REQUEST FOR BID

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TERMS AND CONDITIONS

ITEMS BELOW APPLY TO AND BECOME A PART OF THE BID, ANY EXCEPTIONS THERETO MUST BE IN WRITING.

1. BID REQUIREMENTS

1.1. Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.

1.2. Bids should be submitted on this form. Bidders must price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the bid, the quotation must be referenced on the bid document and signed by the Bidder to establish formal linkage to the bid.

1.3. Bids in Physical Format: Bids must be time stamped at Texas Commission on Environmental Quality (TCEQ) on or before the hour and date specified for the bid due date.

1.4. Electronic Bid Submissions: The e-mail subject line must contain the bid number, company name, and the due date and time. The respondent is solely responsible for ensuring the complete electronic submission is sent to, and actually received by, TCEQ on or before the due date and time stated on the Request For Bid Form. The State shall not be responsible for failure of electronic equipment or operator error.

1.5. Late, illegible, incomplete, or otherwise non-responsive bids will not be considered. Unsigned bids will not be considered under any circumstances. Person signing bid must have the authority to bind the firm in a contract.

1.6. Inquiries pertaining to a bid must include the bid number, class/item codes, and due date.

1.7. Bidder must quote “F.O.B. destination, freight prepaid and allowed” unless otherwise stated within the specifications.

1.8. Bid prices are requested to be firm for TCEQ acceptance for 30 days from bid opening date. “Discount from list” bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts offered will be taken if earned.

1.9. Bidders should enter Texas Identification Number System (TINS) number, full firm name and address of bidder on the face of this form. Enter in the space provided, if not shown. Additionally, firm name should appear on each continuation page of a bid, in the block provided on the top of the page.

1.10. Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by bidder or their authorized agent. No bid can be withdrawn after opening time without approval by the TCEQ based on an acceptable written reason.

1.11. Purchases made for State use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.

1.12. AWARD NOTICE - The State reserves the right to make an award on the basis of low line item bid, low total of line items, or in any other combination that will serve the best interest of the State and to reject any and all bid items at the sole discretion of the State. The State also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the State. Any contract may also be extended up to three months at the sole discretion of the State.

1.13. Consistent and continued tie bids could cause rejection of bids by the TCEQ and/or investigation for antitrust violations.

1.14. Advertising - Contractor is prohibited from using contract award information, sales values / volumes and/or State of Texas customers in sales brochures or other promotions, including press releases, prior written approval is obtained from the Manager, Procurements and Contracts, TCEQ.

2. SPECIFICATIONS

2.1. Catalogs, brand names or manufacturer’s references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised under Texas Government Code, Title 10, Subtitle D, Section 2155.067. If bidding on other than references, bid should show manufacturer, brand or trade name, and other description of product offered. If other than brand(s)

specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require Bidder to furnish specified brand name, numbers, etc.

2.2. Unless otherwise specified, items shall be new and unused and of current production.

2.3. All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.

2.4. Samples, when requested, must be furnished free of expense to the State. If not destroyed in examination, they will be returned to the Bidder, on request, at Bidder's expense. Each sample should be marked with Bidder's name and address, and bid number. Do not enclose in or attach bid to sample.

2.5. The State will not be bound by any oral statement or representation contrary to the written specifications of this Bid.

2.6. Manufacturer's standard warranty shall apply unless otherwise stated in the Bid.

3. TIE BIDS

Awards for tied bids will be made in accordance with 34 TAC Rules 20.207 (c) (2) and 20.306 (Preferences).

4. DELIVERY

4.1. Show number of days required to place material in TCEQ's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates bidder to deliver in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.

4.2. If delay is foreseen, vendor shall give written notice to the TCEQ within seven (7) calendar days. Vendor must keep the TCEQ advised at all times of status of order.

4.3. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TCEQ to purchase the goods or services of this bid elsewhere and charge any increased costs for the goods or services, including the cost of re-soliciting, to the Bidder.

4.4. No substitutions permitted without written approval of the TCEQ.

4.5. Delivery shall be made during normal working hours only, unless prior approval has been obtained from the TCEQ.

5. INSPECTION AND TESTS

All goods will be subject to inspection and testing by the State. Authorized TCEQ personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the Vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at the State's option, be returned to the Vendor or held for disposition at Vendor's expense. Latent defects may result in revocation of acceptance.

6. AWARD OF CONTRACT

A response to this Bid is an offer to contract based upon the terms, conditions and specifications contained herein. Bids do not become contracts until they are accepted through a purchase order. The contract shall be governed, construed and interpreted under the laws of the State of Texas. The factors listed in Texas Government Code, Title 10, Subtitle D, Sections 2155.074, 2155.144, 2156.007, and 2157.003 shall also be considered in making an award when specified. Texas Government Code Section 2155.145 may also apply to this procurement. Any legal actions must be filed in Travis County, Texas.

7. PAYMENT

Vendor shall submit 2 copies of an itemized invoice showing TCEQ order number on all copies. The State will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Payment shall be made in accordance with Chapter 2251 of the Texas Government Code.

8. PATENTS OR COPYRIGHTS

The Vendor agrees to defend and indemnify the TCEQ and the State from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of the TCEQ's or the State's use of any good or service provided by the Bidder as a result of this bid.

9. VENDOR ASSIGNMENTS

Vendor hereby assigns to TCEQ any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).

10. INSURANCE

In the event the Contractor, its employees, agents or subcontractors enter premises occupied or under the control of TCEQ in the performance of this contract, the Contractor agrees that it will maintain public liability and property damage insurance in reasonable limits covering the obligations set forth above, and will maintain worker's compensation coverage (either by insurance or if qualified pursuant to law, through a self-insurance program) covering all employees performing this contract on premises occupied or under the control of TCEQ.

11. BIDDER AFFIRMATION

Signing this bid with a false statement is a material breach of contract and shall void the submitted bid or any resulting contracts, and the Bidder shall be removed from all bid lists. By signature hereon affixed, the Bidder hereby certifies that:

11.1. The Bidder 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 the submitted bid.

11.2. Pursuant to 15 U.S.C. §1, et seq. and Tex. Bus. & Comm. Code, §15.01, et seq. neither the Bidder nor the firm, corporation, partnership, or institution represented by the Bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State or the Federal Antitrust Laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

11.3. Pursuant to Section 2155.004 Government Code, neither the Bidder nor any person or entity which will participate financially in any contract resulting from this bid has received compensation for participation in the preparation of the specifications for this bid.

11.4. Pursuant to Section 231.006 (d) of the Texas Family Code, regarding child support, the Bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Bidder subject to §231.006, Government Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Names & Social Security Numbers for each person below:

Name	Social Security No.

11.5. Under Section 2155.004 of the Texas Government Code, re: collection of state and local sales and use taxes, the Bidder certifies that the individual or business entity named in this bid or any contract resulting from this bid is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if they received compensation for participating in preparing the bid or specifications for the contract.

11.6. As required by §2252.903, Government Code, Bidder agrees that any payments due under a contract resulting from this bid shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until the debt is paid in full. Bidder shall comply with rules adopted by Comptroller of Public Accounts under §§403.055, 403.0551, 2252.903, Government Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

11.7. Pursuant to §669.003, Government Code, TCEQ may not enter into a contract with a person who employs a current or former executive head of the TCEQ until 4 years has passed since that person was the executive head of the TCEQ. By submitting a bid, the Bidder certifies that it does not employ any person who was the executive head of the TCEQ in the past 4 years. If Bidder does employ a person who was the executive head of the TCEQ, provide the following information:

Name of Former Executive	
Name of State Agency	
Date of Separation from State Agency	
Position with Bidder	
Date of Employment with Bidder	

11.8. In accordance with §2155.4441, Government Code, Bidder agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this State.

11.9. Bidder certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Bidder is in compliance with the State of Texas statutes and rules relating to procurement. Bidder certifies that it is not listed in the prohibited vendors lists authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control.

11.10. Sections 2155.006 and 2261.053, Government Code, prohibit state agencies from awarding contracts to any person who, in the past 5 years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Government Code, occurring after September 24, 2005. Under §2155.006, Government Code, Bidder certifies that the individual or business entity named in its bid is not ineligible to receive a contract and acknowledges that any contract resulting from this bid may be terminated and payment withheld if this certification is inaccurate.

11.11. Vendor represents and warrants that payment to the Vendor and the Vendor's receipt of appropriated or other funds under any contract resulting from this bid are not prohibited by Section 556.005 or Section 556.008 of the Texas Government Code, relating to the prohibition of using state funds for lobbying activities.

11.12. Bidder represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to TCEQ under the bid and any resulting contract, if any, and that Bidder's provision of the requested items under the bid and any resulting contract, if any, would not reasonably create an appearance of impropriety.

11.13. Non-boycotting of Israel. If the Bidder is required to make a certification pursuant to Section 2271.001 of the Texas Government Code, Bidder certifies that it does not boycott Israel and will not do so during the term of the contract. In accordance with Government Code Section 2271.002, the Bidder certifies that it does not boycott Israel and will not boycott Israel during the term of the contract. If Bidder is exempt from this provision, Bidder must provide supporting information below:

11.14. In accordance with Chapter 2252, Subchapter F and Chapter 2270 of the Texas Government Code, Bidder represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization and that it is not identified on the lists prepared and maintained under Sections 2252.153, 2270.0153, or 2270.0201 of the Texas Government Code. A company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or to a foreign terrorist organization, is not subject to contract prohibition under this clause. A company claiming such exemption must submit the official copy of the declaration.

11.15. Abortion Funding Limitation. Bidder represents and warrants that payments made by TCEQ to Bidder and Bidder's receipt of appropriated funds under the Contract are not prohibited by Article IX, Section 6 of the General Appropriations Act, nor by Texas Government Code Chapter 2273. *Prohibited Transactions*.

11.16. Human Trafficking Prohibition. In accordance with Texas Government Code Section 2155.0061 of the Texas Government Code, Bidder certifies that any individual(s) and/or business entity(ies) named in this Bid are not ineligible to receive the specified contract and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate.

11.17. Critical Infrastructure. Pursuant to Government Code Section 2275.0102, Bidder certifies that neither it, nor its wholly owned subsidiary, majority-owned subsidiary, parent company, nor any affiliate of those entities or business associations, is: (1) majority owned, held, or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor as a threat to critical infrastructure under Government Code Section 2275.0103, or (2) headquartered in any of those countries.

11.18. If the Bidder will perform research or work on critical infrastructure, or have access to critical infrastructure, the Bidder has a continuing obligation to ensure its actions are consistent with the requirements of Executive Order No. GA-48. Critical infrastructure is defined in Section 117.001(2), Texas Business and Commerce Code.

This includes completing routine reviews of its applicants, employees, subcontractors, and subcontractor's employees to determine whether their criminal history or continuous connections to the government or political apparatus of a foreign adversary, or something else might prevent the applicant, employee, subcontractor, or subcontractor's employee from being able to maintain the security or integrity of the infrastructure. Bidder must notify the TCEQ points of contact within two business days if it finds any of the aforementioned information.

11.19. Pursuant to Executive Order No. GA-48 relating to the hardening of state government issued by Governor Abbott on November 19, 2024, Bidder certifies that neither it, nor any of its holding companies or subsidiaries are:

- Listed in or covered by Section 889 of the 2019 National Defense Authorization Act (NDAA);
- Listed in Section 1260H of the 2021 NDAA;
- Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or
- Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

11.20. Non-boycotting of Energy Companies. If Responder is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Responder verifies that it does not, and will not for the duration of the contract, boycott energy companies. As of February 3, 2026, pending any modification to the ruling under *American Sustainable Business Council v. Hegar* (W.D. Tex), the Texas Comptroller of Public Accounts and the Office of the Attorney General are enjoined from implementing or enforcing this statute.

11.21. No Discrimination Against Firearm Entities. If Bidder is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Bidder verifies that it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or

firearm trade association. If Bidder is exempt from this provision, Bidder must provide supporting information below:

11.22. COVID-19 Vaccine Passport Prohibition. Under § 161.0085 of the Texas Health and Safety Code, Bidder certifies that it is not ineligible to receive the Contract and will maintain this certification throughout the term of the Contract.

11.23. Pursuant to Section 2063.408(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Bidder represents and warrants that it complies with the requirements of the state risk and authorization management program and Bidder agrees that throughout the term of the Contract it shall maintain its certifications and comply with the program requirements in the performance of the Contract.

11.24. Pursuant to Executive Order No. GA-43 relating to products from the Gaza Strip issued by Governor Abbott on October 9, 2023, Bidder certifies that none of the goods to be supplied under any resulting Contract are produced in or exported from the Gaza Strip, or are from any organization or state actor with ties to Hamas.

11.25. Prohibited Activities. Bidder certifies that it is not barred from responding to a solicitation or being awarded a state contract under Texas Government Code 2261, Subchapter G.

12. NOTE TO BIDDER

If Bidder takes any exceptions to any provisions of the bid, these exceptions must be specifically and clearly identified by section in Bidder's bid in response to the bid and Bidder's proposed alternative must also be provided in the bid. Bidders cannot take a "blanket exception" to the entire bid. If any Bidder takes a "blanket exception" to the entire bid or does not provide proposed alternative language, the Bidder's bid may be disqualified from further consideration.

13. PROTEST PROCEDURES

Any actual or prospective Bidder who is aggrieved in connection with this bid, evaluation or award from this bid may formally protest to the Manager, Procurements and Contracts, TCEQ. Such protests must be in writing and received in the Procurement and Contracts Section within 10 business days after the aggrieved person or entity knows, or reasonably should have known, of the occurrence of the action which is the basis of the protest. Copies of the TCEQ's protest procedures will be furnished to any Bidder without charge upon written request to the Manager, Procurement and Contracts, TCEQ.

14. DISPUTE RESOLUTION

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the TCEQ and the Vendor to attempt to resolve any dispute arising under any contract resulting from this bid.

15. TERMINATION

15.1. Cause/Default - If the Vendor fails to provide the goods or services contracted for according to the provisions of the contract, or fails to comply with any of the terms or conditions of the contract, the TCEQ may, upon written notice of default to the Vendor immediately terminate all or any part of the contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the contract.

15.2. Convenience of the State of Texas - The TCEQ reserves the right to terminate the contract at any time, in whole or in part, without penalty, by providing 30 calendar days advance written notice, if the TCEQ determines that such termination is in the best interest of the State. In the event of such a termination, the Vendor shall, unless otherwise mutually agreed upon in writing, cease all work and any delivery of goods immediately upon the effective date of termination. TCEQ shall be liable for payment for any goods or services ordered from the Vendor before the termination date.

15.3. The TCEQ may exercise any other right, remedy or privilege which may be available to it under applicable law of the State and any other applicable law or may proceed by appropriate court action to enforce the provisions of the contract, or to recover damages for the breach of any agreement being derived from the contract. The exercise of any of the foregoing remedies will not constitute a termination of the contract unless the TCEQ notifies the Vendor in writing prior to the exercise of such remedy. The Vendor shall remain liable for all covenants and indemnities under the contract. The Vendor shall be liable for all costs and expenses, including court costs, incurred by the TCEQ with respect to the enforcement of any of the remedies listed herein.

15.4. Non-Appropriation of Funds - Any contract resulting from this Bid is subject to termination or cancellation, without penalty to TCEQ, ether in whole or in part, subject to the availability of State funds. TCEQ is a State agency whose authority and appropriations are subject to actions of the Texas Legislature. If TCEQ becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TCEQ's or Bidder's delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TCEQ will not be liable to Bidder for any damages, which are caused or associated with such termination, or cancellation and TCEQ will not be required to give prior notice.

16. TEXAS PUBLIC INFORMATION ACT

Notwithstanding any provisions of this bid to the contrary, Bidder understands that TCEQ will comply with the Texas Public Information Act (Chapter 552, Government Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this bid or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. Within 3 days of receipt, Bidder will refer to TCEQ any third party requests, received directly by Bidder, for information to which Bidder has access as a result of or in the course of performance under any contract resulting from this bid. Any part of the bid response that is of a confidential or proprietary nature must be clearly and prominently marked as such by the Bidder.

17. CONFLICT OF INTEREST

Under Section 2155.003 of the Texas Government Code, a TCEQ employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the State; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual which outlines the ethical standards required of public purchasers, employees, and vendors who interact with public purchasers in the conduct of State business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TCEQ or purchasers of other State agencies.

18. FORCE MAJEURE

Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, or other causes that are beyond the reasonable control of either party, could not reasonably be foreseen, and by the exercise of all reasonable due diligence, is unable to be overcome by either party. Neither party shall be liable to the other for any failure or delay of performance of any requirement included in the contract caused by force majeure. Upon timely notice by the non-performing party, the time for performance shall be extended for a reasonable period after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. The non-performing party must provide evidence of any failure resulting in impossibility to perform.

19. INDEPENDENT CONTRACTOR

Bidder is and shall remain an independent contractor in relationship to the TCEQ. The TCEQ shall not be responsible for withholding taxes from payments made under any contract resulting from this bid. Bidder shall have no claim against the TCEQ for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

20. INDEMNIFICATION

Bidder shall defend, indemnify, and hold harmless the State of Texas, its officers, and employees, and TCEQ, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any acts or omissions of Bidder or any agent, employee, subcontractor, or supplier of Bidder in the execution or performance of any contract with Vendor resulting from this bid. Bidder shall coordinate its defense with the Texas Attorney General as requested by TCEQ. This Section is not intended to and shall not be construed to require Vendor to indemnify or hold harmless the State or TCEQ for any claims or liabilities resulting from the negligent acts or omissions of TCEQ or its employees.

21. RIGHT TO AUDIT

In addition to and without limitation on the other audit provisions of this bid, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor may conduct an audit or investigation of the Bidder or any other entity or person receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Vendor or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, the Bidder or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. This bid or any contract resulting from this bid may be amended unilaterally by TCEQ to comply with any rules and procedures of the State Auditor in the implementation and enforcement of §2262.154, Texas Government Code. Bidder will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Bidder and the requirement to cooperate is included in any subcontract it awards.

22. INTELLECTUAL PROPERTY / THIRD PARTY INTELLECTUAL PROPERTY

Contractor shall not incorporate any third party intellectual property into the work without TCEQ's prior written approval. Contractor shall bear sole responsibility for obtaining all necessary licenses and paying all applicable license, and/or royalty fees and costs incident to Contractor's use or possession in the performance of the work or the incorporation into the work of any third party intellectual property. In the event that Contractor incorporates any third party intellectual property into the work, Contractor shall obtain and deliver to TCEQ at no additional cost: i) documentation sufficient to describe the ordinary use of the intellectual property, and ii) a nonexclusive, perpetual, irrevocable, fully paid-up worldwide license to use, reproduce, publish, modify, create derivative works, distribute, make, have made, sell, have sold, and publicly perform and display such documentation, and to authorize others to do the same solely for TCEQ purposes. Contractor shall take all necessary steps to pass through to TCEQ all warranties, representations and other service commitments applicable to third party intellectual property incorporated in the work.

23. ELECTRONIC & IR ACCESSIBILITY

The Technology Access Clause was repealed effective September 1, 2006 and replaced by the Department of Information Resources rules as follows:

23.1. Effective September 1, 2007, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources Specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement bid.

23.2. Vendor shall provide Texas Commission on Environmental Quality TCEQ with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (http://www.buyaccessible.gov). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide TCEQ with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at http://www.section508.gov/.

24. ESTIMATES/QUANTITIES

TCEQ reserves the option to add or subtract like items or services, including additional site locations at the same price rates during the term of the contract, including any renewals and/or extensions. Line item quantities listed are the TCEQ's best estimate and actual quantities will be in accordance with requirements of the Agency.

25. DISASTER RECOVERY

Vendor shall maintain a business continuity plan designed to enable Vendor to recover normal business operations and data within seventy-two hours of any declared disaster or force majeure event.

26. SECURITY REQUIREMENTS

If Vendor accesses, transmits, uses, or stores TCEQ data:

1) Vendor shall meet the security controls specified by TCEQ; and

2) Vendor must annually provide TCEQ documentation demonstrating that it meets the specified TCEQ security requirements.

27. CYBERSECURITY TRAINING.

27.1. "Access to TCEQ Computer System or Database" means having a TCEQ network user account or the authorization to maintain, modify, or allow access control to any TCEQ web page, TCEQ computer system, or TCEQ database.

27.2. Vendor shall ensure that any Vendor representative (employee, officer, or subcontractor personnel) who has Access to a TCEQ Computer System or Database completes a cybersecurity training program as required under Section 2063.104 of the Texas Government Code and certified by the Texas Cyber Command under Section 2063.102 of the Texas Government Code:

27.2.1. during the term of the Contract;

27.2.2. during any renewal period, even if the Vendor representative has already taken the training during the current State of Texas Fiscal Year;

27.2.3. after a Work Order is issued, if the Vendor representative has not completed the training during the current contract term or renewal period; and

27.2.4. annually if the contract continues beyond August 31st of the State of Texas Fiscal Year in which it was entered.

27.3. Timing.

27.3.1. Within seven (7) days after the effective date of the Contract or renewal or issuance of a Notice to Proceed/Commence (NTP/C) for any Work Order (includes the term Proposal for Grant Activities) or the final issuance of the Work Order if not NTP/C is required, the Vendor shall provide a list of persons requiring training to the TCEQ Contract Manager, and thereafter provide an updated list by the first workday of any additional person who becomes subject to the cybersecurity training requirements. Unless the Vendor provides evidence to TCEQ that the Vendor representative previously completed the required training as set forth below, the Vendor representative must complete the training within seven (7) days after TCEQ provides access to the training and the Vendor must provide evidence to TCEQ that the training was completed and retain the evidence itself.

27.3.2. For Contracts that have contract periods that continue beyond August 31st of the State of Texas Fiscal Year in which they are entered, by August 1st each year, the Vendor must provide to the TCEQ Contract Manager a list of persons who must complete cybersecurity training during the upcoming State of Texas Fiscal Year. By September 30th, the Vendor representative must complete the training and the Vendor must provide evidence to TCEQ that the training was completed. Vendor also must retain the evidence itself.

27.4. Prior Training. If a Vendor representative has previously completed a Texas Cyber Command-certified cybersecurity training during the term of the Contract or the current renewal period, Vendor shall provide evidence that the Vendor representative completed the required training to the TCEQ Contract Manager within seven (7) days after the execution of the Contract or a renewal, or as applicable, the issuance of a Notice to Proceed/Commence for any Work Order.

27.5. TCEQ will provide access to the cybersecurity training program. Vendor is responsible for all other costs associated with its representatives completing the training, including time spent completing the training.

27.6. Vendor must notify the TCEQ Contract Manager when any Vendor representative with Access to a TCEQ Computer System or Database no longer needs such Access. In the case of an involuntary separation, the Vendor must provide such notice immediately. In all other instances, the Vendor must provide notice within two (2) business days of learning that a Vendor representative will no longer need Access.

27.7. TCEQ may terminate the Contract for Cause if Vendor fails to adhere to any of the above terms, including completing the required certified cybersecurity training or notifying the TCEQ Contract Manager when access is no longer needed.

27.8. TCEQ may terminate the Contract for Cause if a Vendor representative misuses a TCEQ Computer System or Database, including allowing multiple individuals to utilize a single individual's TCEQ network user account.

28. PROHIBITION ON LIMITATION OF CYBERSECURITY INCIDENT NOTIFICATION.

Any contract language in a cybersecurity insurance contract or goods and services contract is void and unenforceable if it prohibits or restricts TCEQ's compliance with, or otherwise circumvents the requirements of Section 2063.302 of the Texas Government Code, which outlines the requirements for cybersecurity incident notification for state agencies.

29. PROHIBITED TECHNOLOGIES.

Vendor certifies that Prohibited Technologies will not be used on any of Vendor's or its employees', contractors', and subcontractors' devices including personally-owned devices, if those devices are used to access state-owned data or information systems. These devices include cell phones, tablets, desktop and laptop computers, and other internet-capable devices. "Prohibited Technologies" refers to software, applications, technologies, hardware, and equipment, and any of the aforementioned items made by the developers or manufacturers on the Prohibited Technologies list located on the Texas Department of Information Resources' website at: https://dir.texas.gov/information-security/prohibited-technologies. In addition to the DIR list, TCEQ in its sole discretion may designate additional prohibited technologies.