

TEXAS A&M UNIVERSITY-KINGSVILLE

CONTRACT/AGREEMENT

This Contract is entered into this \_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by Texas A&M University-Kingsville, a member of The Texas A&M University System, an agency of the State of Texas, (hereinafter called TAMUK) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as Contractor), a \_\_\_\_\_\_\_\_\_corporation having its’ principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (We may need the contractor to complete a Vendor Application before we can issue a contract number)

WITNESSETH that the Contractor and TAMUK, in consideration of the mutual covenants, promises, and agreements herein contained, agree as follows:

1. SCOPE OF SERVICES

The scope of work includes that work that is outlined in the attached [RFP] to furnish all \_\_\_\_\_\_\_ (equipment, labor, and materials) for \_\_\_\_\_\_\_\_\_. (If this is not in response to an RFP then this is the section where we describe the Scope of Work and deliverables)

1. TERM OF THE CONTRACT:

This contract shall commence on or about \_\_\_\_\_\_\_\_\_\_\_and shall terminate on \_\_\_\_\_\_\_\_\_\_.

1. COMPENSATION AND METHOD OF PAYMENT (These are example starting points. We need to describe the total amount and the payment schedule)
2. This Contract is for the sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($\_\_\_\_\_\_\_\_\_\_\_).
3. TAMUK shall compensate the Contractor for the services at the rate of $\_\_\_\_\_\_\_per \_\_\_\_\_\_\_ (e.g., hour, day, week, semester).
4. In no event shall the Contractor be reimbursed for holidays, sick days, or time other than that actually spent providing the described service(s)
5. Payment will be made upon submittal and approval of the Payment Voucher(s) on State Funds, or the University’s Invoice(s) on Non-State Funds that is (are) received.
6. It is the policy of the State of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.
7. Reimbursement for travel:
   1. □ All travel and meals are part of this contract, or (We prefer that all travel be included in the base contract amount. We will delete the items that don’t apply)

□ No reimbursement will be made.

* 1. Contractor will be reimbursed for pre-approved travel in an amount not to exceed $\_\_\_\_\_\_\_. Copies of receipts must be submitted. Any expense claimed by the Contractor for which there is no supporting documentation shall be disallowed. Under no circumstance will the Contractor be reimbursed for alcohol purchases.
  2. Business-related travel, lodging and/or meal expenses will be reimbursed by TAMUK according to the State of Texas rates, rules, and regulations For information on allowable State rates visit: <http://www.window.state.tx.us/fm/pubs/travallow/00-01/tag_toc.html>

1. The total of all payments made against this contract shall not exceed $\_\_\_\_\_\_\_\_\_\_.
2. DEFAULT AND TERMINATION
3. In the event of substantial failure by a party hereunder to perform in accordance with the terms hereof, the other party may terminate this Contract upon thirty (30) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the thirty-day period), provided that said failure is through no fault of the terminating party.
4. Texas A&M University-Kingsville may, without cause, terminate this Contract at any time upon giving thirty (30) days advance notice to Contractor. Upon termination pursuant to this paragraph, Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Contract, provided Contractor shall have delivered to Texas A&M University-Kingsville a final report describing the work completed to the date of termination. Texas A&M University-Kingsville shall not be required to reimburse Contractor for any services performed or expenses incurred after the date of termination notice.
5. CONTRACT DOCUMENTS:

The contract documents shall consist of the following (listed in order of precedence) (list all documents that make up the contract)

1. This Signed Contract/Agreement
2. TAMUK RFP or other attachments
3. Contractor’s Proposal dated \_\_\_\_\_\_,\_\_\_\_\_\_\_\_ , 20\_\_ in response to TAMUK RFP or Contractor’s Proposal dated \_\_\_\_\_\_,\_\_\_\_\_\_\_\_ , 20\_\_ in response to TAMUK RFP or BID
4. GOVERNING LAW AND VENUE

The validity of this Contract and all matters pertainingthereto, including but not limited to, matters of performance, non‑performance***,*** breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State ofTexas. Pursuant to Section 85.18 (b), *Texas Education Code*, venue for a state court suit filed against The Texas A&M University System, any member of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or member, as applicable, is located. At execution of this Contract, such county is Kleberg County, Texas. Venue for any suit brought against TAMUK in federal court must be in the Corpus Christi Division of the Southern District of Texas.

1. SEVERABILITY

If any provisions of this Contract are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Contract, as modified, enforceable, and the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

1. HEADINGS

Headings appear solely for convenience of reference. Such headings are not part of this Contract and shall not be used to construe it.

1. HUB SUBCONTRACTING PLAN

If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, the Contractor will be required to make a good faith effort and complete the State of Texas HSP found at <http://www.tamus.edu/business/facilities-planning-construction/forms-guidelines-wage-rates/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the Contractor will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the Contractor will be expected to make a good faith effort according to the HSP instructions.

In the event that you determine you will be using a subcontractor, please contact Rachel Buentello from the TAMUK’s HUB Program at 361-593-4068 or rachel.buentello@tamuk.edu for assistance in determining available HUB subcontractors and proper completion of the HSP.

1. INSURANCE

Contractor shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below.  With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis.  All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Texas A&M University-Kingsville.  By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Agreement.  Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage.   Contractor is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.  No policy will be canceled without unconditional written notice to Texas A&M University-Kingsville at least ten days before the effective date of the cancellation.

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| --- | --- | --- |
|  | Coverage | Limits/Occurrence basis |
| **A.** | **Worker’s Compensation** |  |
|  | Statutory Benefits (Coverage A) | Statutory |
|  | Employers Liability (Coverage B) | $1,000,000 Each Accident |
|  |  | $1,000,000 Disease/Employee |
|  |  | $1,000,000 Disease/Policy Limit |
|  |  |  |
|  | If this coverage is waived by System Risk Management, the contractor, his employees and subcontractors must sign hold harmless and indemnification agreement. | |
|  |  |  |
| **B.** | **Automobile Liability** |  |
|  | covering owned, hired, and non-owned vehicles, with a combined bodily injury (including death) and property damage | |
|  | Owned Vehicles | $5,000,000 |
|  | Non-owned Vehicles | $5,000,000 |
|  | Hired Vehicles | $5,000,000 |
|  | Medical or PIP | $5,000 |
|  | Uninsured/Under insured Motorists | $5,000,000 |
|  |  |  |
| **C.** | **Commercial General Liability** |  |
|  | including Independent Contractor's Liability, Products, and Completed Operations and Contractual Liability | |
|  | Each Occurrence Limit | $1,000,000 |
|  | Aggregate Limit | $2,000,000 |
|  | Products/Completed Operations | $1,000,000 |
|  | Personal/Advertising Injury | $1,000,000 |
|  | Damage to rented Premises | $300,000 |
|  | Medical Payments | $5,000 |
|  |  |  |
| **D.** | **Asbestos Abatement Liability Insurance** |  |
|  | \* this requirement applies if the Work or the Project includes asbestos containing materials | |
|  | including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials | |
|  | Each Occurrence Limit | $1,000,000 |
|  | Bodily Injury/Property Damage | $1,000,000 |

***All insurance policies*** will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and Texas A&M University-Kingsville. No policy will be canceled without unconditional written notice to Texas A&M University-Kingsville at least ten days before the effective date of the cancellation. ***All insurance policies*** will be endorsed to require the insurance carrier providing coverage to send notice to Texas A&M University-Kingsville ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section 11.

Any deductible or self-insured retention must be declared to and approved by Texas A&M University-Kingsville prior to the performance of any services by Contractor under this Agreement. Contractor is responsible to pay any deductible or self-insured retention for any loss.  All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed or emailed to the following Texas A&M University-Kingsville contact:

Texas A&M University-Kingsville

700 University Blvd., MSC 212

ATTN: Procurement Services Department

Kingsville, Texas 78363

Phone: 361-593-3814

Email Address: [procurement@tamuk.edu](mailto:procurement@tamuk.edu)

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by Texas A&M University-Kingsville in writing, except as may be noted.

1. ENTIRE AGREEMENT

This Contract constitutes the sole and entire agreement between TAMUK and Contractor. This Contract supersedes all oral or written previous and contemporary understandings or agreements relating to matters contained herein. This Contract may not be amended or otherwise altered except by mutual agreement in writing.

1. ASSIGNMENT

This Contract is not assignable without express written agreement of TAMUK and Contractor.

1. INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless TAMUK, The Texas A&M University System, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with or resulting from any acts or omissions of Contractor or any agent, employee or representative of Contractor in the execution or performance of this Contract.

1. INDEPENDENT CONTRACTOR

Contractor is an independent contractor, and neither Contractor nor any employee of contractor shall be deemed to be an agent or employee of TAMUK. Contractor will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Contractor shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of TAMUK relative to conduct on its premises.

1. FORCE MAJEURE

Neither party will be in breach of its obligations under this Contract or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure event (as defined below), except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure event had not occurred.  “Force Majeure event” is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome.  Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform its obligation(s).  Written notice of a party’s failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). For the avoidance of doubt, the COVID-19 pandemic and any governmental changes or closures related thereto shall be deemed Force Majeure events, even to the extent reasonably foreseeable by either party as of the effective date of this Contract.

1. DISPUTE RESOLUTION PROCESS:
2. To the extent Chapter 2260, Government Code, as it may be amended from time to time (“Chapter 2260”), is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by TAMUK and Contractor in attempts to resolve any claim for breach of contract made by Contractor:
   1. Contractor’s claim for breach of this Contract that the parties cannot resolve pursuant to other provisions of this Contract or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor must submit written notice, as required by subchapter B of Chapter 2260, to TAMUK in accordance with the notice provisions in this Contract. Contractor’s notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that TAMUK allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to Contractor’s filing of a contested case proceeding under subchapter C of Chapter 2260. Executive Director of Procurement and Travel Services of TAMUK or such other officer of TAMUK as may be designated from time to time by TAMUK by written notice thereof to Contractor in accordance with the notice provisions in this Contract, shall examine Contractor’s claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.
   2. If the parties are unable to resolve their disputes under subparagraph (1) of this Section, the contested case process provided in subchapter C of Chapter 2260 is Contractor’s sole and exclusive process for seeking a remedy for any and all of Contractor’s claims for breach of this Contract by TAMUK.
   3. Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. The parties specifically agree (i) neither the execution of this Contract by TAMUK nor any other conduct, action or inaction of any representative of TAMUK relating to this Contract constitutes or is intended to constitute a waiver of TAMUK’s or the State of Texas’ sovereign immunity to suit, and (ii) TAMUK has not waived its right to seek redress in the courts.
3. The submission, processing and resolution of Contractor’s claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
4. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitutes grounds for the suspension of performance by Contractor, in whole or in part. TAMUK and Contractor agree that any periods set forth in this Contract for notice and cure of defaults are not waived.
5. The designated individual responsible on behalf of TAMUK for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 shall be, Rachel Buentello, Executive Director of Procurement and Travel Services of TAMUK.
6. STATE CONTRACTING REQUIREMENTS
7. Contractor certifies that, upon the effective date of this Contract, either Contractor (1) is not delinquent in payment of State of Texas corporate franchise taxes, or (2) is not subject to the payment of such taxes. Contractoragrees that any false statement with respect to franchise tax status shall be a material breach, and TAMUK may terminate this Contract upon written notice to Contractor.
8. Contractor expressly acknowledges that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment Contract or court order as to any existing delinquency. By executing this Contract, Contractor certifies that the individual or business entity named in this Contract is eligible to receive payment from the state and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
9. Pursuant to Section 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Contract may be applied directly toward certain debts or delinquencies that Contractor owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
10. A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based. The *Texas Government Code* requires the following statement: “Under Section 2155.004, *Texas Government Code*, the contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”
11. As an agency of the State of Texas, TAMUK is tax exempt. Tax exemption certification will be furnished upon request.
12. Contractor agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Contract, Contractor will purchase products and materials produced in Texas when such products and materials are available at a price and time comparable to products and materials produced outside of Texas.
13. Public Information Act:
    * 1. Contractor acknowledges that Texas A&M University-Kingsville is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Contract, as well as any other disclosure of information required by applicable Texas law.
      2. Upon Texas A&M University-Kingsville’s written request, Contractor will provide specified public information exchanged or created under this Contract that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to Texas A&M University-Kingsville in a non-proprietary format acceptable to Texas A&M University-Kingsville. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which Texas A&M University-Kingsville has a right of access.
      3. Contractor acknowledges that Texas A&M University-Kingsville may be required to post a copy of the fully executed Contract on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.
      4. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and Contractor agrees that this Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
14. Performance by TAMUK under this Contract may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds, TAMUK will issue written notice to Contractor and TAMUK may terminate this Contract without further duty or obligation hereunder. Contractor acknowledges that appropriation of funds is beyond the control of TAMUK.
15. Contractor understands that acceptance of funds under this Contract constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, “Auditor”), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas* *Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
16. Contractorexpressly acknowledges that TAMUKis an agency of the State of Texas and nothing in this Contract will be construed as a waiver or relinquishment by TAMUK of its right to claim such exemptions, privileges, and immunities as may be provided by law.
17. NOTICES

Any notice required or permitted under this Contract must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonably means and will be effective when actually received. Texas A&M University-Kingsville and Contractor can change their respective notice address by sending to the other party a notice of the new address.

Any written notice required by this Contract shall be mailed first class to the address below:

TAMUK: Texas A&M University-Kingsville

MSC 212

700 University Blvd

Kingsville, Texas 78363

Attention: Rachel Buentello

(361) 593.3814-Phone

E-mail: [procurement@tamuk.edu](mailto:procurement@tamuk.edu)

Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_-Phone

( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_-Fax

E-mail:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. NON-DISCLOSURE

In connection with performing this Contract, Texas A&M University-Kingsville may disclose to you confidential information, business information, technical information and/or ideas ("Proprietary Information")

1. Contractor will hold in confidence and not possess or use (except to evaluate within the U.S. the proposed business relationship) or disclose any Proprietary Information except information Contractor can document (a) is in the public domain through no fault of contractor, (b) was properly known to Contractor, without restriction, prior to disclosure by TAMUK, or (c) was properly disclosed to Contractor by another person without restriction, and Contractor will not reverse engineer or attempt to derive the composition or underlying information, structure or ideas of any Proprietary Information. The foregoing does not grant Contractor a license in or to any of the Proprietary Information.
2. If progress on this contract is in any way terminated, Contractor will promptly return all Proprietary Information and all copies, extracts and other objects or items in which it may be contained or embodied.
3. Contractor will promptly notify TAMUK of any unauthorized release of Proprietary Information.
4. Contractor understands that this statement does not obligate TAMUK to disclose any information or negotiate or enter into any agreement or relationship.
5. Contractor acknowledges and agrees that due to the unique nature of the Proprietary Information, any breach of this Contract may cause irreparable harm to TAMUK for which damages are not an adequate remedy and that TAMUK shall therefore be entitled to equitable relief in addition to all other remedies available at law.
6. The terms of this Contract will remain in effect with respect to any particular Proprietary Information until Contractor can document that it falls into one of the exceptions stated in Paragraph 1 above.
7. PREVIOUS EMPLOYMENT:

Contractor acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits TAMUK from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If Contractor is an individual, by signing this Contract, Contractor certifies that Section 2252.901, *Texas Government Code,* does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.

1. ELECTRONIC AND INFORMATION RESOURCES STATEMENT

Contractor represents and warrants ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it offers to provide to the Agency under this purchase order (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule 206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent contractor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then contractor represents and warrants that it will, at no cost to Agency, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that contractor is unable to do so, then the Agency may terminate this Contract and contractor will refund to the Agency all amounts the Agency has paid under this purchase order within thirty (30) days after the termination date.

1. CONFLICT OF INTEREST

By executing this Contract, Contractor and each person signing on behalf of Contractor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Contract, or in the services to which this Contract relates, or in any of the profits, real or potential, thereof.

1. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

To the extent Texas Government Code, Chapter 2271 applies to this Agreement, Contractor certifies it does not boycott Israel and will not boycott Israel during the term of this Agreement. Contractor acknowledges that this Agreement may be terminated if this certification is inaccurate.

1. CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Contract may be terminated if this certification is inaccurate.

1. PROHIBITION ON CONTRACTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING.

Pursuant to Section 2155.0061, Government Code, Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

1. NOT ELIGIBLE FOR REHIRE

Contractor is responsible to ensure that employees participating in work for any A&M System member have not been identified by the A&M System as Not Eligible for Rehire as defined in System policy [32.02, Section 4](http://policies.tamus.edu/32-02.pdf).  Non-conformance to this requirement may be grounds for termination of this Agreement.

1. ACCESS TO AGENCY DATA

As of September 1, 2021, all A&M System members must require any vendor that is authorized to access, transmit, use, or store data for the A&M member to meet the security controls the A&M member determines are appropriate. The vendor must also periodically provide the A&M member with evidence that the vendor meets the security controls required in the contract. A&M System members should consult with their IT/security teams to determine the appropriate security controls for each applicable vendor and also include the below provision in the vendor contract:

Pursuant to Section 2054.138, Texas Government Code, [CONTRACTING PARTY] shall implement and maintain appropriate administrative, technical, and physical security measures, including without limitation, [the security controls attached hereto as Exhibit \_\_\_\_, as may be amended from time to time] [the security controls available at \_\_\_\_\_\_\_\_\_, as may be amended from time to time] (the “Security Controls”), to safeguard and preserve the confidentiality, integrity, and availability of [MEMBER’s] data. [CONTRACTING PARTY] shall periodically provide [MEMBER] with evidence of its compliance with the Security Controls within thirty (30) days of [MEMBER’s] request.

In WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

|  |  |
| --- | --- |
| Contractor: | TEXAS A&M UNIVERSITY-KINGSVILLE: |
|  |  |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| signature | Signature |
|  |  |
| Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Printed/Typed Name | Printed or Typed Name |
|  |  |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |