3115

kfrederick@bentonvillear.com

MEMORANDUM

PURCHASING DEPARTMENT

**TO:** City Council, Administration

**FROM:** Gladys Shoemake, Purchasing Manager

**DATE:** January 19, 2022

**SUBJECT:** The purchase of public safety uniforms and uniform accessories

---

In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories. On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; the information resulting from the original review and Memo has been included in this Memo.

In January 2022, Purchasing reviewed the information in the March 13, 2020 Memo and consulted with the City's Police and Fire Departments, determining that there had been no change to the sole source justification in the original Memo; however, there will be an upcoming change in the Government Services Administration (GSA) Cooperative (Co-Op) Contract referenced in the original Memo. This Contract is used when possible by the Police and Fire Departments to obtain co-op pricing for certain items. The updated information has been included below:

**Original GSA Contract Number Utilized: GS-07F-0157M**

**Original GSA Contract Expiration Date: January 31, 2022**

**New GSA Contract Number: 47QSWA21D008H**

I have reviewed the information related to this new Contract number with the GSA Government Point of Contact, and have confirmed that the new Contract has the same terms, conditions, and pricing as the original contract. Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Gladys Shoemake

(479) 271-3115

gshoemake@bentonvillear.com

**Attachments:** Information from the original Memo describing the review of the City's purchase of public safety uniforms and accessories (March 2020)

MEMORANDUM

PURCHASING DEPARTMENT

**Information from Original Review:**

In 2019, the Purchasing Office conducted an internal review of public safety uniform and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories.

The following are important factors considered during this review:

- Public safety uniforms consist of non-typical uniform types, such as police (which require expedited alterations and repairs) and fire clothing types, but also require the purchase of various small accessories. Other City Departments, not in the public safety sector, use more standardized uniforms, such as khaki pants or jeans and polo shirts and jackets.
    - Purchasing determined that the various accessories needed by public safety staff, such as holsters for various weapons, make the uniform needs for these Departments unique from other City Departments. Furthermore, these additional needs make it difficult to determine spending thresholds applicable to different procurement methods (bidding, cooperative contract use etc.) due to the different types of the items (ex. purchase of pants/shirts vs. purchase of holsters/belts) .

- Galls offers a Springdale, Arkansas location, which allows the public safety Departments to pick up/drop off uniforms according to their availability.

- Galls has consistently been acquiring other local public safety uniform providers, such as Cruise Uniforms (now a Galls company), drastically limiting the vendor pool that would be potential bidders, if bidding these uniform types was determined practical.

- According to the Police Department, Galls/Cruise is the only local provider that allows pick-up and alterations; the Police Department utilizes and relies on these services frequently.

- Some Galls items are available through the Federal Cooperative (Co-Op), GSA, via utilization of Contract GS-07F-0157M. Both Departments utilize this cooperative pricing when applicable.

    - Pursuant to §19-11-249, use of a Co-Op is permitted. When Departments request to purchase from a Co-Op, Purchasing conducts a review of the Co-Op contract to determine if the contract is in line with both Arkansas State Law and City purchasing procedures, as well as if the purchases from the contract can be accurately tracked and verified.

    - Due to the nature of how the Federal Co-Op offerings are organized, and the wide array of available options in public safety uniform accessories, Purchasing determined that it was not feasible to expect public safety departments to accurately track and confirm all pricing offered through the cooperative using solely cooperative contract participation.

Based on the above factors and the nature of public safety uniform needs, Purchasing has determined Galls, LLC to be sole source for the City's public safety uniform purchases.

Pursuant to §14-58-303, the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical, may be waived by ordinance by the City's governing body. In accordance with this Statute, Purchasing recommends that the City's public safety Departments waive competitive bidding for the purchase of these uniforms and accessories from Galls, using GSA Federal Co-Op pricing and alternate cost options offered by Galls to realize cost savings when applicable.

# MEMORANDUM

PURCHASING OFFICE

**TO:** ADMINISTRATION

**FROM:** Gladys Shoemake, Purchasing Manager

**DATE:** January 3, 2023

**SUBJECT:** The purchase of public safety uniforms and uniform accessories.

In 2019, the Purchasing Office conducted an internal review of public safety uniforms and uniform accessory purchases, with the primary goal being to assess the practicality in inviting competitive bids for the purchase of public safety uniforms and accessories.

On March 13, 2020 Purchasing issued a Memo explaining the determination that Galls, LLC was the sole source provider for the City's public safety uniforms; a copy of this Memo is attached.

In January 2023, Purchasing reviewed the information in the March 13, 2020 Memo and consulted with the City's Police and Fire Departments, determining that there had been no change to the information included in the original Memo/found in the original review of public safety uniforms and uniform accessory purchases.

Purchasing will conduct this review annually, to determine if any change has been found and either communicate that change or adjust the recommendation for the purchase of these items.

Please feel free to contact me with any questions.

Gladys Shoemake

(479) 271-3115

gshoemake@bentonvillear.com

**ORDINANCE NO. ___________**

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF UNIFORMS FOR THE BENTONVILLE FIRE DEPARTMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT, NOT TO EXCEED ONE HUNDRED SIXTY-THREE THOUSAND THREE HUNDRED EIGHTY-TWO DOLLARS ($163,382.00), WITH GALLS LLC, FOR THIS PURCHASE; PROVIDING FOR THE EMERGENCY CLAUSE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Bentonville Fire Department requires a standardized and centralized provider for public safety uniforms and accessories;

**WHEREAS**, Galls LLC is the sole provider for such uniforms and accessories in the area, and bidding would not result in competitive submittals; and

**WHEREAS**, this agreement will be funded with budgeted monies.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

Section 1: The Mayor and City Clerk are authorized to enter into a contract with Galls LLC, for the purchase of public safety uniforms and uniform accessories for the Bentonville Fire Department, in an amount not to exceed one hundred sixty-three thousand three hundred eighty-two dollars ($163,382.00);

Section 2: This purchase will be made using budgeted funds;

Section 3: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council; therefore, waives the requirements of competitive bidding for the purchase of public safety uniforms and uniform accessories for the Bentonville Fire Department;

Section 4 - Emergency Clause: The need to make this purchase is immediate, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from the date of its passage and approval;

Section 5 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 6 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

**PASSED** this __________ **day of** ________________________**, 2024.**

**APPROVED:**

**ATTEST:**

______________________________

**STEPHANIE ORMAN, Mayor**

______________________________

**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Curtis Sharp |
| **Phone:** | 479-271-0170 | **For Department(s):** | Fire |
| **Email:** | csharp@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [ ] Budget Adjustment
- [x] Waiver of Bid
- [ ] Emergency Clause

- [x] Ordinance
- [ ] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Ordinance Waiving Bidding to Bound Tree Medical for EMS Medications & Supplies |
| **Action Recommendation & Justification:** | Approval of an Ordinance requesting Waiver of Bid to Bound Tree Medical in the amount of $50,000.00 for the purchase of medical supplies and medications for the ambulance service. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | See attached memo. |
| **Amount for Approval:** | $ 50,000.00 |

### Budget Impact

**Is this Item Budgeted?** [x] YES [ ] NO [ ] ITEM HAS NO COST [ ] OTHER:______________________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) [ ] General Fund [ ] Utility Fund [ ] Street Fund [ ] Other(s):______________________________

*Budget Impact Notes for Consideration (Optional):*

## Inter-office Memorandum

To: Mayor Orman and City Council
From: Curtis Sharp, Deputy Chief
CC: Camille Thompson, Staff Attorney
Kelsi Frederick, Purchasing Manager
Date: January 23, 2024
Re: Purchasing EMS supplies directly through Henry Schein & Bound Tree Medical

---

To ensure financial efficiency, the Fire Department closely monitors and evaluates purchasing practices for routine EMS supplies, including fluids and medications. Considerations include the ability to acquire proprietary and compatible medical supplies, individual items and bulk purchasing options, 12-month minimum medication expiration dating, and shipping & handling fees.

Recent cost analysis considered sourcing and procurement comparisons between Henry Schein and other EMS medical supply vendors such as Bound Tree, McKesson, Cardinal, Emergency Medical Products, Medical Warehouse and the MMCAP state contract. Although Henry Schein participates under the MMCAP state contract, state pricing for Henry Schein items are significantly higher and EMS supplies, under the state contract, are limited and require case purchasing. Case purchasing often leads to excessive waste, since medical supplies are packaged with expiration dates and often expire before use. Our 2024 findings confirm the most cost-effective method remains direct purchasing through Henry Schein Medical and Bound Tree Medical.

**ORDINANCE NO. ___________**

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF MEDICAL SUPPLIES AND MEDICATION FOR THE BENTONVILLE FIRE DEPARTMENT AMBULANCE SERVICE; AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT, NOT TO EXCEED FIFTY THOUSAND DOLLARS ($50,000.00), WITH BOUND TREE MEDICAL FOR THIS PURCHASE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Bentonville Fire Department closely monitors and evaluates purchasing practices for routine emergency medical supplies in order to ensure availability, compatibility, validity, and related fees;

**WHEREAS**, it has been determined that Bound Tree Medical has the best pricing for certain medical supplies and medications while providing the ability to acquire proprietary and compatible medical supplies, individual and bulk purchasing, and critical date sensitive products without waste; and

**WHEREAS**, this agreement will be funded with budgeted monies.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

<u>Section 1</u>: The Mayor and City Clerk are authorized to enter into a contract with Bound Tree Medical for the purchase of medical supplies and medication for the Bentonville Fire Department Ambulance Service, in an amount not to exceed sixty thousand dollars ($50,000.00);

<u>Section 2</u>: This purchase will be made using budgeted funds;

<u>Section 3</u>: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council; therefore, waives the requirements of competitive bidding for the purchase of medical supplies and medication for the Bentonville Fire Department Ambulance Service;

<u>Section 4 - Severability Provision</u>: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

<u>Section 5 - Repeal of Conflicting Provisions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

**PASSED this __________ day of ________________________, 2024.**

**APPROVED:**

______________________________
**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________
**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Curtis Sharp |
| **Phone:** | 479-271-0170 | **For Department(s):** | Fire |
| **Email:** | csharp@bentonvillear.com | | |

### Item Type (Check all that apply)

- ☐ Informational
- ☐ Bid Award
- ☐ Enter into an Agreement
- ☐ Change Order
- ☐ Recognizing Funds
- ☐ Budget Adjustment
- ☑ Waiver of Bid
- ☐ Emergency Clause

- ☑ Ordinance
- ☐ Resolution
- ☐ Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Ordinance Waiving Bidding to Henry Schein Medical For EMS Medications & Supplies |
| **Action Recommendation & Justification:** | Approving an Ordinance requesting Waiver of Bid to Henry Schein Medical in the amount of $60,000.00 for the purchase of medical supplies and medications for the ambulance service. This is a budgeted item. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | See attached memo. |
| **Amount for Approval:** | $ 60,000.00 |

### Budget Impact

**Is this Item Budgeted?** ☑ YES ☐ NO ☐ ITEM HAS NO COST ☐ OTHER:____________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☐ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):____________________

*Budget Impact Notes for Consideration (Optional):*

## Inter-office Memorandum

To: Mayor Orman and City Council
From: Curtis Sharp, Deputy Chief
CC: Camille Thompson, Staff Attorney
Kelsi Frederick, Purchasing Manager
Date: January 23, 2024
Re: Purchasing EMS supplies directly through Henry Schein & Bound Tree Medical

---

To ensure financial efficiency, the Fire Department closely monitors and evaluates purchasing practices for routine EMS supplies, including fluids and medications. Considerations include the ability to acquire proprietary and compatible medical supplies, individual items and bulk purchasing options, 12-month minimum medication expiration dating, and shipping & handling fees.

Recent cost analysis considered sourcing and procurement comparisons between Henry Schein and other EMS medical supply vendors such as Bound Tree, McKesson, Cardinal, Emergency Medical Products, Medical Warehouse and the MMCAP state contract. Although Henry Schein participates under the MMCAP state contract, state pricing for Henry Schein items are significantly higher and EMS supplies, under the state contract, are limited and require case purchasing. Case purchasing often leads to excessive waste, since medical supplies are packaged with expiration dates and often expire before use. Our 2024 findings confirm the most cost-effective method remains direct purchasing through Henry Schein Medical and Bound Tree Medical.

**ORDINANCE NO. ____________**

**AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF MEDICAL SUPPLIES AND MEDICATION FOR THE BENTONVILLE FIRE DEPARTMENT AMBULANCE SERVICE; AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT, NOT TO EXCEED SIXTY THOUSAND DOLLARS ($60,000.00), WITH HENRY SCHEIN MEDICAL FOR THIS PURCHASE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Bentonville Fire Department closely monitors and evaluates purchasing practices for routine emergency medical supplies in order to ensure availability, compatibility, validity, and related fees;

**WHEREAS**, it has been determined that Henry Schein Medical has the best pricing for certain medical supplies and medications, while providing the ability to acquire proprietary and compatible medical supplies, individual and bulk purchasing, and critical date sensitive products without waste; and

**WHEREAS**, this agreement will be funded with budgeted monies.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

Section 1: The Mayor and City Clerk are authorized to enter into a contract with Henry Schein Medical for the purchase of medical supplies and medication for the Bentonville Fire Department Ambulance Service, in an amount not to exceed sixty thousand dollars ($60,000.00);

Section 2: This purchase will be made using budgeted funds;

Section 3: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council; therefore, waives the requirements of competitive bidding for the purchase of medical supplies and medication for the Bentonville Fire Department Ambulance Service;

Section 4 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

**PASSED this __________ day of ________________________, 2024.**

**APPROVED:**

______________________________

**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________

**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Tony Davis |
| **Phone:** | 479-271-3130 | **For Department(s):** | Street |
| **Email:** | todavis@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [x] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [ ] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution authorizing the Purchase of Two (2) Backhoes |
| **Action Recommendation & Justification:** | Resolution to enter into an agreement with Riggs Cat to purchase two (2) currently leased 2023 420 Backhoes for a total of $250,000.00 plus applicable taxes. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | State law authorizes the purchase of used machinery or equipment without soliciting bids. |
| **Amount for Approval:** | $ 250,000.00 |

### Budget Impact

**Is this Item Budgeted?** [x] YES [ ] NO [ ] ITEM HAS NO COST [ ] OTHER:________________________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) [ ] General Fund [ ] Utility Fund [x] Street Fund [ ] Other(s):______________________________

*Budget Impact Notes for Consideration (Optional):*

Jan 08, 2024

CITY OF BENTONVILLE
1000 SW 14TH
BENTONVILLE, Arkansas 72712-5256

Attention: TONY DAVIS
**RE: 167202-01**

Dear Tony Davis,

We are pleased to quote the following for your purchase consideration.

One (1) Used Caterpillar Model: 420 Backhoe Loader with all standard equipment in addition to the additional specifications listed below:

**STOCK NUMBER:** H8T3465 **SERIAL NUMBER:** 0H8T03465 **YEAR:** 2023 **SMU:** 144.50

| | |
|---|---|
| SELL PRICE | $125,000.00 |
| CSA | Included |
| **NET BALANCE DUE** | **$125,000.00** |
| **BEFORE TAX BALANCE** | **$125,000.00** |

**ADDTITIONAL CONSIDERATIONS**

- Quoted pricing and finance terms are based on current available market pricing and are subject to change.
- Machine pricing is not guaranteed until Purchase Order is signed and accepted. Purchase Order will be available within 120 days of the scheduled machine ship date from manufacturer.
- Financing terms, including interest rates, residuals, and other associated items will not be guaranteed until finance documents are generated at time of machine delivery to customer.
- By signing this quote, Riggs will initiate the machine ordering process for the equipment quoted.

**WARRANTY** : Remainder of PT / HYD and TECH. Expires on 4/17/26

Thank you for your interest in Riggs CAT and Caterpillar products for your business needs.If there are any questions, please do not hesitate to contact me.

Sincerely,

Steve Smith
Machine Sales Representative  Riggs CAT
Steves@jariggs.com
+1 (479) 601-1330

**Accepted by**__________________________________ **on** ___________________

______________________________
**Signature**

**One (1) Used Caterpillar Model: 420  Backhoe Loader with all standard equipment in addition to the additional specifications listed below:**

**STANDARD EQUIPMENT**

**BOOMS, STICKS, AND LINKAGES** -BACKHOE -- 14'4" Center pivot backhoe -4.3 Meters -- Boom and swing transport locks -- Pilot operated backhoe and -electro hydraulic stabilizer controls -- Street type stabilizer shoes -- Anti-drift hydraulics (boom, stick, -and E-stick) -- Cat Cushion Swing(tm) system -LOADER -- Single Tilt Loader -- Lift cylinder brace -- Self-leveling loader with single -lever control -- Return-to-dig -(automatic bucket positioner) -- Transmission neutralizer switch -- Bucket level indicator -

**POWERTRAIN** -- Water separator -- Thermal starting aid system -- Dry type axial seal air cleaner with -integral precleaner -- Automatic dust ejection system -- Filter condition indicator -- Hydraulically boosted multi-plate -wet disk brake with dual pedals & -interlock -- Differential lock -- Torque converter -- Transmission-four speed manual shift -- Neutral safety switch -- Spin-on filters for -Fuel -Engine oil -Transmission oil -- Outboard Planetary Rear Axles -- Diesel particulate filter -- Hydrostatic power steering

**HYDRAULICS** -- Pilot hoe and mechanical loader -controls -- Load sensing, variable flow system -with 43 gpm (162 L/min) axial piston -pump -- 6 micron hydraulic filter -- Caterpillar XT-3 hose -- Hydraulic oil cooler -- Pilot control shutoff switch -- Flow-sharing hydraulic valves -- Hydraulic suction strainer -

**ELECTRICAL** -- 12 volt electrical start -- Horn, front and rear -- Backup alarm -- Hazard flashers/turn signals -- Halogen head lights (2) -- Halogen rear flood lights (2) -- Stop and tail lights -- Audible system fault alarm -- Key start/stop system -- 850 CCA maintenance free battery -- Battery disconnect switch -- External Power Receptacle (12v) -- Diagnostic ports for engine and -machine Electronic Control Modules

**OPERATOR ENVIRONMENT** -- Interior rearview mirror -- ROPS canopy, Rear Fenders -- 2-inch (50mm) retractable seat belt -- Tilt steering column -- Steering knob -- Hand and foot throttle -- Automatic Engine Speed Control -- One Touch Low Idle -- Floor mat and Coat Strap -- Lockable storage area -- Air suspension seat -

**FLUIDS** -- Antifreeze - Extended Life Coolant --20F (-30C)

**OTHER STANDARD EQUIPMENT** -- Standard Storage Box -- Transport tie-down points -- Ground line fill fuel tank with -42.3 gal (160L) capacity & 5 gal (19L) -diesel exhaust fluid -- Rubber impact strips on radiator -guard -- CD-ROM Parts Manual -- Safety Manual -- Operations and Maintenance Manual -- Lockable hood -- Tire Valve Stem Protection

**MACHINE SPECIFICATIONS**

420  BACKHOE LOADER
STABILIZER PADS, FLIP-OVER
ENGINE, C3.6
LOADER BUCKET-MP, 1.3 YD3, PO
TIRES, 12.5 80/19.5L-24, GY
BELT, SEAT, 2" SUSPENSION
CUTTING EDGE, TWO PIECE
TRIM PACKAGE 3
CAB, DELUXE
HYDRAULICS, MP, 6FCN/8BNK, ST
PT, 4WD/ POWERSHIFT
STICK, EXTENDABLE, 14FT
DISPLAY, TOUCH SCREEN
WORKLIGHTS (8) LED LAMPS
SEAT, DELUXE FABRIC
AIR CONDITIONER, T4F
PRODUCT LINK, CELLULAR, PLE643
COUNTERWEIGHT, 1015 LBS
RIDE CONTROL
LINES, COMBINED AUX, E-STICK
STANDARD RADIO (12V)
COLD WEATHER PACKAGE, 120V
AUTO-UP STABILIZERS
PLATE GROUP - BOOM WEAR
GUARD, STABILIZER
HYDRAULIC THUMB
24" BACKHOE BUCKET

Jan 08, 2024

CITY OF BENTONVILLE
1000 SW 14TH
BENTONVILLE, Arkansas 72712-5256

**RE: 167210-01**

Dear Tony,

We are pleased to quote the following for your purchase consideration.

One (1) Used Caterpillar Model: 420 Backhoe Loader with all standard equipment in addition to the additional specifications listed below:

**STOCK NUMBER:** H8T3550 **SERIAL NUMBER:** 0H8T03550 **YEAR:** 2023 **SMU:** 210.40

| | |
|---|---|
| SELL PRICE | $125,000.00 |
| CSA | Included |
| **NET BALANCE DUE** | **$125,000.00** |
| **BEFORE TAX BALANCE** | **$125,000.00** |

**ADDTITIONAL CONSIDERATIONS**

- Quoted pricing and finance terms are based on current available market pricing and are subject to change.
- Machine pricing is not guaranteed until Purchase Order is signed and accepted. Purchase Order will be available within 120 days of the scheduled machine ship date from manufacturer.
- Financing terms, including interest rates, residuals, and other associated items will not be guaranteed until finance documents are generated at time of machine delivery to customer.
- By signing this quote, Riggs will initiate the machine ordering process for the equipment quoted.

**WARRANTY:** Remainder of PT/Hyd./Tech warranty. Expires on 4/17/26

Thank you for your interest in Riggs CAT and Caterpillar products for your business needs. If there are any questions, please do not hesitate to contact me.

Sincerely,

Steve Smith
Machine Sales Representative  Riggs CAT
Steves@jariggs.com
+1 (479) 601-1330

**Accepted by__________________________________ on ____________________**

______________________________
**Signature**

**One (1) Used Caterpillar Model: 420 Backhoe Loader with all standard equipment in addition to the additional specifications listed below:**

**STANDARD EQUIPMENT**

**BOOMS, STICKS, AND LINKAGES** -BACKHOE -- 14'4" Center pivot backhoe -4.3 Meters -- Boom and swing transport locks -- Pilot operated backhoe and -electro hydraulic stabilizer controls -- Street type stabilizer shoes -- Anti-drift hydraulics (boom, stick, -and E-stick) -- Cat Cushion Swing(tm) system -LOADER -- Single Tilt Loader -- Lift cylinder brace -- Self-leveling loader with single -lever control -- Return-to-dig -(automatic bucket positioner) -- Transmission neutralizer switch -- Bucket level indicator -

**POWERTRAIN** -- Water separator -- Thermal starting aid system -- Dry type axial seal air cleaner with -integral precleaner -- Automatic dust ejection system -- Filter condition indicator -- Hydraulically boosted multi-plate -wet disk brake with dual pedals & -interlock -- Differential lock -- Torque converter -- Transmission-four speed manual shift -- Neutral safety switch -- Spin-on filters for -Fuel -Engine oil -Transmission oil -- Outboard Planetary Rear Axles -- Diesel particulate filter -- Hydrostatic power steering

**HYDRAULICS** -- Pilot hoe and mechanical loader -controls -- Load sensing, variable flow system -with 43 gpm (162 L/min) axial piston -pump -- 6 micron hydraulic filter -- Caterpillar XT-3 hose -- Hydraulic oil cooler -- Pilot control shutoff switch -- Flow-sharing hydraulic valves -- Hydraulic suction strainer -

**ELECTRICAL** -- 12 volt electrical start -- Horn, front and rear -- Backup alarm -- Hazard flashers/turn signals -- Halogen head lights (2) -- Halogen rear flood lights (2) -- Stop and tail lights -- Audible system fault alarm -- Key start/stop system -- 850 CCA maintenance free battery -- Battery disconnect switch -- External Power Receptacle (12v) -- Diagnostic ports for engine and -machine Electronic Control Modules

**OPERATOR ENVIRONMENT** -- Interior rearview mirror -- ROPS canopy, Rear Fenders -- 2-inch (50mm) retractable seat belt -- Tilt steering column -- Steering knob -- Hand and foot throttle -- Automatic Engine Speed Control -- One Touch Low Idle -- Floor mat and Coat Strap -- Lockable storage area -- Air suspension seat -

**FLUIDS** -- Antifreeze - Extended Life Coolant --20F (-30C)

**OTHER STANDARD EQUIPMENT** -- Standard Storage Box -- Transport tie-down points -- Ground line fill fuel tank with -42.3 gal (160L) capacity & 5 gal (19L) -diesel exhaust fluid -- Rubber impact strips on radiator -guard -- CD-ROM Parts Manual -- Safety Manual -- Operations and Maintenance Manual -- Lockable hood -- Tire Valve Stem Protection

**MACHINE SPECIFICATIONS**

420 BACKHOE LOADER
STABILIZER PADS, FLIP-OVER
ENGINE,  C3.6
LOADER BUCKET-MP, 1.3 YD3
TIRES, 12.5 80/19.5L-24, GY
SHIPPING/STORAGE PROTECTION
BELT, SEAT, 2" SUSPENSION
CUTTING EDGE, TWO PIECE
TRIM PACKAGE 3
CAB, DELUXE
HYDRAULICS, MP, 6FCN/8BNK, ST
PT, 4WD/ POWERSHIFT
STICK, EXTENDABLE, 14FT
DISPLAY, TOUCH SCREEN
WORKLIGHTS (8) LED LAMPS
SEAT, DELUXE FABRIC
AIR CONDITIONER, T4F
PRODUCT LINK, CELLULAR, PLE643
COUNTERWEIGHT, 1015 LBS
RIDE CONTROL
LINES, COMBINED AUX, E-STICK
STANDARD RADIO (12V)
COLD WEATHER PACKAGE, 120V
AUTO-UP STABILIZERS
PLATE GROUP - BOOM WEAR
GUARD, STABILIZER
HYDRAULIC THUMB
24” BACKHOE4/17/26 BUCKET

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO ENTER INTO AGREEMENTS WITH RIGGS CAT FOR THE PURCHASE OF TWO (2) USED BACKHOES IN THE TOTAL AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00) PLUS APPLICABLE TAXES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Bentonville previously leased two backhoes for the Street Department;

**WHEREAS**, those backhoes are available for purchase as used machinery, allowing operations to continue uninterrupted by not changing equipment while saving costs; and

**WHEREAS**, this purchase will be made using budgeted funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS.**

<u>Section 1</u>: That the Mayor and Clerk are hereby authorized to enter into agreements with Riggs Cat for the purchase of two (2) currently leased, used, backhoes in the total amount of two hundred fifty thousand dollars ($250,000.00), plus applicable taxes;

<u>Section 2 - Severability Provision</u>: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

<u>Section 3 - Repeal of Conflicting Provisions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED and APPROVED this _____ day of _______________, 2024.**

**APPROVED:**

__________________________________

**STEPHANIE ORMAN, MAYOR**

**ATTEST:**

__________________________________

**KIRBY ROMINES, CITY CLERK**

THE CITY OF BENTONVILLE

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Wade Tomlinson |
| **Phone:** | 479 271 3392 | **For Department(s):** | Bentonville Parks and Recreation Dept |
| **Email:** | WTomlinson@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [x] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution to accept an EPA Grant for Stream Banks at McKissic Creek & Little Sugar Creek |
| **Action Recommendation & Justification:** | Resolution seeking City Council approval to accept an EPA grant in the amount of $153,461.00 to assess and plan development for stream banks at McKissic Creek and Little Sugar Creek in Bentonville. A budget adjustment is needed to accept funds. |
| **Additional Comments for Consideration (Optional):** | Grant No. 02F1221 Program Code CD. See Memo. Not all of the grant monies are being appropriated as the contract funded by this grant is less than the total grant amount. |
| **Amount for Approval:** | $ 151,461.00 |

### Budget Impact

**Is this Item Budgeted?** ☐ YES ☑ NO ☐ ITEM HAS NO COST ☐ OTHER:__________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| 105030-33110 | Federal Direct Grant | $ | $ 151,461.00 |
| 105030-47390 | Improv Other than Bldg / Other | $ 151,461.00 | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☐ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):__________________

*Budget Impact Notes for Consideration (Optional):*

# Memo

To: City Council, Mayor Orman

From: J. Wade Tomlinson, Parks Planner

Thru: David Wright, Parks and Recreation Director

Date: January 23, 2024

Re: Quality Management Plan

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In willingness to participate in the EPA Grant for Assessment of Urban Streams in the Ozark Highlands Ecoregion and Stream Restoration of McKissic Creek in Bentonville, Arkansas, and conformance with Part A requirements of ANSI/ASQC E4-1994, a Quality Management Plan (QMP) must be established and implemented.

A QMP documents how an organization structures its quality system and describes its quality policies and procedures, criteria for and areas of application, and roles, responsibilities, and authorities. It also describes an organization's policies and procedures for implementing and assessing the effectiveness of the quality system.

The QMP may be viewed as the 'umbrella' document under which individual projects are conducted. If another EPA grant is applied for and awarded, the project specific Quality Assurance Project Plan (QAPP) will fall under this QMP. Once the QMP is approved, it will be valid for a period of up to five years. After this period has expired, the plan will either be reissued without change, revised, or withdrawn from the EPA Quality System.

Within the QMP, the Quality Assurance Team defined will perform a yearly audit of the document and make changes as necessary to meet compliance with the EPA QMP guidelines. The QMP will be approved on a yearly basis, either with revisions or without, and submitted to EPA as an update.

If you have any questions regarding this item, please call me at 479.464.7275 or email dwright@bentonvillear.com.

*Attachments:*

# U.S. ENVIRONMENTAL PROTECTION AGENCY

## Cooperative Agreement

| | |
|---|---|
| **GRANT NUMBER (FAIN):** 02F12201<br>**MODIFICATION NUMBER:** 0<br>**PROGRAM CODE:** CD | **DATE OF AWARD**<br>07/14/2022 |
| **TYPE OF ACTION**<br>New | **MAILING DATE**<br>07/19/2022 |
| **PAYMENT METHOD:**<br>ASAP | **ACH#**<br>67113 |

| | |
|---|---|
| **RECIPIENT TYPE:**<br>Municipal | **Send Payment Request to:**<br>Contact EPA RTPFC at: rtpfc-grants@epa.gov |
| **RECIPIENT:**<br>City of Bentonville<br>117 W. Central Ave.<br>Bentonville, AR 72712<br>**EIN:** 71-6000642 | **PAYEE:**<br>Jake Harper<br>1000 SW 14th Street<br>Bentonville 72712 |

| PROJECT MANAGER | EPA PROJECT OFFICER | EPA GRANT SPECIALIST |
|---|---|---|
| Sandi Formica<br>380 West Rock Street<br>Fayetteville 72701-0000<br>**Email:** formica@watershedconservation.org<br>**Phone:** 501-352-3232 | Sondra Mcdonald<br>1201 Elm Street, Suite 500, WDAS<br>Dallas, TX 75270-2102<br>**Email:** Mcdonald.Sondra@epa.gov<br>**Phone:** 214-665-7187 | Salena Reynolds<br>Mission Support Division, MSDCA<br>1201 Elm Street, Suite 500<br>Dallas, TX 75270-2102<br>**Email:** reynolds.salena@epa.gov<br>**Phone:** 214-665-7529 |

**PROJECT TITLE AND DESCRIPTION**

Assessment of Urban Streams in the Ozark Highlands Ecoregion and Stream Restoration of McKisic Creek in Bentonville, Arkansas

See attachment 1 for project description

| BUDGET PERIOD | PROJECT PERIOD | TOTAL BUDGET PERIOD COST | TOTAL PROJECT PERIOD COST |
|---|---|---|---|
| 10/01/2022 - 12/31/2025 | 10/01/2022 - 12/31/2025 | $233,461.00 | $233,461.00 |

## NOTICE OF AWARD

Based on your Application dated 06/21/2021 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $151,461.00. EPA agrees to cost-share 64.88% of all approved budget period costs incurred, up to and not exceeding total federal funding of $151,461.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

| ISSUING OFFICE (GRANTS MANAGEMENT OFFICE) | AWARD APPROVAL OFFICE |
|---|---|
| **ORGANIZATION / ADDRESS** | **ORGANIZATION / ADDRESS** |
| U.S. EPA, Region 6 , Acquisition and Assistance Section<br>1201 Elm Street, Suite 500<br>Dallas, TX 75270-2102 | U.S. EPA, Region 6, Water Division<br>R6 - Region 6<br>1201 Elm Street, Suite 500<br>Dallas, TX 75270-2102 |

**THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY**

| | |
|---|---|
| **Digital signature applied by EPA Award Official** Christopher Watkins - Grant Management Officer | **DATE**<br>07/14/2022 |

# EPA Funding Information

| FUNDS | FORMER AWARD | THIS ACTION | AMENDED TOTAL |
|---|---|---|---|
| EPA Amount This Action | $0 | $151,461 | $151,461 |
| EPA In-Kind Amount | $0 | $0 | $0 |
| Unexpended Prior Year Balance | $0 | $0 | $0 |
| Other Federal Funds | $0 | $0 | $0 |
| Recipient Contribution | $0 | $72,000 | $72,000 |
| State Contribution | $0 | $0 | $0 |
| Local Contribution | $0 | $0 | $0 |
| Other Contribution | $0 | $10,000 | $10,000 |
| Allowable Project Cost | $0 | $233,461 | $233,461 |

| Assistance Program (CFDA) | Statutory Authority | Regulatory Authority |
|---|---|---|
| 66.461 - Regional Wetlands Program Development Grants | Clean Water Act: Sec. 104(b)(3) | 2 CFR 200, 2 CFR 1500, 40 CFR 33 and 40 CFR 35 Subpart A |

## Fiscal

| Site Name | Req No | FY | Approp. Code | Budget Oganization | PRC | Object Class | Site/Project | Cost Organization | Obligation / Deobligation |
|---|---|---|---|---|---|---|---|---|---|
| - | 2206WA0006 | 22 | E1 | 06K1 | 000B07 | 4153 | - | - | $151,461 |
| | | | | | | | | | $151,461 |

Budget Summary Page

| Table A - Object Class Category (Non-Construction) | Total Approved Allowable Budget Period Cost |
|---|---|
| 1. Personnel | $0 |
| 2. Fringe Benefits | $0 |
| 3. Travel | $0 |
| 4. Equipment | $0 |
| 5. Supplies | $0 |
| 6. Contractual | $72,000 |
| 7. Construction | $0 |
| 8. Other | $161,461 |
| 9. Total Direct Charges | $233,461 |
| 10. Indirect Costs: 0.00 % Base | $0 |
| 11. Total (Share: Recipient 35.12 % Federal 64.88 %) | $233,461 |
| 12. Total Approved Assistance Amount | $151,461 |
| 13. Program Income | $0 |
| 14. Total EPA Amount Awarded This Action | $151,461 |
| 15. Total EPA Amount Awarded To Date | $151,461 |

# ***Attachment 1 - Project Description***

The City of Bentonville, AR in partnership with the Watershed Conservation Resource Center (WCRC) proposes to conduct an inventory and assess the condition of riparian, wetland areas, other natural features and streambanks for 5 miles of urban streams in the Ozark Highlands Ecoregion. The assessment will focus on McKissic Creek and its tributaries and Little Sugar Creek near its confluence with McKissic in the City. 1. Develop an inventory of streambanks, riparian condition, wetlands and other and include a GIS assessment for 5 miles of urban stream in the McKissic and Little Sugar watersheds.

a. The data will be provided in a suable format to the City's Parks, Engineering and Planning Departments and environmental groups for City and watershed planning.

b. Baseline data will be collected on native plant species, plant communities and habitats, and amphibian and reptiles. Data will be reported to AR Natural Heritage Commission.

2. A restoration plan will be developed for unstable sections of McKissic Creek and Little Sugar Creek and associated wetlands using natural channel design principles. Wetland benefits of flood attenuation while creating wildlife will be a focal point. The restoration plan covers 800ft. of channel, 1600ft of riparian, and 1 acre of wetlands. Initial streambank condition monitoring will be conducted.

3. The City and WCRC will work with an array of partners to conduct a workshop and present project information to states, tribal government agencies, developer, environmental professionals and residents.

a. Considering natural features in site design of residential and commercial development.

b. Selection and establishment of native plants and removal of invasive plants in riparian and wetland areas to protect water quality and create wildlife habitat. The expected environmental outcomes from this project are: 1) improve the decision making ability of the City and watershed planner in conducting restoration of streams, wetlands and riparian areas; preservation of healthy streams, wetlands and other natural features; and reduction of sediment and nutrients from streambank erosion to improve water quality within the watershed. 2) improve City's staff ability to evaluate proposed development, zoning and other activities that can impact streams and wetlands. 3) reduce invasive species of plants in the treated riparian areas. 4) increase percentage of native plants along the riparian. 5) increase quality of wetlands, riparian, and other natural features on the site. 6) increase understanding and change behavior among state/tribe/local government, residents, decision makers, urban developers and their designers and environmental professions that protection and restoration of existing wetlands and stream protects and improves both water quality and habitat and provides a healthier environment and urban development should consider a. existing stream channel, riparian areas, wetlands, and other natural features, b. native vegetation establishment and long-term monitoring and maintenance are part of the design and budget. 1. Develop an inventory of streambanks, riparian condition, wetlands and other and include a GIS assessment for 5 miles of urban stream in the McKissic and Little Sugar watersheds.

a. The data will be provided in a suable format to the City's Parks, Engineering and Planning Departments and environmental groups for City and watershed planning.

b. Baseline data will be collected on native plant species, plant communities and habitats, and amphibian and reptiles. Data will be reported to AR Natural Heritage Commission.

2. A restoration plan will be developed for unstable sections of McKissic Creek and Little Sugar Creek and associated wetlands using natural channel design principles. Wetland benefits of flood attenuation while creating wildlife will be a focal point. The restoration plan covers 800ft. of channel, 1600ft of riparian, and 1 acre of wetlands. Initial streambank condition monitoring will be conducted.

3. The City and WCRC will work with an array of partners to conduct a workshop and present project information to states, tribal government agencies, developer, environmental professionals and residents.

a. Considering natural features in site design of residential and commercial development.

b. Selection and establishment of native plants and removal of invasive plants in riparian and wetland areas to protect water quality and create wildlife habitat.

# ***Administrative Conditions***

**National Administrative Terms and Conditions**

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2021-or-later.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: https://www.epa.gov/grants/grant-terms-and-conditions#general.

**A. Correspondence Condition**

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

- Federal Financial Reports (SF-425): rtpfc-grants@epa.gov and R6_EPA_Grants_Programs@epa.gov

- MBE/WBE reports (EPA Form 5700-52A): Debora Bradford, DBE Coordinator bradford.debora@epa.gov and R6_EPA_Grants_Programs@epa.gov

- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: R6_EPA_Grants_Programs@epa.gov

- Payment requests (if applicable): Sondra McDonald, Project Officer mcdonald.sondra@epa.gov and R6_EPA_Grants_Programs@epa.gov

- Quality Assurance documents, workplan revisions, equipment lists, programmatic reports and deliverables: Sondra McDonald, Project Officer mcdonald.sondra@epa.gov

# ***Programmatic Conditions***

**B. PERFORMANCE REPORTING AND FINAL PERFORMANCE REPORT**

Performance Reports – Content

In accordance with 2 CFR 200.328, the recipient agrees to submit performance reports that

include brief information on each of the following areas: 1) A comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) The reasons why
established outputs/outcomes were not met; and 3) Additional pertinent information, including, when appropriate, analysis and explanation of cost overruns or high-unit costs. Additionally, the recipient agrees to inform EPA as soon as problems, delays, or adverse conditions which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan are known.

Performance Reports - Frequency

The recipient agrees to submit semi-annual performance reports electronically to the EPA Project Officer within 30 days of every six-month period. The recipient will provide to the EPA Project Officer within 90 days of the budget/project period end date, electronic copies of final technical outputs of the project, including: a 1-2 page summary of the project, presentation(s), journal article(s) and any other materials relevant to the project results.

Subaward Performance Reporting

The recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Examples of items that must be reported if the pass-through entity has the information available are:

1. Summaries of results of reviews of financial and programmatic reports.
2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
3. Environmental results the subrecipient achieved.
4. Summaries of audit findings and related pass-through entity management decisions.
5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR
200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

**C. Cybersecurity Condition**

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient’s network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition. If the recipient’s connections as defined above do not go through the Environmental Information Exchange Network or EPA’s Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has
contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

**D. Quality Management Plan**

In accordance with 2 CFR 1500.11, the recipient shall continue to implement and adhere to the Quality Management Plan (QMP) submitted to EPA. The QMP should be updated annually or as necessary based on the EPA QA/R-2: EPA Requirements for Quality Management Plans. This quality assurance requirement applies to all grants, cooperative agreements, contracts and interagency agreements that involve the use of environmental data. If not included under the approved QMP, a stand-alone QAPP is required for those projects/activities that result in the collection, production and/or use of environmental information, metrics or data. The recipient agrees to ensure that an approved site specific QAPP is completed for each project. No environmental data collection, production, or use may occur until the QAPP is reviewed and approved by the EPA Project Officer and Quality Assurance Regional Manager or through authorized delegation under an EPA approved recipient QMP based on procedures documented in the QMP. A copy of the approved QAPPs must be retained with the recipient's official records for this Agreement.

The Quality Management Plan must be submitted to the EPA Project Officer no later than 30 days after receipt of cooperative agreement award document.

**E. Quality Assurance Project Plan**

In accordance with 2 CFR 1500.11, the recipient must develop and implement quality assurance and quality control procedures, specifications and documentation that are sufficient to produce data of adequate quality to meet project objectives. Recipients implementing environmental programs within the scope of the assistance agreement must submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 60 days prior to the initiating of data
collection or data compilation. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of date from literature or electronic media, and data supporting the

design, construction, and operation of environmental technology.

The QAPP should be prepared in accordance with EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans.

No environmental data collection or data compilation may occur until the QAPP is approved by the EPA Project Officer and Quality Assurance Regional Manager. When the recipient is delegating the responsibility for an environmental data collection or data compilation activity to another organization, the EPA Regional Quality Assurance Manager may allow the recipient to review and approve that organization's QAPP. Additional information on these requirements can be found at the EPA Office of Grants and Debarment Web Site: https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receivingepa-financial

**F. Substantial Involvement**

EPA will be substantially involved in this agreement. Substantial involvement by the EPA Project Officer may include but not limited to:

1.) monthly telephone calls and other monitoring,
2.) reviewing project phases and providing approval to continue to the next phase,
3.) reviewing and commenting on any documents, web content, or other materials developed under this agreement,
4.) reviewing and commenting on the programmatic progress reports and final deliverables.

**G. Geospatial Data Standards**

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov. All geospatial wetlands mapping must comply with the FGDC Wetlands Mapping Standard which can be found at: http://www.fgdc.gov/standards/projects/FGDC-standards-projects/wetlands-mapping/2009-08FGDCWetlandsMappingStandard_final.pdf. To facilitate accurate data production and inclusioninto the National Wetlands Database it is recommended that you visit the U.S. Fish and Wildlife Service’s, National Wetlands Inventory, Contributed Data page at: http://www.fws.gov/wetlands/Data/Contributed-Data.html or contact them at Wetlands_Team@fws.gov.

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A GRANT AGREEMENT WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) IN THE AMOUNT OF ONE HUNDRED FIFTY-ONE THOUSAND FOUR HUNDRED SIXTY-ONE DOLLARS ($151,461.00); ADJUSTING THE 2024 BUDGET TO RECOGNIZE AND APPROPRIATE SAID GRANT FUNDS; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City is awarded an EPA grant, in the amount of one hundred fifty-one thousand four hundred sixty-one dollars ($151,461.00) to assess and plan development for stream banks at McKissic Creek and Little Sugar Creek; and

**WHEREAS**, there is no matching provision in this grant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

<u>Section 1</u>: The Mayor and City Clerk are hereby authorized to enter into a grant agreement with the EPA receiving grant funds in the amount of one hundred fifty-one thousand four hundred sixty-one dollars ($151,461.00);

<u>Section 2</u>: The 2024 Budget is hereby adjusted to recognize said grant funds into Account #105030-33110 – Federal Direct Grant;

<u>Section 3</u>: The 2024 Budget is further adjusted to appropriate said grant funds into Account #105030-47390 – Improvements Other than Bldg/Other;

<u>Section 4 - Severability Provision</u>: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

<u>Section 5 - Repeal of Conflicting Resolutions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED this __________ day of ________________________, 2024.**

**APPROVED:**

______________________________
**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________
**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Wade Tomlinson |
| **Phone:** | 479 271 3392 | **For Department(s):** | Bentonville Parks and Recreation Dept |
| **Email:** | WTomlinson@bentonvillear.com | | |

### Item Type (Check all that apply)

☐ **Informational** ☐ **Bid Award** ☐ **Enter into an Agreement** ☐ **Change Order**
☐ **Recognizing Funds** ☐ **Budget Adjustment** ☐ **Waiver of Bid** ☐ **Emergency Clause**

☐ **Ordinance** ☑ **Resolution** ☐ **Informational**

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution for Water Conservation Resource Center for Stream Bank Restoration Design Services |
| **Action Recommendation & Justification:** | Authorizing the Mayor and City Clerk to enter into an agreement with Water Conservations Resource Center (WCRC) in a total amount not to exceed of $151,461.00, including reimbursable expenses, for stream restoration design services for associated with the EPA grant award. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | See Memo. The EPA grant monies fund this project. WCRC was selected through the City's SOQ process as outlined by the City's Purchasing Policy. |
| **Amount for Approval:** | $ 151,461.00 |

### Budget Impact

**Is this Item Budgeted?** ☑ **YES** ☐ **NO** ☐ **ITEM HAS NO COST** ☐ **OTHER:**________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| | | | |
|---|---|---|---|
| Account Number (ORG-OBJECT) | Account Description | $ Expense | $ Revenue |
| Account Number (ORG-OBJECT) | Account Description | $ Expense | $ Revenue |
| Account Number (ORG-OBJECT) | Account Description | $ Expense | $ Revenue |
| Account Number (ORG-OBJECT) | Account Description | $ Expense | $ Revenue |

**Fund(s) Impacted** (check all that apply) ☐ **General Fund** ☐ **Utility Fund** ☐ **Street Fund** ☐ **Other(s):**________________

*Budget Impact Notes for Consideration (Optional):*

# Memo

| | |
|---|---|
| To: | City Council, Mayor Orman |
| From: | J. Wade Tomlinson, Parks Planner |
| Thru: | David Wright, Parks and Recreation Director |
| Date: | January 23, 2024 |
| Re: | Resolution for the City to contract with WCRC for stream bank study and design associated with the awarded EPA grant. |

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A Resolution authorizing the Mayor and City Clerk to enter into an agreement with Water Conservations Resource Center (WCRC) in the total fee not to exceed of $151,461.00 including reimbursable expenses for a stream restoration design services for associated with the EPA grant award.

The total cost break down for the proposal includes: The development of a quality assurance project plan (QAPP), riparian inventory, invasive plant removal and repairs, technology transfer and reporting. +

The assessment will focus on McKissic Creek and its tributaries and the Little Sugar Creek near its confluence with the McKisic Creek in the City.

If you have any questions regarding this item, please call me at 479.464.7275 or email dwright@bentonvillear.com.

*Attachments:*
*Agreement with WCRC*

**CONTRACT FOR SERVICES**

This Contract is entered into by and between the City of Bentonville, 305 SW A Street, Bentonville, AR, 72712 ("CITY"), and Watershed Conservation Resource Center, 380 W. Rock Street, Fayetteville, AR 72701 ("WCRC").

1. **Services**. WCRC agrees to perform the services described in Task 1, Task2, Task 4, Task 5, and Task 6 of the **Workplan (Attachment 1)** (Grant No. CD-02F12201-0), including any deliverables cited (collectively, the "Services"), in accordance with the terms set forth below and any other exhibits or attachments to this Contract, all of which are incorporated by reference into this Contract. Unless otherwise noted, in the event of a conflict between the terms of the **Workplan** and any other terms of this Contract, including any other Exhibit, such other terms will control. If any of the Services are to be performed on land that is not owned by the WCRC or CITY, WCRC must obtain the landowner's prior permission before entering upon such land.

2. **Payments**. The CITY will compensate WCRC for the Services as follows:

   a) Contract Fee. The WCRC will be responsible for completion of Tasks 1, 2, 4, 5, and 6 as well as production of all project deliverables associated with those tasks as described in the **Workplan**. For these Services, the CITY will pay WCRC based on WCRC estimated percentage of contracted **Workplan** Tasks completed, multiplied by the **Workplan** Task Total Cost as presented below.

| Task Number | Task Description | Worplan Task Cost |
|---|---|---|
| 1 | Develop QAPP | $5,000 |
| 2 | Riparian Inventory | $31,000 |
| 4 | Invasive Removal & Flood Repairs | $61,461 |
| 5 | Technology Transfer | $29,000 |
| 6 | Reporting | $25,000 |
| | Total | **$151,461** |

   (b) Invoices and Payments. Requests for payment of the Contract Fees and any authorized reimbursements must be submitted to the CITY in the form of an invoice summarizing the work performed and an itemized list of **Workplan** tasks, percent completed, amount previously billed, amount due, and amount remaining. Any expenses authorized for reimbursement by the CITY must be: (i) substantiated by proper and adequate documentation (such as written progress reports), if requested by the CITY; (ii) reasonable in amount; and (iii) related to and in furtherance of the Contract purposes. Invoices will be subject to review and approval by the CITY. The CITY may deny payment if any of the Services are found by the CITY to be unsatisfactory, or in the case of payment requests received more than sixty (60) days after the final deadline for completion of the Services. The CITY will make all payments by check, subject to CITY's receipt from the Contractor of a properly completed IRS Form W-9.

3. **Contract Commencement, Expiration, and Termination**. Unless otherwise indicated in the **Workplan**, WCRC must begin performing the Services promptly after this Contract has been signed by both parties and must complete all of the Services no later than December 31, 2026 or, as to specific tasks, such earlier date(s) as may be specified in **Workplan** (provided that no work may commence before the later signature date below). Any deadline(s) set forth in **Workplan** may be extended only with the CITY's prior written consent. This Contract will expire automatically once all the Services have been completed and final payment by the CITY has been made. Upon such expiration, the parties will have no further rights or obligations under this Contract, except as otherwise provided below. The CITY may terminate this Contract at any time upon two weeks' notice to WCRC. Should this occur, WCRC must cease all work immediately upon receipt of the termination notice and the CITY will pay WCRC for the Services that have been satisfactorily completed, as determined by the CITY, as of the termination date.

4. **Independent Contractor; Taxes**. The parties intend this Contract to create an independent contractor-client relationship and WCRC is solely responsible for the conduct and control of the Services and fulfilling its duties and obligations under this Contract. WCRC is not to be considered an agent or employee of the CITY for any purpose, and no joint venture or principal-agent relationship exists. WCRC is responsible for complying with the requirements of all applicable tax laws.
5. **Liability and Indemnification**. WCRC acknowledges and agrees that it is performing the Services entirely at its own risk, and agrees to indemnify, defend, and hold the CITY and its directors, officers, employees, and agents harmless from and against any and all liabilities, demands, damages, claims, losses, costs, or expenses, including reasonable attorneys' fees, to the extent that they arise out of or result, directly or indirectly, from the negligence, misconduct, breach of warranty, representation, or covenant, or any act or omission by Contactor or any of its employees or agents (including any permitted subcontractors) in performing the Services. WCRC's indemnity and defense obligations under this Contract will survive for a period of three (3) years after the expiration or earlier termination of this Contract with respect to any matters that occurred, or rights that accrued, prior to such expiration or earlier termination.
6. **Compliance with Laws**. WCRC represents, warrants and agrees that (a) WCRC can lawfully work in the United States, (b) WCRC has or will obtain at its expense any required permits or licenses, and (c) WCRC will comply with all statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements that may apply to the work performed.
7. **Compliance with Anti-Terrorism Laws**. WCRC must not use any funds received under this Contract in violation of any applicable antiterrorist financing and asset control laws, regulations, rules and executive orders, including, but not limited to the USA Patriot Act of 2001 and Executive Order 13224.
8. **Miscellaneous Terms and Conditions**. WCRC must not, without THE CITY's prior written consent, which may be withheld at the CITY's sole discretion: (a) assign this Contract or subcontract any portion of the Services, except for construction services, or (b) use The CITY's name or logo (except to the extent reasonably necessary in order to perform the Services). This Contract and claims relating to this Contract will be interpreted, construed and governed by the laws of the state of Arkansas. If two or more persons or entities are identified as WCRC in this Contract, their obligations under this Contract are and will be joint and several. Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under applicable law, will be fully binding for all purposes under this Contract. This Contract supersedes all prior or contemporaneous communications, both oral and written, and constitutes the entire Contract between the parties relating to the Services. No amendment will be effective unless it is in writing and signed by both parties.

**Signatures:**

| | |
|---|---|
| ______________________________ | ____________________ |
| Sandi J. Formica, Executive Director<br>Watershed Conservation Resource Center | Date |
| ______________________________ | ____________________ |
| Stephanie Orman, Mayor<br>City of Bentonville | Date |
| ______________________________ | ____________________ |
| City Clerk/Treasurer<br>City of Bentonville | Date |

**Project Narrative: Grant Number CD-02F12201-0**

**A. Cover Page**

**1. Project Title:** Assessment of Urban Streams in the Ozark Highlands Ecoregion and Stream Restoration Planning of McKisic Creek in Bentonville, Arkansas

**2. Track II Application –** FY21 (Prefer) or FY22

**3. Core Elements:** I. Monitoring and Assessment and III. Voluntary Restoration and Protection

**Actions:** ***Core Element (CE) I. Set 1: Goals a.*** Identify program decisions and long term environmental outcome(s) that will benefit from a wetland monitoring and assessment program, ***CE III. Set 1 Goals: b.*** Consider watershed planning, wildlife habitat, and other objectives when developing your selection process restoration/protection sites, ***c.*** Provide clear guidance on appropriate restoration and management techniques and success measures, ***CE III. Set 3: Develop Strategy for Restoration a.*** Increase wetland acreage through restoration, **b.** Improve natural wetland conditions and functions through restoration (rehabilitation), ***c.*** Establish partnerships to leverage additional protection, and ***CE III. Set 4: Refine Protection and Restoration Strategies b.*** Monitor restoration sites to ensure that they are established and managed correctly and linked to relevant watershed planning efforts.

**4. Name of Applicant:** City of Bentonville, Arkansas, UEI: 0756632370000

**5. Key personnel and contact information:**

Wade Tomlinson, City of Bentonville, wtomlinson@bentonvillear.com, (479) 271-3392

Sandi Formica, WCRC, formica@watershedconservation.org, (501) 352-5252

**6. Geographic Location:** Arkansas - Bentonville, Benton County; Elk River Watershed: HUC 11070208 (see project area map in Section F, Attachment i for details)

**7. Total Project Cost:** $233,461 **Federal Dollars Requested:** $151,461, **Match:** $82,000

**8. Abstract/Project Summary:** Assessing stream systems within our urban areas provides important information to help conserve natural resources, protect water quality, and plan for urban development. Restoring natural resources starts with the development of restoration designs that include stream, riparian, and wetland areas within the McKisic Creek watershed to protect water quality and expand and improve ecosystem services. The City of Bentonville in partnership with the Watershed Conservation Resource Center proposes to complete an inventory of the riparian condition of 5 miles of urban streams that will include identifying streambanks with accelerated erosion, wetlands, karst features, prairies, and springs within the stream corridor. In addition, stream and wetland restoration designs will be developed that use innovative techniques to restore the hydrology, wetlands, and native vegetation in McKisic Creek watershed, a tributary of Little Sugar Creek. Existing restoration projects within the Little Sugar Creek watershed will be inspected and repairs and invasive vegetation removal will be conducted. Partners will work together on technology transfer on wetland protection in urban areas and removal of invasive vegetation while establishing native plants.

## Section B: Project Description

### 1. <u>Project Description</u>

The City of Bentonville (City) in partnership with the Watershed Conservation Resource Center (WCRC) proposes to conduct an inventory and assess the condition of riparian, wetland areas, other natural features, and streambanks for 5 miles of urban streams in the Ozark Highlands Ecoregion and demonstrate innovative techniques to restore stream channels, wetlands, and riparian. Historically, this area has remained relatively undeveloped and known for its cold springs, unique karst features, and sensitive aquatic species. Northwest Arkansas is one of the fastest growing regions in the United States and this rapid growth has put tremendous development pressure on these natural resources. The assessment will focus on McKisic Creek and its tributaries and Little Sugar Creek near its confluence with McKisic in the City. Little Sugar Creek flows through Bentonville and eventually crosses the Arkansas-Missouri border and joins the Elk River. Little Sugar Creek is important to the region, because in the past, the state of Missouri has considered Little Sugar Creek to be a sediment and nutrient source.

An on-the-ground inventory and GIS-based assessment of portions of McKisic Creek, Town Branch, Hidden Springs Creek, and Little Sugar Creek will be conducted and includes 5 miles of stream channel and 8 miles of riparian. The inventory will identify and document unstable streambanks and channel. Natural areas, such as, springs, wetlands, unique karst features, and prairies will be identified to be considered for preservation. The inventory will also prioritize areas in need of restoration. The data collected will be provided to the City's Engineering, Planning, and Parks Divisions, state government, and watershed groups for evaluating proposed developments, zoning, and watershed planning.

A restoration design for McKisic Creek and Little Sugar Creek in the area of their confluence will be developed to address stream instability and erosion from the impacts of urbanization. Innovative restoration techniques will be presented in the plan that include: 1) natural channel design principles to restore channel hydrology and stabilize streambanks, while creating aquatic habitat, 2) restoration of riverine wetlands to create wildlife habitat and help attenuate the impacts of flooding, and 3) native vegetation establishment for riparian and wetland areas and removal/control of invasive plant species. On-going monitoring and maintenance will be conducted at existing restoration projects to ensure long-term success.

Urban stream channels and riparian in Northwest Arkansas are overwhelmed with invasive vegetation, including bush honeysuckle, privet, and winter creeper. Their dense understory can completely block the sunlight, preventing native grasses and wildflowers from growing in the forest or wetland plants from growing in seeps or wet depressions along streams. Technical outreach will be conducted to train professionals and local residents on the importance of restoring riparian and wetland areas with native plants and follow-up monitoring and maintenance as a critical component of successful restoration projects.

The following assessment, restoration-planning, and outreach activities will be conducted:

1) Develop an inventory of streambanks, riparian condition, wetlands, and other and include a GIS assessment for 5 miles of urban stream in the McKisic and Little Sugar watersheds.
    a. The data will be provided in a usable format to the City's Parks, Engineering, and Planning Departments and environmental groups for City and watershed planning.
    b. Baseline data will be collected on native plant species, plant communities & habitats, and amphibian & reptiles. Data will be reported to AR Natural Heritage Commission.
2) A restoration plan will be developed for unstable sections of McKisic Creek and Little Sugar Creek and associated wetlands using natural channel design principles. Wetland benefits of flood attenuation while creating wildlife habitat will be a focal point. The restoration plan covers 800 ft of channel, 1,600 ft of riparian, and 1-acre of wetlands. Initial streambank condition monitoring will be conducted.
3) The City and the WCRC will work with an array of partners to conduct a workshop and present project information to states-tribal-government agencies, developers, environmental professionals and residents.
    a. Considering natural features in site design of residential & commercial development.
    b. Selection and establishment of native plants and removal of invasive plants in riparian and wetland areas to protect water quality and create wildlife habitat.

## 2. <u>Description of Need</u>

Northwest Arkansas is considered the 22nd fastest growing metropolitan areas in the United States. With 525,032 people in 2016, the population is projected to reach over 800,000 by 2040.

As the population grows, both forested and agricultural lands are being converted to urban areas, resulting in the loss of wetlands & other natural features and wildlife habitat. Development results in increased impervious surfaces, which increases stormwater runoff and intensifies the magnitude and frequency of high flow events in streams, resulting in severe streambank erosion.

The City is also experiencing an accelerated growth rate and is the 5th fastest growing City in the United State. Located in the northwest corner of the state, the City lies in the Ozark Highlands Ecoregion. The Ozark Highlands Ecoregion is known for its cold, spring-fed perennial streams, its rich karst features, high habitat diversity and species richness, and preponderance of sensitive aquatic species. Prior to the intense urban growth, this corner of the state remained mostly rural sprinkled with small towns. Historically, land uses were housing, logging, livestock farming, quarrying, and recreation. The Arkansas Wildlife Action Plan indicates that converting rural farmlands and established forest to urban areas is the greatest threat to these natural resources and habitat restoration and protection is their greatest need.

Identification and assessment of wetlands, high quality spring-fed streams and riparian areas, prairie, and other natural features is critical for the City to protect these resources. Assessing stream conditions and restoring aquatic and terrestrial habitat will help to address the impacts from the accelerated urban development. The 5-mile inventory along sections of McKisic and Little Sugar Creek will provide data needed for the City to make decisions on where to restore disturbed sites and to preserve high quality natural features.

Traditional methods of hardening stream channels with concrete and rip-rap, diverting flow from impervious surfaces to stream systems, clearing riparian vegetation and filling wet depressions continue to be common urban development practices for decades and have resulted in environmental degradation of urban streams and wetlands. This project will demonstrate innovative alternatives to these traditional methods to the local community including City employees, developers, architects, landscape architects and others professionals. Demonstrating stream, wetland, and riparian restoration approaches using natural channel design techniques, native-ecoregion based revegetation, and ongoing restoration establishment and maintenance practices can prevent stream and wetland degradation and help to resolve the effects of existing channel enlargement, while improving water quality and the local ecology.

This project is important on a regional scale in that Little Sugar Creek is has been considered by the state of Missouri a source of sediment and nutrients in the Elk River watershed. The project will result in a high quality restoration plan for McKisic that includes channel, riparian, and riverine wetland features with an emphasis on reducing both sediment and phosphorus in the Little Sugar Creek watershed. Local residents, state/tribe/local government, and environmental professionals will be trained on how to safely remove invasive species of plants and establish native species for streams and wetlands.

The Track II project supports ***Core Element I. Monitoring and Assessment and Activity Set 1: Goals a.:*** The results will be used by Northwest Arkansas cities and State agencies to assess areas that need restoration and encourage techniques that result in water quality and habitat improvement including natural channel design, native plant establishment, and long-term maintenance to create high-quality stream and wetland restorations. The project supports ***Core Element III. Voluntary Restoration and Protection and the following Activities: Set 1 Goals: b.:*** The project is based on watershed planning that promotes the protection of water quality and plans to restore both aquatic and terrestrial habitat in the Elk River watershed and helps to protect waters in Missouri and Oklahoma. ***CE III. Set 1: Goals c.:*** Training will be provided on the demonstrated innovative techniques to local residents, state/tribes/local government, and environmental professionals. ***CE III. Set 3. Develop Strategy for Restoration a.:*** The project will result in a plan to restore a minimum of 850 feet of stream, 1,600 feet, and one –acre of riverine wetlands. ***CE III. Set 3. Develop Strategy for Restoration c.***: An array of partners including cities, tribes, and state governments will work together to transfer results to conservation organizations, environmental professionals, developers, and government to encourage similar restoration and protection measures. ***CE III. Set 4: Refine Protection and Restoration Strategies b.***: The restoration plan will include monitoring and data collection that can be used to implement adaptive management strategies once the project is constructed to help improve restoration techniques for the area, and to evaluate the success. Through the partners, information will be incorporated into local watershed planning.

**3. Project Tasks** - The project tasks are summarized as follows:

**Task 1: Development of Quality Assurance Project Plan (QAPP).** A QAPP plan will be developed to assure quality data collection. Responsible: WCRC ***Deliverable:*** *Approved QAPP*

**Task 2: Conduct Inventory of Riparian, Streambank, Wetland, and other Natural Features and Prioritize Streambank Sites.** Assessment of McKisic Creek, Little Sugar Creek, and select tributaries within the city limits including Town Branch and Hidden Springs will be completed. 1) Conduct 5-mile inventory of riparian and streambank conditions including a) riparian area information - presence of wetland features, springs, prairie, forest coverage, and vegetation composition; b) evaluate streambanks showing signs of accelerated erosion using Bank Erosion Hazard Index (BEHI) method and Near Bank Shear Stress (NBSS); c) measure streambank height and length; and d) evaluate riparian area width using GIS,. 2) Conduct a GIS review of natural features to help identify important habitat types. 3) Conduct reptile/amphibian data base review and collect baseline data. 4) Create GIS data layer of stream, riparian, and natural features data. ***Responsibilities:*** *1) WCRC with applicant assisting with landowner access permission. 2) ANHC, 3) Dr. J.D. Willson. 4) Applicant, WCRC, City of Fayetteville.* ***Deliverables:*** *A summary of the inventory results with maps and prioritization results*

**Task 3: Develop Restoration Plan for McKisic Creek and Little Sugar Creek at their Confluence.** 1) Collect supplemental survey data to account for changes from severe streambank erosion and estimate pre-restoration sediment and phosphorus loadings from streambank erosion. 2) Develop stream, riparian, and wetland design. 3) Develop site re-vegetation plan. ***Responsibility:*** *1), 2), & 3) WCRC* ***Deliverables:*** *Restoration plan*

**Task 4: Conduct Invasive Removal and Flood Repairs.** At existing restoration sites 1) Inspect and treat for invasive vegetation. 2) Inspect and repair flood damage. 3) Coordinate volunteers to assist with invasive removal and native seed collection. ***Responsibility:*** *1) &2) WCRC, 3) Applicant and WCRC.* ***Deliverables:*** *Summary of activities.*

**Task 5: Technology Transfer - Training and Outreach.** 1) Provide training session on use of GIS data to City staff, local decision makers, watershed groups, and state/tribe/local government. 2) Develop presentation for residential and commercial development professionals including architects on 'considering natural feature and green infrastructure in the initial site design' and present at two professional meetings. 3) Provide a hands-on training workshops on invasive vegetation removal along streams and native plant selection and establishment. ***Responsibility****: 1), 2), & 3) Applicant, WCRC, Wyandotte Nation, City of Fayetteville.* ***Deliverables:*** *Workshop Agenda & Materials, Summary of Activities*

**Task 6: Administrative and Reporting.** Project management and develop 1) quarterly reports and 2) final report. ***Responsibility:*** *Applicant.* ***Deliverables:*** *Quarterly and Final Reports*

**4. Milestone Schedule**

| Milestone/Task | Start Date | End Date | Product |
|---|---|---|---|
| **1A: Develop Draft QAPP** | 10/01/22 | 01/31/23 | Draft QAPP |
| **1B: Finalize QAPP** | 02/01/23 | 03/31/23 | Approved QAPP |

| | | | |
|---|---|---|---|
| **2: Conduct Streambank, Wetland, & Natural Features Inventory** | | | |
| 1) Inventory 5-mi: McKisic Creek, etc. | 04/01/23 | 12/31/23 | Area/watershed map |
| 2) Conduct GIS Review of Natural Areas | 04/01/23 | 09/30/23 | Inventory results |
| 3) Create GIS data layer for City | 01/01/24 | 12/31/24 | GIS Database |
| **3: Develop Restoration Plans for McKisic and Little Sugar Creeks** | | | |
| 1) Collect supplemental Survey Data | 04/01/22 | 12/31/22 | Stream morphology report |
| 2) Develop Restoration Design Plans | 04/30/22 | 03/31/23 | Restoration Plans |
| **4: Invasive Removal & Flood Repairs** | | | |
| 1) Ongoing inspection & removal | 01/01/22 | 12/31/25 | Summary |
| 2) Inspection & flood repairs as needed | 01/01/22 | 12/31/25 | Summary |
| **5: Technology Transfer** | | | |
| 1) Inventory Results – GIS Training | 09/01/23 | 03/31/24 | Summary |
| 2) Development Presentation | 04/01/22 | 11/30/24 | Presentation |
| 3) Invasive Removal & Native Establish | 04/01/23 | 11/30/25 | Workshop Agenda |
| **6: Reporting** - Quarterly Report | 01/01/22 | 10/31/25 | Progress report |
| Final Report | 10/01/25 | 12/31/25 | Final report |

5. **Detailed Budget -** If the applicant receives an award, the sub-award/sub-grant will be awarded consistent with the applicable regulations in 40 CFR Parts 30 or 31. The applicant will follow all appropriate procurement standards as required by EPA. The project budget is shown in the table below. The award recipient will administer the grant and procure the construction contractor. The sub-award recipient, the WCRC, will execute major project tasks associated with this proposal, because of their unique expertise in the area of natural channel design restoration,

stream assessment, and native riparian vegetation management. Their budget is shown on line “h. and detailed under “Other” Budget and their primary responsibilities are shown in Section B.3.

The federal, non-federal, and total cost for each project task identified in Section B.3 are: Task 1. Develop QAPP (F-$5,000, NF-$0, T-$5,000); Task 2. Riparian Inventory (F-$22,000, NF-$0 T-$22,000); Task 3. Develop Restoration Plan (F-$0, NF-$72,000, T-$72,000); Task 4. Site Monitoring (F-$17,000 NF-$0, T-$17,000); Task 5. Invasive Removal & Flood Repairs (F-$53,461, NF-$0, T-$53,461). Task 6. Technology Transfer (F-$29,000, NF-$10,000 T-$39,000), and Task 7. Reporting (F-$25,000, NF-$0, T-$25,000).

| | ***Project Budget*** | | | ***“Other” Budget*** | | |
|---|---|---|---|---|---|---|
| **Object Class Cat.** | **Federal** | **Non-Federal** | **Total** | **Federal** | **Non-Federal** | **Total** |
| a. Personnel | $0 | $0 | $0 | $57,682 | $0 | $57,682 |
| b. Fringe | $0 | $0 | $0 | $24,861 | $0 | $24,861 |
| c. Travel | $0 | $0 | $0 | $5,000 | $0 | $5,000 |
| d. Equipment | $0 | $0 | $0 | $0 | $0 | $0 |
| e. Supplies | $0 | $0 | $0 | $28,629 | $0 | $28,629 |
| f. Contract | $0 | $72,000 | $72,000 | $5,000 | $0 | $5,000 |
| g. Construction | $0 | $0 | $0 | $0 | $0 | $0 |
| h. Other | $151,461 | $10,000 | $161,461 | $0 | $10,000 | $10,000 |
| i. Total Direct | $151,461 | $82,000 | $233,461 | $121,172 | $10,000 | $131,172 |
| j. Indirect | $0 | $0 | $0 | $30,289 | $0 | $30,289 |
| k. Totals | $151,461 | $82,000 | $233,461 | $151,461 | $10,000 | $161,461 |

Match for this project is $82,000 in the form of $72,000 cash from the applicant and $10,000 in-kind services documented by the WCRC. Applicant’s funding will be used towards the development of the restoration design for McKisic and Little Sugar Creek. The WCRC’s in-kind match will be from workshop participation and Dr. Willson’s time to conduct reptile/amphibian research and data.

**6. <u>Transfer of Results</u> -** Technology and information gained from this project will be transferred through the following mechanisms. Data on native plant and herpetofauna species will be provided to the ANHC for their state-wide tracking system. Training workshop and presentations will focus on innovative restoration techniques including ecoregion-based native plant establishment, safe invasive vegetation removal, and natural channel design principles. State/tribes/local government wetland programs in surrounding area will be invited to participate, specifically, the Wyandotte Nation will coordinate with tribes in the Elk River watershed. Site tours will be given to individuals from local organizations, government offices, contractors, environmental professionals, developers, community leaders, city planners, and engineers. The applicant and WCRC will engage with developers and their professionals and provide information on natural features and how to minimize impacts in their site development designs.

**7. <u>Outputs, Outcomes, and Tracking</u>**

***<u>i. Link to EPA Strategic Plan</u>*** – These outputs and outcomes are directly linked to the EPA Strategic Plan's Goal 1 – A Cleaner, Healthier Environment:…,Objective 1.2 – Provide for Clean Safe Water:…because environmental data and information will be collected in the Ozark Highlands Ecoregion and analyzed to provide information on the condition of streams and wetlands to local & state government and watershed planners to restore and protect urban streams, wetlands, riparian, and other unique natural features identified. This information will be used to help prevent the destruction of healthy sections of stream and wetlands from urban development. Restoration efforts through the demonstration of stream channel, wetland, riparian, and natural feature restoration will improve water infrastructure by placing an emphasize on maximizing sediment and nutrient load reductions from streambank erosion to improve the water quality of streams within the McKisic Creek, Little Sugar Creek and Elk River watersheds, while restoring aquatic and terrestrial habitat in an urban environment. The City is committed to long-term success of these types of project and will continue to support ongoing maintenance of the sites, so native vegetation is established and a sustainable channel restoration is created. The workshops supported by partnerships, on invasive removal, native vegetation establishment, and natural channel design will provide training and demonstrate the project's innovative techniques to state/tribes/local governments in the area.

***ii. Outputs*** - The expected environmental outputs are 1) Identification, for 5 miles of urban streams: a) sites needing streambank, riparian, and/or wetland restoration and b) areas of stream corridor that have unique environmental attributes, such as healthy riparian forest, wetlands, springs, karst features, and/or prairie; 2) Maps and GIS data layer showing high priority sites for restoration or preservation to be used as a planning tool for the City, local watershed planning, and state government; 3) Development of restoration strategies for the McKisic Creek watershed to integrate channel, riparian, and wetland features, water quality protection, habitat improvement, ecoregion-based native plant establishment, and long-term monitoring and maintenance of restoration sites to ensure longevity and healthy ecosystems will be established; 4) Increase ecological services through the development of restoration plan for 800 ft of stream, one-acre of wetlands, and 1,600 ft of riparian to demonstrate new and innovative approaches that include the importance of invasive vegetation removal, methods for native vegetation establishment, needed long-term vegetation management strategies, and natural channel design principles to restore channel stability. 5) Restoration plan will include one-acre of riverine wetlands in adjacent floodplains to help retain and filter runoff and attenuate flood waters; and 6) Conduct training and materials for states/tribes/local government and residents that utilize innovative techniques and provide information that contributes to a broader understanding of streams and wetlands as ecosystems, incorporating and protecting wetlands and streams in residential & commercial site development, and the importance of native plants establishment and maintenance as critical components of stream and wetland restoration; 7) Development of monitoring data to demonstrate the effectiveness of restoration projects. Outputs are linked to the EPA Strategic Plan because waters are cleaned through improved water infrastructure in partnerships that support drinking water, aquatic ecosystems, & recreation.

***iii. Outcomes*** – The expected environmental outcomes from this project are 1) Improve the decision making ability of the City and watershed planners in conducting restoration of streams, wetlands, and riparian areas; preservation of healthy streams, wetlands, and other natural features; and reduction of sediment and nutrients from streambank erosion to improve water quality within the Elk River watershed; 2) Improve City staff's ability to evaluate proposed developments, zoning, and other activities that can impact streams and wetlands; 3) Reduce invasive species of plants in the treated riparian areas; 4) Increase percentage of native plants along the riparian; 5) Increase quality of wetlands, riparian, and other natural features on the site; and 6) Increase understanding and change behavior among state/tribe/local government, residents, decision makers, urban developers and their designers, and environmental professionals that protection and restoration of existing wetlands and streams protects and improves both water quality and habitat and provides a healthier environment and urban development should consider a) existing stream channel, riparian areas, wetlands, and other natural features, b) native vegetation establishment and long-term monitoring and maintenance are part of the design and budget. These outcomes are linked to the EPA Strategic Plan because the results will contribute to aquatic ecosystems and water resources being restored.

**iv. *Tracking Outputs & Outcomes:*** Outcomes 1) and 2) will be tracked by providing users of the GIS data layer with a form in which they will described how they used the streambank and natural feature inventory data. Outcomes 3) through 6) will be tracked using the project monitoring with baseline conditions established prior to restoration. Outcome 7) will be tracked by providing questionnaires to workshop participants before and after and comparing results.

**8. Programmatic Capability/Technical Experience/Qualifications**

**i. Organizational Experience:** The ***City of Bentonville*** is a regional leader in increasing public parks and open space. The Parks and Recreation Department has added over 110 acers of parkland and by way of a city ordinance requiring land developers to set aside parkland or pay in lieu fees (to be used to enhance open space.) The City also partners with local foundations to promote and encourage preserving open space for parkland. The City partnered with the WCRC on ecological restoration projects that have restored both stream channel, riparian, and wetlands. They also encourage the use of native plants and LID principles at their sites.

The ***Watershed Conservation Resource Center (WCRC)*** is a 501(c) (3) non-profit organization whose mission is to protect, conserve, and restore natural resources. The co-founders and principals of the WCRC, Sandi J. Formica and Matthew Van Eps, have extensive backgrounds and are leading regional experts in watershed management, watershed assessment, stream stability analysis, natural channel restoration design and the utilization of GIS for inventory and evaluation of natural resource condition. The staff has a broad range of experience with the watershed approach and has spent many years working throughout Arkansas on a variety of watershed issues. The WCRC has 12 staff persons and is housed in Fayetteville, AR.

The WCRC is engaged in several watershed assessment and stream restoration projects in Northwest Arkansas in which they've received funding and successfully designed and constructed (Section F, Attachment i). Through follow-up monitoring and assessment, the WCRC has developed their own innovative methods for vegetation establishment and long-term maintenance of restorations using natural channel design principles in the Ozark Mountain region where there are flashy, incised, steep-gradient streams. The WCRC is engaged in projects that assess stream stability, assess streambank erosion, and develop streambank erosion prediction curves to estimate pollutant loadings and reductions. In April of 2019, the Arkansas Game & Fish Commission awarded the WCRC a "Conservation Award' in recognition of extraordinary dedication and contributions to the conservation of Arkansas's fish, wildlife, and natural resources and as a conservation leader in Northwest, Arkansas.

**ii. Staffing Experience & Qualifications**- The key personnel for this project are (See Section F. Attachment ii for Resumes):

- ***Wade Tomlinson, PLA, MBA, Park Planner, City of Bentonville*** – will serve as Project Coordinator. Wade works as the parks planner for the City and has a professional background as a landscape architect with 20 years municipal experience in park planning, design and development. In this critical role Wade plans, designs and develops municipal landscapes. In all of Wade's projects he is true to the profession and works to balance the needs of the community without exceeding the capacity of the natural environment.
- ***Sandi Formica, Executive Director, Watershed Conservation Resource Center,*** will serve as Project Manager. Sandi manages the WCRC, a 501 (c) (3), and conducts project development, design, and management, provides technical oversight, develops grants, and carries-out watershed-based projects. She is a regional expert in watershed assessment and planning, river stability, stream and wetland restoration design, and innovative methods to establish native vegetation. She is project manager of 19 successful stream restoration projects in NW AR.
- ***Matthew Van Eps, P.E., Associate Director, Watershed Conservation Resource Center,*** will serve as Project Engineer. He is the lead design and project engineer for 19 successful stream restoration projects that include watershed-based assessments and evaluation of the impacts of various land-use activities on sediment and nutrient loading.

**9. Partnership Information** - The following organizations have agreed to partner (See Section F, Attachment iii for Letters of Commitments):

1) ***Arkansas Natural Heritage Commission (ANHC)*** will provide technical assistance on vegetation monitoring, plant species identification, and native plant selection and sources.
2) ***Dr. John D. Wilson, Associate Professor, Department of Biological Sciences, University of Arkansas*** will focus on the applied ecology and conservation of amphibians and reptiles and provide technical expertise to inventory and guide habitat management for native herpetofauna. Historical records will be queried from the focal project areas and will conduct field surveys to develop baseline species lists for the focal sites with a particular focus on Species of Greatest Conservation Need such as species in the Grotto Salamander Complex (*Eurycea spaleus*) and Ringed Salamander (*Ambystoma annulatum*).
3) ***Wyandotte Nation*** will assist with the workshops and help to advertise the training opportunities to tribes in the Elk River watershed in Oklahoma.
4) ***City of Fayetteville*** will provide technical assistance on developing a data base of the assessment data for the City of Bentonville and assist with the workshop on 'urban development site planning to protect wetlands and stream.'

**10. Past Performance** – Completed in 2020, the City in partnership with the WCRC successfully managed and met commitments for EPA Wetlands Program Development Grant # CD-01F10801 in which 1,500 feet of Little Sugar Creek was restored in Bentonville, Arkansas that included the restoration of herbaceous and riverine wetlands and the riparian. A final report was submitted to and approved by EPA. Recently, the site withstood record flooding.

In 2019, the WCRC in partnership with the City successfully completed a Walton Family Foundation grant in which 2,000 feet of Town Branch and riverine wetlands were restored using natural channel design principles and establishing a healthy native plant community.

Completed in 2018, the WCRC provided the technical expertise and was a partner to the City of Fayetteville, who successfully managed and met the commitments of an EPA Wetlands Program Development Grants: FY14, an "Inventory of Riparian & Streambank Conditions of Urban Streams" was successfully completed in which streambank and riparian conditions of over 28 miles of urban streams was evaluated, streambank erosion prediction curves were developed that estimate sediment and nutrient loadings from streambank erosion, wetlands, prairies, springs, and streambanks in need of restoration were identified. The WCRC worked with the City's GIS staff to create a data layer so the information is available to the City's departments, watershed groups, and state/local government. Outputs from this project are being used to improve decision-making ability concerning proposed developments, protection of natural features, priorities when restoring streams, wetlands, and riparian areas, and estimates of the reduction of sediment and nutrients from streambank erosion to improve water quality within the Illinois River and Beaver Lake watersheds. Outcomes met include 1) a redesign of a section of Cato Springs Branch in which approximately 800 feet of channel was going to be destroyed and replaced with a shorter, straight, trapezoidal channel and 2) natural feature information led to the discovery of new locations of aquatic species of greatest conservation concern and rare plants.

**C. Restoration Demonstration Project Information**. This project has a demonstration component. Headwater streams in McKisic Creek and Little Sugar Creek watersheds within the City have enlarged as a response to watershed changes, predominately the conversion of forest and pasture to residential and commercial development sites with large areas of impervious surfaces. Accelerated streambank erosion is found throughout the City and it contributes both sediment and nutrients to McKisic Creek and Little Sugar Creek. A plan will be developed that will stabilize the channel and restore wetlands using natural channel design principles once it is implemented. Removal of invasive vegetation and establishment of native vegetation will be included in the restoration design. Existing restoration sites will be improved and protected through the removal of invasive vegetation, establishment of native vegetation, and conducting needed flood repairs to ensure these projects continue to provide habitat and protect water quality into the future.

**D. Quality Assurance / Quality Control** -The applicant will be collecting environmental data to determine streambank erosion rates and sediment and nutrient delivery, monitor plant communities, and to develop the restoration design. In order to comply with Quality Assurance and Quality Control (QAQC) requirements, the applicant will develop and submit within the first three months of the project period, a Quality Assurance Project Plan (QAPP**).**

**E. Invasive Species Control** - The applicant will monitor and work towards the elimination of invasive species from the site and will not introduce any to the site. Experienced project partners will provide assistance in developing invasive species control plan. If invasive species are detected or populations promoted in any way, the recipient will respond

**F. Attachments (upon request)**
i Maps and Restoration Examples
ii. Staff Resumes
iii. Commitment Letters

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO ENTER INTO AN AGREEMENT WITH WATER CONSERVATIONS RESOURCE CENTER, FOR STREAM RESTORATION DESIGN SERVICES, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-ONE THOUSAND FOUR HUNDRED SIXTY-ONE DOLLARS ($151,461.00); AND FOR OTHER PURPOSES.**

**WHEREAS**, this agreement will focus on an assessment of McKissic Creek and its tributaries, and the Little Sugar Creek near its confluence with McKissic Creek in the City of Bentonville; and

**WHEREAS**, this project is funded through EPA grant monies, with Water Conservations Resource Center selected through the City's SOQ process.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT**:

<u>Section 1</u>: The Mayor and City Clerk are hereby authorized to enter into an agreement with Water Conservations Resource Center, for stream restoration design services, in an amount not to exceed one hundred fifty-one thousand four hundred sixty-one dollars ($151,461.00), including reimbursable expenses;

<u>Section 2 - Severability Provision</u>: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

<u>Section 3 - Repeal of Conflicting Resolutions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED and APPROVED this _____ day of _______________, 2024.**

**APPROVED:**

______________________________
**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________
**KIRBY ROMINES, City Clerk**

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Wade Tomlinson |
| **Phone:** | 479 271 3392 | **For Department(s):** | Bentonville Parks and Recreation Dept |
| **Email:** | WTomlinson@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [x] Change Order
- [ ] Recognizing Funds
- [x] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution approving change order for Sewer Line Repairs at NE A Street and Lawrence Plaza |
| **Action Recommendation & Justification:** | Resolution allowing the Mayor and City Clerk to authorize Change Order #1 with Flintco for the installation of sewer service lines at NE A Street and Lawrence Plaza for the Quilt of Parks Project in the amount of $25,613.00. A budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | This will be paid using impact fees. See Memo. |
| **Amount for Approval:** | $ 25,613.00 |

### Budget Impact

**Is this Item Budgeted?** ☐ YES ☑ NO ☐ ITEM HAS NO COST ☐ OTHER:

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| 105030-47390 | Improv Other than Bldg / Other | $ 25,613.00 | $ |
| 105030-39192 | Transfer In - Impact/Capacity | $ | $ 25,613.00 |
| 255020-49110 | Transfer out - General | $ 25,613.00 | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☐ General Fund ☐ Utility Fund ☐ Street Fund ☑ Other(s): Impact Fees

*Budget Impact Notes for Consideration (Optional):*

# Memo

| | |
|---|---|
| To: | City Council, Mayor Orman |
| From: | J. Wade Tomlinson, Parks Planner |
| Thru: | David Wright, Parks and Recreation Director |
| Date: | January 23, 2024 |
| Re: | Sewer Service Lines |

---

While performing necessary excavations for improvements being made at NE A Street and Lawrence Plaza for the Quilt of Parks Project, fragile and compromised clay sewer lines were discovered approximately 3 feet under the existing pavement. To prevent future problems associated with the old sewer lines, a plan to re route sewer services has been developed.

The cost to install the new lines is expected to cost $25,613.00. Construction will be performed under the existing contract with Flintco.

If you have any questions regarding this item, please call me at 479.464.7275 or email dwright@bentonvillear.com.

**FLINTCO**

**Contingency Use Authorization**

| | |
|---|---|
| **City of Bentonville A Street Promenade** | **Flintco LLC (40-000)** |
| SE A-Street | **Project # 23078** |
| Bentonville, Arkansas 72712 | |

**PCO: 006** **Date: 12/19/2023**

| | | | |
|---|---|---|---|
| **To:** | City of Bentonville<br>305 SE A Street<br>Bentonville, Arkansas 72712 | **From:** | Flintco, LLC<br>184 E. Fantinel Blvd.<br>Springdale, Arkansas 72762 |

| Description | Status |
|---|---|
| CE #009 - Sewer Line Repair | Draft |

| Days Req | Reference | PCO Change Reason | Amt Req |
|---|---|---|---|
| | | Owner Directive | $25,613.00 |

**Notes**

CE #009 - Sewer Line Repair
Costs associated with the sewer line repair at the SW corner of phase 1.

| CE No. | CE Total | CE Type | Change Reason |
|---|---|---|---|
| 009 | $25,613.00 | Owner Contingency | Owner Directive |
| **Item No** | **Item Description** | **Vendor** | **Amount** |
| 1 | Costs associated with the sewer line repair at the SW corner of phase 1. Costs include, but are not limited to, providing and installing manhole, PVC piping, plugs, backfill, asphalt patching, testing, OHSA/traffic control, and bonds. | Dean Crowder Construction, Inc. | $25,613.00 |

**Total Amount:** **$25,613.00**

**Owner Approval:**

**Signature** ______________________ ______________

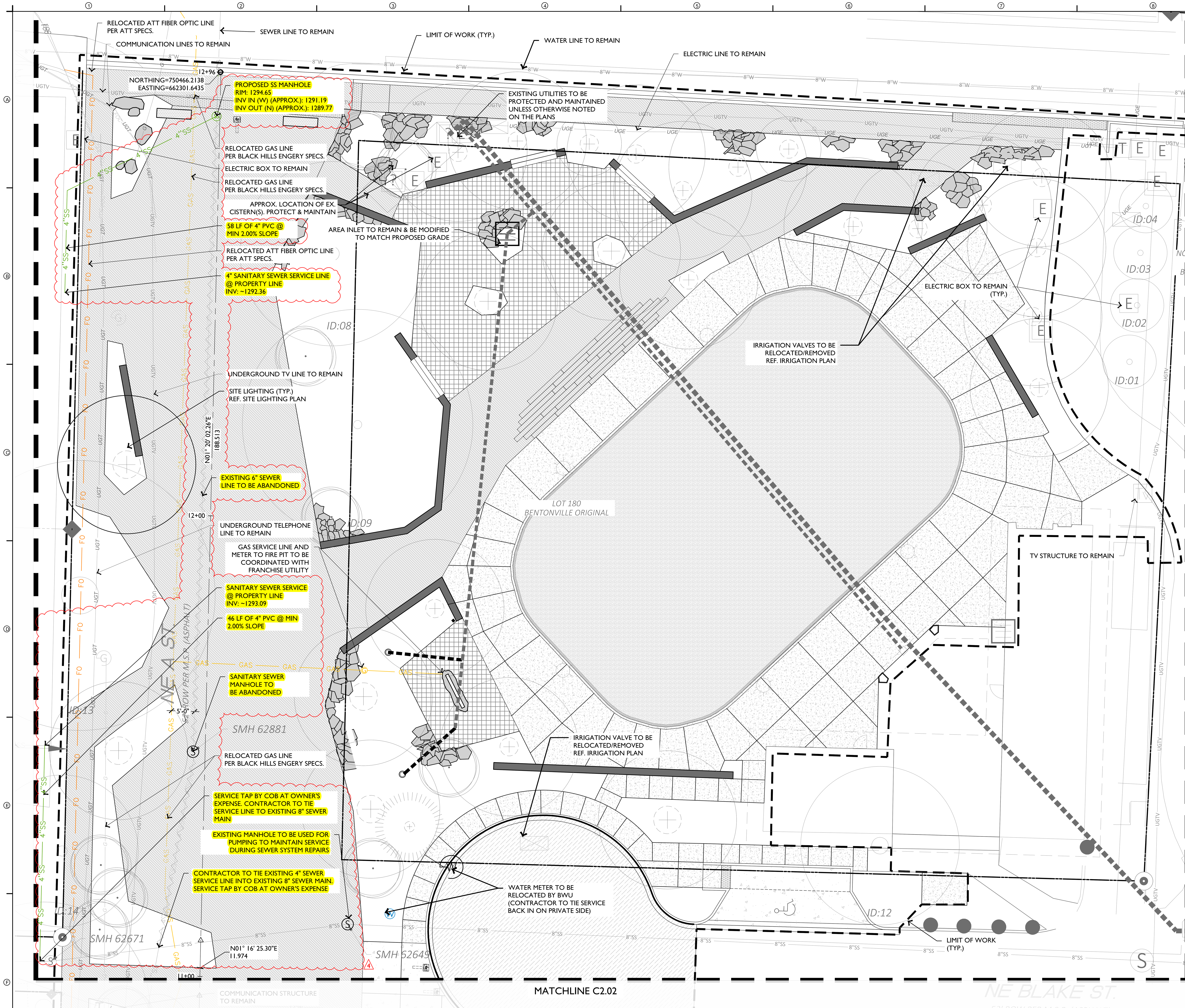
**Name** ______________________ **Date**

Attachments:

A Street Promenade - Sewer Line Repair Pricing.pdf

**SCOPE OF WORK**

| Item No. | Description | Unit | Qty. | Unit Price | Total |
|---|---|---|---|---|---|
| 1 | MANHOLE 6 - 8' DEEP | EA | 1 | $ 7,295.00 | $ 7,295.00 |
| 2 | 8" CMA | EA | 2 | $ 43.50 | $ 87.00 |
| 3 | 4" SCH 40 SEWER SERVICE LINE | LF | 120 | $ 42.30 | $ 5,076.00 |
| 4 | 4 X 4 PVC SEWER WYE | EA | 3 | $ 101.70 | $ 305.10 |
| 5 | 4" PVC 45 BENDS | EA | 6 | $ 58.00 | $ 348.00 |
| 6 | 4" PVC HUB AND PLUG | EA | 3 | $ 33.20 | $ 99.60 |
| 7 | 4" PVC X PVC FERNCO | EA | 3 | $ 83.75 | $ 251.25 |
| 8 | PLUG ABANDONED MAIN AT MANHOLE | EA | 1 | $ 830.50 | $ 830.50 |
| 9 | 8 X 4 SEWER TAO ON CLAY | EA | 2 | $ 975.00 | $ 1,950.00 |
| 10 | BASE BACKFILL | TON | 60 | $ 47.00 | $ 2,820.00 |
| 11 | ASPHALT PATCH | TON | 32 | $ 75.00 | $ 2,400.00 |
| 12 | TESTING | LS | 1 | $ 1,100.00 | $ 1,100.00 |
| 13 | OSHA/TRAFFIC CONTROL | LS | 1 | $ 2,500.00 | $ 2,500.00 |
| 14 | BONDS | LS | 1 | $ 550.00 | $ 550.00 |
| **TOTAL AMOUNT** | | | | **TOTAL BID** | **$ 25,612.45** |




# UTILITY PLAN

SCALE: 1" = 10'-0"

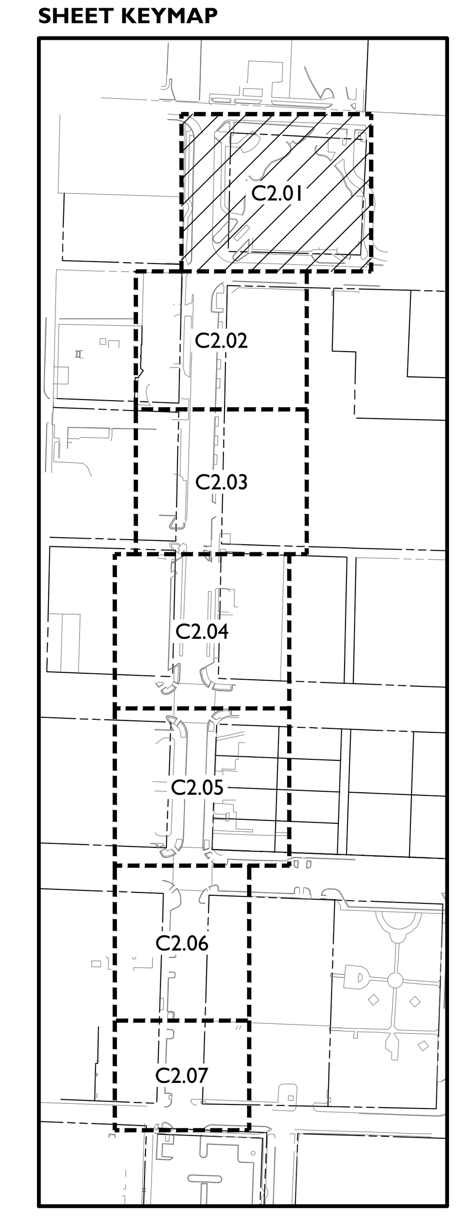
NORTH

0' 10' 20' 40'

## PROPOSED UTILITY LEGEND

| | |
|---|---|
| W | WATER LINE |
| | WATER METER |
| | WATER VALVE |
| | FIRE HYDRANT |
| SS | SANITARY SEWER |
| UGE | UNDERGROUND ELECTRIC LINES/CONDUIT |
| FO | FIBER LINE |
| GAS | GAS LINE |

SHEET KEYMAP

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# A STREET PROMENADE
## BENTONVILLE, ARKANSAS

CERTIFICATE OF AUTHORIZATION Ecological Design Group, Inc. No. 2511 ARKANSAS

STATE OF ARKANSAS LICENSED PROFESSIONAL ENGINEER No. 14694 BRAHM M. DRIVER 8/29/23

ISSUE DATE: MAY 26, 2023

REVISIONS

| # | DATE | DESCRIPTION |
|---|---|---|
| 1 | 06/15/23 | Addendum 01 |
| 2 | 08/29/23 | Issue for Construction |
| 3 | 10/30/23 | Bulletin 01 |
| 4 | 11/30/23 | Bulletin 02 |

DRAWN: ________ REVIEWED: ________

ISSUE FOR CONSTRUCTION

PROJECT NUMBER: 6331

UTILITY PLAN

SHEET NUMBER

C2.01

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO ENTER INTO CHANGE ORDER NO. 1 WITH FLINTCO, FOR THE INSTALLATION OF SEWER SERVICE LINES FOR THE QUILT OF PARKS PROJECT, IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND SIX HUNDRED THIRTEEN DOLLARS ($25,613.00); ADJUSTING THE 2024 BUDGET TO APPROPRIATE IMPACT FEES IN THE SAME AMOUNT; AND FOR OTHER PURPOSES.**

**WHEREAS**, this change order authorizes the re-route and installation of new sewer lines, replacing fragile and compromised clay sewer lines at NE A Street and Lawrence Plaza; and

**WHEREAS**, this item is funded through impact fees; therefore, a budget adjustment is needed to appropriate funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT**:

Section 1: The Mayor and City Clerk are hereby authorized to enter into Change Order No. 1 with Flintco, for the installation of sewer service lines at NE A Street and Lawrence Plaza, in an amount not to exceed twenty-five thousand six hundred thirteen dollars ($25,613.00);

Section 2: The 2024 Budget is hereby adjusted to allocate impact fees from Account #255050-49110 – Transfer Out – General into Account #105030-39192 – Transfer In – Impact/Capacity;

Section 3: The 2024 Budget is further adjusted to appropriate the same into Account #105030-47390 – Improvements Other than Bldg/Other;

Section 4 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED and APPROVED this _____ day of _______________, 2024.**

**APPROVED:**

______________________________

**STEPHANIE ORMAN, Mayor**

**ATTEST:**

______________________________

**KIRBY ROMINES, City Clerk**

THE CITY OF BENTONVILLE

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | David Wright |
| **Phone:** | 479-271-6813 | **For Department(s):** | Parks and Recreation |
| **Email:** | dwright@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [ ] Recognizing Funds
- [ ] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution accepting a TAP Grant for SW Bentonville Trail |
| **Action Recommendation & Justification:** | Resolution accepting a Transportation Alternatives Program (TAP) Grant, in the amount of $400,000.00, for the future construction of the SW Bentonville Trail. No budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | A budget adjustment recognizing revenue and appropriating expense will come at a future date. The Resolution needs to be passed at this time for State and Federal-aid job numbers assignment. |
| **Amount for Approval:** | $ 400,000.00 |

### Budget Impact

**Is this Item Budgeted?** [ ] YES [x] NO [ ] ITEM HAS NO COST [ ] OTHER:________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) [ ] General Fund [ ] Utility Fund [ ] Street Fund [ ] Other(s):________________

*Budget Impact Notes for Consideration (Optional):*

# Memo

To: City Council, Mayor Orman

From: David Wright, Parks and Recreation Director

Date: December 10, 2023

Re: City Council approval of a resolution authorizing the acceptance of a Transportation Alternatives Program (TAP) grant, in the amount of $400,000 for the SW Bentonville Trail Project.

---

As our team continues buildout of the Connect Bentonville Trail, one of the main focal points continues to be the SW Bentonville Trail. This trail will ultimately serve as the backbone of the trail system in this part of the community. Currently, we have constructed or are in the process of building the trail from Citizens Park, past Willow brook Elementary at Bright Road onto Morningstar Road. In 2024, we will begin working on the section from Morningstar to the Distribution Center. This trail is a Priority 1 level trail in the Connect Bentonville Plan.

This TAP Grant was awarded in November 2023 in the amount of $400,000. This portion of the trail is currently in design by the Trailblazers and will be provided to the City to bid later this year. Once bid and we have a construction contract in place, we will request a budget adjustment for these funds as well as other funds necessary to construct the project.

If you have questions concerning this item, please email dwright@bentonvillear.com or call 479.217.6813.

ARKANSAS DEPARTMENT OF TRANSPORTATION
ArDOT.gov | IDriveArkansas.com | Lorie H. Tudor, P.E., Director
10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261
Phone: 501.569.2000 | Voice/TTY 711 | Fax: 501.569.2400

November 3, 2023

RECEIVED NOV 0 8 2023

The Honorable Stephanie Orman
Mayor of Bentonville
305 SW "A" St.
Bentonville, AR 72712

Re: SW Bentonville Trail

Dear Mayor Orman:

Reference is made to the SW Bentonville Trail project in Bentonville which was awarded Transportation Alternatives Program – Attributable funding by Northwest Arkansas Regional Planning Commission.

In order to proceed with a Federal-aid project, your City Council must pass a Resolution authorizing you to enter into agreements with the Department. A sample resolution has been enclosed for your reference. Then, you and your City Attorney must sign the enclosed Agreement of Understanding. Upon receipt of a signed and sealed Resolution the signed Agreement, State and Federal-aid job numbers will be assigned and a copy of the executed Agreement of Understanding will be returned to you. When submitting the Agreement to the Department for execution, you will also need to complete Form LPA-005, Form LPA-018, and Form LPA-019. All referenced Forms are available in digital format at www.ardot.gov/LPA.

If you have any questions, please contact Carlos Meredith in our Local Programs Division at (501) 569-2562 or Carlos.Meredith@ardot.gov.

Sincerely,

Keli Wylie

Keli Wylie, P.E.
Assistant Chief Engineer
Program Delivery

Enclosures

c: Chief Engineer – Operations
Chief Engineer – Preconstruction
Assistant Chief Engineer – Design
Assistant Chief Engineer – Planning
Consultant Contracts
Local Programs
Program Management
Roadway Design
District 9
Tim Conklin, Executive Director, NWARPC

**FEDERAL-AID PROJECT RESOLUTION**

**RESOLUTION NO. ____________**

**A RESOLUTION EXPRESSING THE WILLINGNESS OF**
**[INSERT SPONSOR NAME]**
**TO UTILIZE FEDERAL-AID FUNDS**
**FOR THE FOLLOWING PROJECT:**

***[INSERT PROJECT NAME]***

**WHEREAS,** the **[INSERT NAME OF METROPOLITAN PLANNING ORGANIZAION]** has approved Federal-aid funds for the project at the following Federal and Local participating ratios, up to the maximum Federal-aid available:

| Type Work | Work Phase | Federal % | Local % |
|---|---|---|---|
| Projects that reach construction | Preliminary Engineering<br>Right-of-Way<br>Utilities<br>Construction<br>Construction Engineering | 80<br>80<br>80<br>80<br>80 | 20<br>20<br>20<br>20<br>20 |
| Projects that never progress to construction | All Phases | -0- | 100 |

**NOW, THEREFORE, BE IT RESOLVED BY THE [INSERT SPONSOR'S GOVERNING BODY] OF [INSERT CITY/COUNTY], ARKANSAS, THAT:**

**SECTION I:** The **[INSERT SPONSOR NAME]** will participate in accordance with its designated responsibilities in this project.

**SECTION II:** The **[SPONSOR'S CEO TITLE]** or their designated representative is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this project.

**SECTION III:** The **[INSERT SPONSOR NAME]** pledges its full support and hereby authorizes the Arkansas Department of Transportation to initiate action to implement this project.

**THIS RESOLUTION** adopted this ______ day of __________________, _____.

______________________________________
*[SPONSOR CEO NAME]*
*[SPONSOR CEO TITLE]*

**ATTEST:** ______________________________
(SEAL)

**AGREEMENT OF UNDERSTANDING**
**BETWEEN**
**THE CITY OF BENTONVILLE**
**AND**
**NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION**
**AND**
**THE ARKANSAS DEPARTMENT OF TRANSPORTATION**

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration

RELATIVE TO

Implementation of SW Bentonville Trail project (hereinafter called the "Project") as a Federal-aid Transportation Alternatives Program (TAP) Attributable project.

**WHEREAS,** funding in Infrastructure Investment and Jobs Act (IIJA) includes the following Federal-aid funds for certain local projects:

| | Maximum Federal % | Minimum Sponsor % |
|---|---|---|
| Preliminary Engineering by Consultant | 80 | 20 |
| Right-of-Way/Utilities | 80 | 20 |
| Construction | 80 | 20 |
| Construction Engineering by Consultant | 80 | 20 |
| Department Administrative Costs | 80 | 20 |

**WHEREAS,** the City of Bentonville (hereinafter called the "Sponsor") has expressed its desire to use Federal-aid funds for the eligible Project and to provide necessary matching cash share for such funds; and

**WHEREAS,** the Sponsor has transmitted to the Arkansas Department of Transportation (hereinafter called the "Department") Resolution No. ______ from the Sponsor's governing body authorizing the Sponsor's Chief Executive Officer (CEO) to execute agreements and contracts with the Department for the Project; and

**WHEREAS,** the Northwest Arkansas Regional Planning Commission (hereinafter called the "Commission") awarded the Sponsor Federal-aid TAP Attributable funds; and

**WHEREAS,** funding participation will be subject to a limit of $400,000 maximum Federal-aid TAP Attributable funds for the construction phase of the Project and obligation limitation approved; and

**WHEREAS,** the Sponsor knows of no legal impediments to the completion of the Project; and

**WHEREAS,** it is understood that the Sponsor and the Department will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Disadvantaged Business Enterprises (DBEs) (Form LPA-001) and that, as part of these requirements, the Department may set goals for DBE participation in the Project, ranging from 0% to 100%, that are practical and related to the potential availability of DBEs in desired areas of expertise; and

**WHEREAS,** the Department has published the Arkansas Local Public Agency Project Manual (available at ARDOT.gov) which outlines procedures and requirements which must be followed during development and construction of the Project; and

**WHEREAS,** the parties agree, unless specifically stated otherwise, that the provisions of this agreement are not intended to create or confer a third party benefit or right in any person or entity, not a party to this agreement.

**IT IS HEREBY AGREED** that the Sponsor, Commission, and the Department, in cooperation with the Federal Highway Administration (FHWA), will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

**THE SPONSOR WILL:**

1. Notify the Department in writing who the Sponsor designates as its full-time employee to be in responsible charge of the day to day oversight of the Project (Form LPA-005). If the designated full-time employee changes, the Sponsor must notify the Department by resubmitting Form LPA-005. The duties and functions of this person are:
   - Oversee project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
   - Maintain familiarity of day to day project operations, including project safety issues;
   - Make or participate in decisions about changed conditions or scope changes that require change orders and/or supplemental agreements;
   - During construction, visit and review the project on a daily basis;
   - Review financial processes, transactions, and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
   - Direct project staff, Sponsor or consultant, to carry out project administration and contract oversight, including proper documentation;
   - Be aware of the qualifications, assignments and on-the-job performance of the Sponsor and consultant staff at all stages of the project.

2. Initially submit to the Department $1,000 (20%) to be matched by $4,000 (80%) Federal-aid funds for Department administrative costs associated with state preliminary engineering, which include but are not limited to, on site meetings, environmental review, and plan and specification review. The Sponsor's final cost for this phase will be determined by actual Department charges to preliminary engineering.

3. Be responsible for hiring a consultant engineering firm(s) in accordance with the Local Agency Consultant Selection Procedures (Form LPA-002) to provide engineering services which include environmental documentation, preliminary engineering, and construction engineering for the Project. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**

4. Prepare plans, specifications, and a cost estimate for construction. A registered professional engineer must sign the plans and specifications for the Project. (See Form LPA-003 for items to be included in the bid proposal.)

5. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

6. Understand that **expenditures for preliminary or construction engineering performed by the Sponsor's forces are not eligible for reimbursement with federal funds**.

7. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.

8. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition).

9. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

10. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in compliance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**

11. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act").

12. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.

13. Be responsible for all non-reimbursable costs associated with the Sponsor owned utilities as defined in the Department's Utility Accommodation Policy.

14. Be responsible for the matching share for all reimbursable costs associated with the Sponsor owned utilities as defined in the Department's Utility Accommodation Policy.

15. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the Project (Form LPA-007). If property has been acquired for the Project, use Form LPA-006 for certification of the right-of-way. **NOTE: Any property that is to become Department right-of-way must be acquired in the Department's name.**

16. Submit plans at 30%, 60%, and 90% completion stages for Department review.

17. Submit a certification letter (Form LPA-008), including all items noted, to the Department when requesting authority to advertise the Project for construction bids.

18. Advertise for bids in accordance with federal procedures as shown in Form LPA-010. **NOTE: FHWA authorization and Department approval must be given prior to advertising for construction bids.**

19. Forward a copy of all addenda issued for the Project during the advertisement to the Department.

20. After bids are opened and reviewed, submit a Certification Letter Requesting Concurrence in Award (Form LPA-013), including all items noted, to the Department.

21. Prior to awarding the construction contract, submit a check for $1,000 (20%) to be matched by $4,000 (80%) Federal-aid funds for Department administrative costs on the Project during construction. The Sponsor's final share of cost for this phase will be determined by actual Department charges to construction engineering.

22. Prior to issuing the notice to proceed to the Contractor, the Sponsor must hold a pre-construction meeting with the Contractor and **must invite the Department's Resident Engineer assigned to the Project.**

23. Ensure that all work, material testing and acceptance, and inspection is conducted in accordance with the Department's Standard Specifications for Highway Construction (latest edition), Manual of Field Sampling and Testing Procedures, and Resident Engineer's Manual and with the plans, specifications, and all other applicable FHWA and Department procedures for the Project.

24. Make periodic payments to the consultant for construction engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

25. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then request reimbursement from the Department on the Construction Certification and Reimbursement Request (CCRR) form (Form LPA-014). Reimbursement requests should be submitted, at minimum, every three (3) months and not more than once per month.

26. Attach LPA Report of Daily Work Performed (Form LPA-015) for all days that correspond with each CCRR submittal.

27. Prior to executing the work, submit change orders (Form LPA-022) to the contract to the Department's Resident Engineer assigned to the Project for review and approval for program eligibility.

28. Upon completion of the Project, hold a final acceptance meeting for the Project and submit the LPA Final Acceptance Report form certifying that the Project was accomplished in accordance with the plans and specifications (Form LPA-016). This form must be signed by the engineer performing construction inspection on the Project, the Department's Resident Engineer assigned to the Project, the Sponsor's full-time employee in responsible charge, and the Sponsor's CEO.

29. Maintain accounting records to adequately support reimbursement with Federal-aid funds and be responsible for the inspection, measurement and documentation of pay items, and certification of all work in accordance with the plans and specifications for the Project and for monitoring the Contractor and subcontractor(s) for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.

30. Pay all unpaid claims for all materials, labor, and supplies entered into contingent or incidental to the construction of said work or used in the course of said work including but not limited to materials, labor, and supplies described in and provided for in Act Nos. 65 and 368 of 1929, Act No. 82 of 1935, and Acts amendatory thereof.

31. Agree that any and all claims for damages to property or injury to persons caused by any act or omission, negligence, or misconduct from the performance of work by the Sponsor's contractor on the Project shall be the sole responsibility of the Sponsor's contractor and in this regard the Sponsor shall require the contractor on the Project to procure and maintain a General Public Liability Insurance Policy during the duration of the Project which shall be endorsed to include broad form general liability and complete operations coverage on the Project. The contractor shall furnish the Sponsor with documentation of proof of liability insurance coverage with submission of the signed contract.

32. Agree that any claims, liability, costs, expenses, demands, settlements, or judgments arising from misconduct or the negligent acts or omissions of the Sponsor, its employees, agents or contractors in the performance of the Project and this Agreement must be presented to the Sponsor. Further, the Sponsor by acceptance of this grant, agrees that the Department and the Arkansas State Highway Commission, as the pass-through entity, have no duty or responsibility for the design, construction, maintenance or operation of the Project that is the subject of this grant, and, therefore shall have no liability related to the design, construction, maintenance or operation of the Project. The Sponsor also agrees to assume all risks associated with the work to be performed by its agents, employees, and contractors under this grant and Agreement and the Department and the Arkansas State Highway Commission, as the pass-through entity, shall not be responsible or liable for any damages whatsoever from the actions of the Sponsor, its employees, agents and contractors.

33. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

34. Retain all records relating to inspection and certification, the Contractor's billing statements, and any other files necessary to document the performance and completion of the work in accordance with requirements of 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Form LPA-017).

35. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and FHWA officials.

36. Be responsible for 100% of all project costs incurred:

    - should the Project not be completed as specified;
    - should the Project be declared non-participating in federal funds, including any such award by the State Claims Commission; or
    - not provided by the FHWA.

37. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Form LPA-018), which is necessary for Project participation.

38. Repay to the Department the federal share of the cost of any portion of the Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures.

39. Retain total, direct control over the Project throughout the life of all project improvements outside of the Department's right-of-way and **not, without prior approval from the Department**:
    - sell, transfer, or otherwise abandon any portion of the Project;
    - change the intended use of the Project;
    - make significant alterations to any improvements constructed with Federal-aid funds; or
    - cease maintenance or operation of a project due to the Project's obsolescence.

40. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the Project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and may result in withholding all future Federal-aid.

41. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than $750,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The $750,000 threshold is subject to change after OMB periodic reviews.

42. Promptly notify the Department if the Project improvements outside of the Department's right-of-way are rendered unfit for continued use by natural disaster or other cause.

43. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Form LPA-019).

44. After each quarter of the calendar year, complete and transmit to the Department the LPA Project Quarterly Report Form (Form LPA-020) until the Project is complete.

**THE COMMISSION WILL:**

1. Provide up to $400,000 in Federal-aid TAP Attributable funds for the construction phase of the Project as funds become available.

**THE DEPARTMENT WILL:**

1. Maintain an administrative file for the Project and be responsible for administering Federal-aid funds.

2. Review plans and specifications submitted by the Sponsor.

3. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.

4. Upon receipt of the Sponsor's certification of right-of-way (property) ownership, provide the appropriate documentation to the file.
5. Ensure substantial compliance with federal contracting requirements through review of the bidding proposal for inclusion of required federal forms, review of the administration of the DBE program provisions, and general compliance with 23 CFR 635.
6. Advise the Sponsor when to proceed with advertisement of the Project for construction bids.
7. Review bid tabulations and concur in award of the construction contract for the Project.
8. Ensure that the Sponsor and the Sponsor's consultant provide adequate supervision and inspection of the Project by performing periodic inspections with the Sponsor's representatives and their consultant to verify that the work being performed by the Sponsor's contractor, and documented and certified by the Sponsor, meets the requirements of the Project plans, specifications, and all applicable FHWA and Department procedures. The Department intends to perform these inspections, at a minimum, when the construction work is approximately 10% and 50% completed. The Department will also participate in the final inspection of the Project.
9. Review and approve any necessary change orders for project/program eligibility.
10. Reimburse the Sponsor 80% (Federal-aid share) for eligible construction costs approved in the CCRR form (Form LPA-014). This reimbursement will be limited to the maximum Federal-aid amount and to the federal amount available at the time payment is requested. If the payment requested exceeds the Federal-aid available at the time, the difference will be reimbursed as additional Federal-aid for the Project becomes available.
11. Subject to the availability of Federal-aid allocated for the Project, pay the Sponsor the remaining amount due upon completion of the Project and submittal of the certified LPA Final Acceptance Report form (Form LPA-016).
12. Provide all form updates via email to the contact as shown on Form LPA-005.
13. Be reimbursed for costs involved in performing all the services listed above.

**IT IS FURTHER AGREED** that the Department reserves the right to cancel the Project without liability against the Department for any reason including, but not limited to, unreasonable delay or lack of progress, the Sponsor is unable to provide an audit-worthy reason for the substantial delay in the project development or completion process, or the Sponsor is unresponsive to the Department's requests.

**IT IS FURTHER AGREED** that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving future Federal-aid highway funds.

**IT IS FURTHER AGREED** that should the Sponsor fail to pay to the Department any required funds due for project implementation or fail to complete the Project as specified in this Agreement, or fail to adequately maintain or operate the Project, the Department may cause such funds as may be required to be withheld from the Sponsor's Motor Fuel Tax allotment.

**IN WITNESS WHEREOF,** the parties thereto have executed this Agreement this __________ day of __________________, 2023.

Agreement of Understanding between:

The City of Bentonville, Northwest Arkansas Regional Planning Commission, and the Arkansas Department of Transportation relative to:

Implementation of the SW Bentonville Trail Project.

Signatories

**CITY OF BENTONVILLE**

______________________________ ______________
Stephanie Orman Date
Mayor

______________________________ ______________
George Spence Date
City Attorney

Agreement of Understanding between:

The City of Bentonville, Northwest Arkansas Regional Planning Commission, and the Arkansas Department of Transportation relative to:

Implementation of the SW Bentonville Trail Project.

Signatory

**NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION**

| | |
|---|---|
| Tim Conklin<br>Executive Director | Date |

Agreement of Understanding between:

The City of Bentonville, Northwest Arkansas Regional Planning Commission, and the Arkansas Department of Transportation relative to:

Implementation of the SW Bentonville Trail Project.

Signatory

**ARKANSAS DEPARTMENT OF TRANSPORTATION**

Lorie H. Tudor, P.E.
Director

Date

**All Forms referenced in this Agreement are available in digital format on the Department's webpage www.ardot.gov/LPA.**

**ARKANSAS DEPARTMENT OF TRANSPORTATION**
**NOTICE OF NONDISCRIMINATION**

The Arkansas Department of Transportation (ARDOT) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, ARDOT does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in ARDOT's programs and activities, as well as ARDOT's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding ARDOT's nondiscrimination policies may be directed to Civil Rights Officer Joanna P. McFadden (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: joanna.mcfadden@ardot.gov.

Free language assistance for Limited English Proficient individuals is available upon request.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A GRANT AGREEMENT WITH THE ARKANSAS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF FOUR HUNDRED THOUSAND DOLLARS ($400,000.00), FOR THE SW BENTONVILLE TRAIL; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City is awarded a Transportation Alternatives Program (TAP) grant, in the amount of four hundred thousand dollars ($400,000.00) to fund construction of a portion of the SW Bentonville trail from Morningstar Road to the Distribution Center; and

**WHEREAS**, there is no matching provision in this grant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

<u>Section 1</u>: The Mayor and City Clerk are hereby authorized to enter into a grant agreement with the Arkansas Department of Transportation in the amount of four hundred thousand dollars ($400,000.00) for construction of the SW Bentonville Trail;

<u>Section 2 - Severability Provision</u>: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

<u>Section 3 - Repeal of Conflicting Resolutions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED this __________ day of ________________________, 2024.**

**APPROVED:**

______________________________
**STEPHANIE ORMAN, Mayor**

**ATTEST:**

____________________________
**KIRBY ROMINES, City Clerk**

THE CITY OF BENTONVILLE

## City of Bentonville, Arkansas Agenda Item Form

### Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Jackie Bubenik |
| **Phone:** | 479.271.5974 | **For Department(s):** | Parks and Recreation |
| **Email:** | jbubenik@bentonvillear.com | | |

### Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [ ] Change Order
- [x] Recognizing Funds
- [x] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause
- [ ] Ordinance
- [x] Resolution
- [ ] Informational

### Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution approving a Grant from the Walmart Foundation for E-Bike Program |
| **Action Recommendation & Justification:** | The Parks and Recreation Department is requesting the Council approve a grant award in the amount of $250,000.00, to contribute to an E-Bike Rebate Program for Bentonville residents. A budget adjustment is needed to recognize and appropriate funds. |
| **Additional Comments for Consideration (Optional):** | This grant will be used to fund an E-Bike program administrator so no tax dollars, other than staff time, will be utilized administrating this program. See memo. |
| **Amount for Approval:** | $ 250,000 |

### Budget Impact

**Is this Item Budgeted?** ☐ YES ☑ NO ☐ ITEM HAS NO COST ☐ OTHER:____________________

### Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| 105030-43410 | Professional Services / Other | $ 250,000.00 | $ |
| 105030-33810 | Local Grants | $ | $ 250,000.00 |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted** (check all that apply) ☑ General Fund ☐ Utility Fund ☐ Street Fund ☐ Other(s):____________________

*Budget Impact Notes for Consideration (Optional):*

# Memo

To: City Council, Mayor Orman

Thru: David Wright, Parks and Recreation Director

From: Jackie Bubenik

Date: January 10, 2024

Re: City Council Resolution on a Budget Adjustment accepting a grant from the Walmart Foundation for $250,000 for administration fees and support of the E-bike Rebate Program.

The Parks and Recreation Staff is requesting Council's approval of a grant award in the amount of $250,000, to contribute to an -E-Bike Rebate Program.

The main purpose of this pilot program is to develop and fund a cycling infrastructure that ensures all Bentonville residents can participate in and benefit from the electric bicycle ("e-bike") transportation movement. By increasing the adoption of e-bikes, residents will see reduced vehicle miles traveled, lower transportation costs, improved health outcomes, and encourage residents to make the renewable energy transportation mode a larger element of commuting around town. We have seen elsewhere; increased usage of e-bikes will lead residents to seek increased investment in safe biking infrastructure. E-bikes have been shown to be an effective tool in reducing usage of passenger vehicles particularly for trips under three miles. However, due to the high cost to purchase e-bikes (typically >$2k for a regular e-bike and $3k for a cargo e-bike), adoption may be slower than hoped. To overcome this initial cost issue, cities and states across the country have begun experimenting with e-bike rebates as a policy mechanism to increase uptake by helping to reduce the cost of e-bikes.

This program will be 100% grant supported; no tax dollars other than staff time will be utilized.

This resolution is only to accept this grant. In a separate resolution request, we are asking for a bid waiver so we can move forward with contracting with a consultant.

If you have questions concerning this item, please email me at jbubenik@bentonvillear.com or call 479.217.5974.

Attachments:

*Council Request*
*Award notification Email*
*Grant Proposal Details*

**From:** Angela Oxford <Angela.Oxford@walmart.com>
**Sent:** Thursday, December 28, 2023 3:20 PM
**To:** Jackie Bubenik <jbubenik@bentonvillear.com>
**Subject:** Congratulations your grant request has been approved!

Hello Jackie,
Congratulations! Your grant proposal was approved today for $250,000. Congratulations, I'm excited to learn from this pilot for e-bike rebates for our low income neighbors in Bentonville. Let's schedule an onboarding call soon to see what questions you have after reviewing this message and the attachments.

- **Here are a few things for your records that are attached:**
  - The final grant proposal for your records to track progress and for our check ins
  - A Grantee Welcome Kit is attached.
- **Communications Information:**
  - Here is a link for our comms tool kit https://walmart.org/how-we-give/tools-and-resources/nonprofit-toolkit you'll find our logos in this file. **For your records please note you will use the Walmart.org logo.**
  - And here is a link for a story telling resource https://walmart.org/news/2023/roadtrip-nation-storytelling-toolkit-for-nonprofits.html
  - **Our Communications Contact Person** is @Mariel Messier, if you have questions about logos, press releases copy Mariel on all your questions.
- **Grant management and next steps**
  - I've scheduled your impact reports for December 31, 2024
  - Let's plan to do monthly calls so I can gain a better understanding of the scope and progress of the work.
  - Keep me informed of any sessions or programs that I should attend related to the grant.

Please do not hesitate to reach out if you have questions, thank you again for all you do in the community and taking on this important work. I look forward to working with you Jackie.
All my best,

**Angela Oxford** (she/her)
**Senior Manager NWA Region, Community Resilience**
**Angela.Oxford@Walmart.com**

Walmart.org | @Walmartorg

**RESOLUTION NO. __________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A GRANT AGREEMENT WITH THE WALMART FOUNDATION AGENCY IN THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00), FOR AN E-BIKE REBATE PROGRAM; ADJUSTING THE 2024 BUDGET TO RECOGNIZE AND APPROPRIATE SAID GRANT FUNDS; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City is awarded a grant, in the amount of two hundred fifty thousand dollars ($250,000.00) to fund an e-bike rebate program;

**WHEREAS**, this program will be administered by a third party contractor; and

**WHEREAS**, there is no matching provision in this grant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT:**

Section 1: The Mayor and City Clerk are hereby authorized to enter into a grant agreement with the Walton Foundation in the amount of two hundred fifty thousand dollars ($250,000.00), to fund an e-bike rebate program;

Section 2: The 2024 Budget is hereby adjusted to recognize said grant funds into Account #105030-33810 – Local Grants;

Section 3: The 2024 Budget is further adjusted to appropriate the same into Account #105030-43410 – Professional Services/Other;

Section 4 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED this __________ day of ________________________, 2024.**

**APPROVED:**

_____________________________

**STEPHANIE ORMAN, Mayor**

**ATTEST:**

_____________________________

**KIRBY ROMINES, City Clerk**

# City of Bentonville, Arkansas Agenda Item Form

## Item Details

| | | | |
|---|---|---|---|
| **Council Meeting Date:** | 1/23/2024 | **Submitted By:** | Bart Mahony |
| **Phone:** | 479-271-5945 | **For Department(s):** | Public Works Maintenance |
| **Email:** | bmahony@bentonvillear.com | | |

## Item Type (Check all that apply)

- [ ] Informational
- [ ] Bid Award
- [ ] Enter into an Agreement
- [x] Change Order
- [ ] Recognizing Funds
- [x] Budget Adjustment
- [ ] Waiver of Bid
- [ ] Emergency Clause

- [ ] Ordinance
- [x] Resolution
- [ ] Informational

## Title, Recommendation & Justification

| | |
|---|---|
| **Title:** | Resolution approving Change Order #001 to Cemetery Columbaria/Committal Shelter Project |
| **Action Recommendation & Justification:** | Staff requests approval of Change Order #001 with C.R. Crawford in the amount of $53,910.00 for additional earthwork at the cemetery columbaria/committal shelter project site. Once site work began, it was discovered that soil conditions on the southern half of the project site were worse than original pre-construction testing showed. A budget adjustment is needed. |
| **Additional Comments for Consideration (Optional):** | The attached change order shows the quantities for removal and the additional compacted engineered fill and B-stone needed to stabilize the site for concrete pads and walkways. The unit costs used are from original contract. This project include $20,000.00 contingency with $15,000.00 towards the CR Crawford contract. This request maintains that level of contingency to minimize the potential of asking for additional for unforeseen issues. This request increases the contract amount from $689,199.00 to $743,109.00 including contingency. |
| **Amount for Approval:** | $ 53,910.00 |

## Budget Impact

**Is this Item Budgeted?** [ ] YES [x] NO [ ] ITEM HAS NO COST [ ] OTHER:

## Budget Adjustment *(to be completed by Finance when applicable)*

| Account Number (ORG-OBJECT) | Account Description | Expense | Revenue |
|---|---|---|---|
| 105020-47210 | Plants and Building | $ 53,910.00 | $ |
| | | $ | $ |
| | | $ | $ |
| | | $ | $ |

**Fund(s) Impacted (check all that apply)** [x] General Fund [ ] Utility Fund [ ] Street Fund [ ] Other(s):

*Budget Impact Notes for Consideration (Optional):*

This will be funded by General Fund reserves.

00 42 13

# PROPOSAL FOR LUMP SUM CONTRACT

PLACE: Attn: IFB 23-53, City of Bentonville Purchasing Office, 1000 SW 14th Street
Bentonville, AR 72712 - 2nd Floor.

DATE & TIME: October 17th, 2023 at 2:00 PM

PROJECT: City of Bentonville Columbarium and Committal Shelter, Bentonville, AR

PROPOSAL OF C.R. Crawford Construction, LLC
(Hereinafter called the "Bidder")

A Corporation, organized and existing under the laws of the State of Arkansas

A Partnership consisting of n/a

An individual trading as n/a

TO: CITY OF BENTONVILLE, ARKANSAS

Gentlemen:

The undersigned, in compliance with your invitation for bids for the City of Bentonville Columbarium and Committal Shelter, Bentonville, AR having examined the plans and specifications with related documents, and having visited the site of the proposed work within the past seven (7) days, and being familiar with all the conditions surrounding the construction of the proposed project, including the availability of materials and labor, hereby propose to furnish all labor, materials, supplies, plants, etc., and to construct the project in accordance with the contract documents within the time set forth therein and at the prices stated herein, to cover all work in accordance with bidders bid requirements. These prices are to cover all expenses incurred in performing the work required under the contract documents of which this proposal is a part.

I/We acknowledge receipt of the following Addenda:
*(Arkansas public bid statutory requirement: Bidder must acknowledge all addenda issued by addendum number)*

| | |
|---|---|
| # 1 | Dated 10.09.2023 |
| # 2 | Dated 10.13.2023 |
| # | Dated |
| # | Dated |

Base Bid Proposal for General Construction:

Seven Hundred Sixteen Thousand Eight Hundred Ninety Nine Dollars DOLLARS ($ 716,899.00 )
*(Arkansas public bid statutory requirement: Bidder must enter bid amount in written and numerical format)*

In compliance with Act 291 of 1993 the following separate pay item is included in the base bid:
TRENCHING OR EXCAVATION SAFETY SYSTEMS:

Three Hundred Sixty DOLLARS ($ $360.00 )

*(Arkansas bidding law requirement: Bidder must enter amount. If amount is $0.00, then enter amount as $0.00 )*

UNIT PRICES:

UNIT PRICE NO. 1: Rock excavation and off-site disposal per Specifications, Section 31 23 00.

Three Hundred Sixty DOLLARS per cu.yd.in place ($360.00)

UNIT PRICE NO. 2: Provide, place & compact engineered fill as specified in Section 31 23 00. (Price shall also be for credit if fill called for is not required as determined by soils engineer)

Sixty Four DOLLARS per trucked cu.yd.( $64.00 )

UNIT PRICE NO. 3: Excavation, removal and off-site disposal of existing earth. (Price shall also be for credit if earth removal called for is not required as determined by soils engineer)

Forty Four DOLLARS per trucked cu.yd.( $44.00 )

UNIT PRICE NO. 4: Provide shot rock fill per specifications, Section 31 23 00.

Sixty Six DOLLARS per ton, installed. ( $66.00 )

UNIT PRICE NO. 5: Provide Controlled Low Strength Material (CLSM) / Flowable Fill per specifications, Section 31 23 00.

Two Hundred Thirty Four DOLLARS per cu. yd. ( $234.00 )

ALTERNATE PRICES: For the materials and work described in the specifications and/or drawings, the undersigned agrees to adjust his base bid for the following described work:

ALTERNATE NO. 1: Remove work and materials from project scope for Sod (Spec Section 32 92 23), Hydroseeding (Spec Section 32 92 20), Landscaping (Spec section 32 93 00) and Irrigation System (Spec Section 32 80 00) shown on drawings and specifications. Owner will provide. Refer to Spec Section 01 11 00 General Requirements.

DEDUCT$ $42,700.00

COMPLETION TIME:
The Contractor agrees, if awarded the contract to complete project within *(insert number of calendar days)* One Hundred Eighty Three ( 183 ) Calendar Days after the date noted in Contract.

Liquidated damages in the amount of Five Hundred Dollars ($300.00) per calendar day for delay beyond that time will be paid by the Contractor except for extensions of time granted under the General and Supplementary Conditions.

In submitting this bid, it is understood that the right is reserved by the Owner to reject any or all bids. No bid shall be withdrawn for a period of forty-five (45) days subsequent to the opening of bids without the consent of the Owner.

In submitting this bid I/We acknowledge and include Cash Allowance costs if required by your scope of work as part of the Base Bid as listed in Specification Section 01 21 13.

I (or we) submit the names of the subcontractors I (or we) propose to use, and the State Contractors' License Number (If Applicable), as follows:

| SUBCONTRACTORS NAME | STATE CONTRACTOR'S LICENSE NO. |
|---|---|
| A. Electrical | |
| Prime Electric | 0444630924 |
| Is the amount of the Electrical work $50,000.00 or more? If yes, list electrical subcontractor and license number above. | Yes Y No ___ |
| B. Roofing & Sheet Metal | |
| FIRST STAR EXTERIORS LLC | 0387210524 |
| Is the amount of the Roofing & Sheet Metal work $50,000.00 or more? If yes, list roofing and sheet metal subcontractor and license number above. | Yes Y No ___ |

*Bidder must enter subcontractors name in blanks above along with license number unless amount of subcontract is less than $20,000.00.)*

CONDITIONS:

A. It is agreed that if awarded the Contract, a period of time not to exceed forty-five (45) days shall be allowed the Owner in which to determine the manner in which to award or not award the contract.

B. It is further agreed that if awarded the contract, the undersigned will execute the contract and commence work per date as provided on "Notice To Proceed", and will fully complete the work ready to use, not later than the time stipulated.

DECLARATION:

A. The Undersigned hereby declares that he has carefully examined the Invitation and Instructions for Proposals, the Drawings and Specifications, has visited the actual location of the work and has consulted his sources of supply, and has satisfied himself as to all quantities and conditions, and understands that in signing this proposal, he waives all right to pleas of any misunderstanding regarding the same.

A. It is the intent of the requirement to visit the site within seven days of bid opening that the bidder familiarize himself/herself with the site, review existing conditions, and that his bid reflects same.

FIRM [redacted]struction, LLC

BY [redacted]

*(Arkansas public bid statutory requirement: Bidder must sign in space provided above)*

PRINTED NAME & TITLE Trent Rogers, AIA Vice President | Architect

TITLE Vice President | Architect

DATE 10.17.2023

NOTE: If bidder is a corporation, indicate state of incorporation, under the Firm's Signature, and if a partnership, give full names of all partners.

Arkansas State Contractor's License No.
0173580624

*(Arkansas public bid statutory requirement: Bidder must provide current State Contractor's number)*

C.R. CRAWFORD CONSTRUCTION

COLUMBARIUM
Title of Estimate
10/17/2023

| | | | |
|---|---|---|---|
| Project SF: 1,642 | Total Project $ | $716,899 | Unit Total |
| | $ Per SF | $436.60 | $ Per Unit |

| Div. | CSI Description | Qty | Unit | Unit $ | Subtotal | $ / GSF | % of Total |
|---|---|---|---|---|---|---|---|
| 01 11 00-1 | **General Requirements** | | | | $ 44,040 | $ 26.82 | 6.14% |
| 01 11 00-2 | **General Conditions** | | | | $ 77,272 | $ 47.06 | 10.78% |
| 03 30 00-1 | **Concrete** | | | | $ 77,696 | $ 47.32 | 10.84% |
| 04 00 00-1 | **Masonry** | | | | $ 65,000 | $ 39.59 | 9.07% |
| 05 00 00-1 | **Anchor Bolts** | | | | $ 1,353 | $ 0.82 | 0.19% |
| 05 00 00-2 | **Removable Bollards** | | | | $ 4,554 | $ 2.77 | 0.64% |
| 06 00 00-1 | **Rough Carpentry** | | | | $ 41,927 | $ 25.53 | 5.85% |
| 07 00 00-1 | **Waterproofing & Joint Sealants** | | | | $ 2,508 | $ 1.53 | 0.35% |
| 07 00 00-2 | **Standing Seam Metal Roof Panels** | | | | $ 60,725 | $ 36.98 | 8.47% |
| 08 00 00-1 | **Openings** | | | | $ 5,197 | $ 3.17 | 0.72% |
| 09 00 00-1 | **Finishes** | | | | $ 3,950 | $ 2.41 | 0.55% |
| 10 00 00-1 | **Specialties** | | | | $ 34,172 | $ 20.81 | 4.77% |
| 26 00 00 | **Electrical** | | | | $ 92,950 | $ 56.61 | 12.97% |
| 31 00 00 | **Earthwork** | | | | $ 60,545 | $ 36.87 | 8.45% |
| 32 00 00 | **Exterior Improvements** | | | | $ 51,419 | $ 31.31 | 7.17% |
| 33 00 00 | **Utilities** | | | | $ 16,707 | $ 10.17 | 2.33% |
| | | | | **Subtotal Divisions 00 - 48** | **$ 640,015** | **$ 389.78** | **89.28%** |
| | **Contingency, Insurance, Fees, Bonds** | | | | | | |
| | Construction Contingency | 1 | LS | $ - | $ - | $ - | 0.00% |
| | Design Contingency | 1 | LS | $ - | $ - | $ - | 0.00% |
| | Material Escalation Contingency | 1 | LS | $ - | $ - | $ - | 0.00% |
| | General Liability | 1 | LS | $ 4,800 | $ 4,800 | $ 2.92 | 0.67% |
| | Builders Risk | 1 | LS | $ 2,490 | $ 2,490 | $ 1.52 | 0.35% |
| | Preconstruction Fee | 1 | LS | $ - | $ - | $ - | 0.00% |
| | Overhead and Profit | 1 | LS | $ 64,731 | $ 64,731 | $ 39.42 | 9.03% |
| | Subcontractor Bonding | 1 | LS | $ - | $ - | $ - | 0.00% |
| | Payment and Performance Bond | 1 | LS | $ 4,863 | $ 4,863 | $ 2.96 | 0.68% |
| | | | | **Subtotal Contingency, Insurance, Fees, Bonds** | **$ 76,884** | **$ 46.82** | **10.72%** |
| | | | | **Total Construction Costs** | **$ 716,899** | **$ 436.60** | **100.00%** |

# AIA® Document A310™ – 2010

## *Bid Bond*

**CONTRACTOR:**
*(Name, legal status and address)*
**CR Crawford Construction, LLC**
**1102 S. Happy Hollow Road**
**Fayetteville, AR 72701**

**SURETY:**
*(Name, legal status and principal place of business)*
**Liberty Mutual Insurance Company**
**175 Berkeley Street**
**Boston, MA 02116**

**OWNER:**
*(Name, legal status and address)*
**City of Bentonville**
**1000 SW 14th Street**
**Bentonville, AR 72712**

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** **Five Percent (5%) of the Amount Bid------------------**

**PROJECT:**
*(Name, location or address, and Project number, if any)*
**COLUMBARIUM & COMMITTAL SHELTER**
**CITY OF BENTONVILLE**
**BENTONVILLE, ARKANSAS**

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

Init.

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License No. 0173580624

ID #21483

# *State of Arkansas*

## ***Commercial Contractors Licensing Board***

CR CRAWFORD CONSTRUCTION, LLC
1102 S HAPPY HOLLOW RD
FAYETTEVILLE, AR 72701

**This is to Certify That** CR CRAWFORD CONSTRUCTION, LLC

is duly licensed under the provisions of Ark. Code Ann. § 17-25-101 et. seq. as amended and is entitled to practice Contracting in the State of Arkansas within the following classifications/specialties:

**BUILDING**
**- (COMMERCIAL & RESIDENTIAL)**

**This contractor has an unlimited suggested bid limit.**

**from** May 19, 2023 **until** June 30, 2024 **when this Certificate expires.**

*Witness our hands of the Board, dated at North Little Rock, Arkansas:*


[redacted]

**CHAIRMAN**

**SECRETARY**

May 19, 2023 - dsa

# PCCO #001

C.R. Crawford Construction, LLC
1102 S. Happy Hollow Road
Fayetteville, Arkansas 72701
Phone: (479) 251-1161
Fax: (479) 571-1161

**Project:** 23-031 - Columbarium & Committal Shelter
400 SW F St
Bentonville, Arkansas 72712

# Prime Contract Change Order #001: CE #001 - Additional Undercut

| | | | |
|---|---|---|---|
| **TO:** | **City of Bentonville (Customer)**<br>1000 SW 14th St<br>Bentonville, Arkansas 72712 | **FROM:** | **C.R. Crawford Construction, LLC**<br>1102 S. Happy Hollow Road<br>Fayetteville, Arkansas 72701 |
| **DATE CREATED:** | 1/04/2024 | **CREATED BY:** | Jennifer Johnson **(C.R. Crawford Construction, LLC)** |
| **CONTRACT STATUS:** | Pending - In Review | **REVISION:** | 0 |
| **REQUEST RECEIVED FROM:** | | **LOCATION:** | |
| **DESIGNATED REVIEWER:** | | **REVIEWED BY:** | |
| **DUE DATE:** | | **REVIEW DATE:** | |
| **INVOICED DATE:** | | **PAID DATE:** | |
| **REFERENCE:** | | **CHANGE REASON:** | Design Development |
| **PAID IN FULL:** | No | **EXECUTED:** | No |
| **ACCOUNTING METHOD:** | Amount Based | **SCHEDULE IMPACT:** | |
| **SIGNED CHANGE ORDER RECEIVED DATE:** | | | |
| **FIELD CHANGE:** | No | **CONTRACT FOR:** | 23031:Columbarium & Committal Shelter |
| | | **TOTAL AMOUNT:** | $53,910.00 |

**DESCRIPTION:**
CE #001 - Additional Undercut
After recommendations from GTS for existing soil conditions, below is a breakdown of the additional undercut required.

**Shelter and (4) Columbarium Pads**

- Excavation, removal, and offsite disposal of 240 CY.
- Provide, place, and compact engineered fill of 240 CY.

**Sidewalk Option**

- Excavation, removal, and offsite disposal of 125 CY.
- Provide, place, and compact engineered fill of 125 CY.

**B-Stone/Shot Rock**

- Shot rock/B-stone fill (12") of 180 CY at $66/CY.
- Added curb area red dirt fill (12") of 25 CY at $66/CY.
- Fabric, if required, $0.20/SF at 4,800 SF.

**ATTACHMENTS:**

**CHANGE ORDER LINE ITEMS:**

| # | Budget Code | Description | Amount |
|---|---|---|---|
| 1 | 02-300.SUB Earthwork.Subcontract Job Expense | Additional undercut at the Shelter & Columbarium pads | $25,920.00 |
| 2 | 02-300.SUB Earthwork.Subcontract Job Expense | Additional undercut at the sidewalks | $13,500.00 |
| 3 | 02-300.SUB Earthwork.Subcontract Job Expense | Added B-stone/shot rock | $11,880.00 |
| 4 | 02-300.SUB Earthwork.Subcontract Job Expense | Added curb area of red dirt fill | $1,650.00 |
| 5 | 02-300.SUB Earthwork.Subcontract Job Expense | Fabric, if required | $960.00 |

| | |
|---|---|
| **Grand Total:** | **$53,910.00** |

| | |
|---|---|
| The original (Contract Sum) | $674,199.00 |
| Net change by previously authorized Change Orders | $0.00 |
| The contract sum prior to this Change Order was | $674,199.00 |
| The contract sum would be changed by this Change Order in the amount of | $53,910.00 |
| The new contract sum including this Change Order will be | $728,109.00 |
| The contract time will not be changed by this Change Order. | |

| **Mark Haguewood (Hight-Jackson Associates, PA)** | **City of Bentonville (Customer)** | **C.R. Crawford Construction, LLC** |
|---|---|---|
| 5201 Village Parkway #300 | 1000 SW 14th St | 1102 S. Happy Hollow Road |
| Rogers, Arkansas 72758 | Bentonville, Arkansas 72712 | Fayetteville, Arkansas 72701 |
| **SIGNATURE** **DATE** | **SIGNATURE** **DATE** | **SIGNATURE** **DATE** |

**RESOLUTION NO. ____________**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO CHANGE ORDER #001 TO THE AGREEMENT WITH CR CRAWFORD, IN THE AMOUNT OF FIFTY-THREE THOUSAND NINE HUNDRED TEN DOLLARS ($53,910.00), FOR ADDITIONAL EARTHWORK AT THE CEMETERY COLUMBARIA; APPROVING A BUDGET ADJUSTMENT IN THE SAME AMOUNT FROM GENERAL FUND RESERVES TO ACCOUNT #105020-47210 - PLANTS AND BUILDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, CR Crawford was previously awarded the contract for the construction of the Bentonville Cemetery Columbaria and Committal Shelter Project;

**WHEREAS**, a change order is required to provide for additional earthwork on the site when it was discovered that the soil conditions on the southern half of the project site were worse than pre-construction testing showed; and

**WHEREAS**, a budget adjustment in the amount of fifty-three thousand nine hundred ten dollars ($53,910.00) from General Fund Reserves to Account #10502-47210, Plants and Building will fund this change order.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS.**

<u>Section 1</u>: That the Mayor and City Clerk are hereby authorized to enter into change order #001 with CR Crawford in the amount of fifty-three thousand nine hundred ten dollars ($53,910.00) for additional earthwork at the Cemetery Columbaria;

<u>Section 2</u>: The 2024 budget is adjusted to appropriate fifty-three thousand nine hundred ten dollars ($53,910.00) from General Fund Reserves to Account #10502-47210, Plants and Building;

<u>Section 3 - Severability Provision</u>: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

<u>Section 4 - Repeal of Conflicting Provisions</u>: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

**PASSED and APPROVED this ______ day of _____________________, 2024.**

**APPROVED:**

**ATTEST:**

___________________________

**STEPHANIE ORMAN, Mayor**

______________________________

**KIRBY ROMINES, City Clerk**