

**STATE OF TEXAS
PURCHASE ORDER**

1. Agency Name & No. TEXAS STATE LIBRARY & ARCHIVES COMMISSION 306 Tax Exempt agency of the Texas State Government	4. Purchase Order No. 306-17-8020	12. HUB: N/A	13. Order Type: Service
	5. PCC	14. Vendor Identification No: XXXXXXXXXX	
2. Agency Billing Address **ACCOUNTING DEPARTMENT** Texas State Library & Archives Commission PO Box 12516 Austin, TX 78711-2516 Email invoices to: AP@tsl.texas.gov Phone: (512) 463-5473; Fax: (512) 475-0185	6. Current Document No. DT-9	15. Vendor Address: Amigos Library Services, Inc. 14400 Midway Road Dallas, TX 752443509	
	7. Document (order) amt \$135,060.00	16. Vendor Contact Info: Bonnie Juergens Phone: (800) 843-8482 Fax: (972) 991-6061 Email: juergens@amigos.org	
3. Destination of goods or service FOB Destination Receiving Hours: 7:30 AM - 4:00 PM Receiving Dock, Room G-007 Texas State Library & Archives Commission 1201 Brazos Street Austin, TX 78701	8. REF DOC	10. Agency Contact: Pam Rodriguez Phone: (512) 463-3037 Email: prodriguez@tsl.texas.gov Fax: (512) 475-3393	
	9. Service Period or Expected Delivery Date: 9/1/2016 - 8/31/2017	11. TSLAC Project Contact: Sara Hayes Phone: (512) 463-5406 Email: shayes@tsl.texas.gov	
	*VENDOR MUST REFERENCE PURCHASE ORDER NUMBER ON ALL INVOICES OR INVOICE WILL BE RETURNED TO VENDOR. THIS PURCHASE HAS BEEN DETERMINED TO BE THE "BEST VALUE."		

17. Description

Amendment 3 to Contract # 306-14-8000. This is the 3rd of four (4) one year renewal options. Services include the delivery of shipments of books and other materials among participating TexShare member libraries throughout Texas for the period of September 1, 2016 - August 31, 2017. Delivery will have a variety of options including two, three, and five per week or on-demand delivery. The amount represents the portion that TSLAC is responsible for. The cost of services are split between consortium members and TSLAC.

Amigos Library Services is responsible for providing courier services to participating libraries and invoicing each participating libraries separately for its share in the costs of delivery services.

Please refer to Amendment 3 # 306-16-8020 for countersignature from the Vendor. Amendment was fully executed on August 9, 2016.

18. SFX	INDEX	AY	COBJ	AOBJ	AMOUNT	INVOICE NO.
001	17152	17	7299	7102	\$135,060.00	

19. Line No	20. Goods & Service	21. NIGP Code	22. Qty	23. Units	24. Unit Price	25. Extended Amt
1.	Delivery services for shipments of books and materials for participating TexShare libraries	962-24	1	Year(s)	\$135,060.00	\$135,060.00

Grant Number: LS-00-16-0044-16 – FFY 2016 | CFDA: 45.310 – Grants to States | Institute of Museum and Library Services

INTERNAL PO ONLY

Grand Total \$135,060.00

26. Legal Cites: Purchase made for a library or resource-sharing program operated by the Texas State Library & Archives Commission as defined by the Texas Government Code, Title 10, Section 2155.139 (1)(B)

27. Division Tracking Number: LDN 17-032

Per Texas Tax Code 151.309, the Texas State Library and Archives Commission is a tax-exempt agency.
If you need further proof of this, please contact the Agency Contact in box #10.

Confirmation of receipt is required, please sign box #29 and return signed PO via email: purchasing@tsl.texas.gov or fax: (512) 475-3393.

28. Approval Signature 	Date 8/15/2016	29. Vendor Signature	Date
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**TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
CONTRACT FOR SERVICES
Amendment 3 to Contract # 306-14-8000**

This Contract is entered into by and between the Texas State Library and Archives Commission (TSLAC), an agency of the State of Texas, and Amigos Library Services, Inc., pursuant to the authority contracted and in compliance with the provisions of the Texas Government Code Chapter 441.

Except as amended below, all terms of the Original Contract # 306-14-8000 between TSLAC and Amigos Library Services, Inc., dated August 1, 2013, will remain in effect.

I. CONTRACTING PARTIES

The Receiving Agency: Texas State Library and Archives Commission (TSLAC)

Sara Hayes will serve as Contract Manager and primary contact for TSLAC. TSLAC may reassign Contract Manager's responsibilities at its sole discretion. TSLAC will notify Performing Vendor within 24 hours of making any reassignments.

The Performing Vendor: Amigos Library Services, Inc., a company located at 14400 Midway Road, Dallas, TX 75244. Bonnie Juergens will serve as the point of contact for this Contract. The Vendor will notify TSLAC within 24 hours of making any reassignments.

II. STATEMENT OF SERVICES TO BE PROVIDED

Services performed under this Amendment 3 are for the administration of the TExpress Courier Program per the specifications outlined in RFP # 306-14-8000 (Appendix A of the Original Contract). Participating TexShare Libraries choose from one of the delivery service plans listed below.

Delivery Service Plan	Subscription Cost	Cost to TSLAC (subsidy)	Library's cost after subsidy
5-days per week	\$5,202.00	\$859.00	\$4,343.00
3 days per week	\$3,535.00	\$707.00	\$2,828.00
2 days per week	\$2,702.00	\$450.00	\$2,252.00

III. TERM OF CONTRACT

The terms of service under the Amendment 3 will begin September 1, 2016 and will conclude no later than August 31, 2017, unless otherwise terminated earlier by either party.

Amendment 3 is the third of four optional annual contract renewals per the terms of the Original Contract. Contract cannot be extended beyond August 31, 2018.

IV. PAYMENT FOR SERVICES

Vendor must submit invoices for all items delivered to and accepted by TSLAC. Invoices must contain the Vendor's legal name, Texas Identification Number (TIN), remittance address (city, state, zip code), telephone number, TSLAC's full name, delivery address (see below), current Contract Number, each itemized service provided with the dates of service, and the total dollar amount. Performing Vendor must place the following Contract number on each invoice issued under this Amendment 3.

TSLAC shall timely reimburse Amigos Library Services, Inc. based upon receipt of itemized invoices submitted by Amigos Library Services, Inc. in compliance with TSLAC's invoicing instructions and in accordance with the Texas Prompt Payment Act. TSLAC shall make reimbursements by direct deposit or the issuance of state warrants for payment to Amigos Library Services, Inc.

All reimbursements must be drawn on the appropriation item(s) or account(s) of the TSLAC from which like expenditures would normally be paid, based upon vouchers drawn by Amigos Library Services, Inc.'s payable to TSLAC within thirty (30) days of receipt of invoices.

Vendor must place the following tracking number on each invoice for the time periods specified below.

Contract Number for Term of September 1, 2016 – August 31, 2017: 306-17-8020

**TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
CONTRACT FOR SERVICES
Amendment 3 to Contract # 306-14-8000**

Invoices for services must contain the Contract number listed above and be submitted to the following address. Invoices not sent to either the physical OR email address below **will not** be accepted nor processed for payment.

Texas State Library and Archives Commission
Accounting Department
P O Box 12516
Austin, Texas 78711

OR, via email at: AP@tsl.texas.gov

V. CONTRACT AMOUNT

The total maximum amount under this Amendment 3 for the period of September 1, 2016 – August 31, 2017 is not to exceed **one hundred thirty-five thousand sixty and no/100 dollars (\$135,060.00)**.

This amount includes TSLAC’s portion of the monthly service payments for the renewal term under this Amendment 3. The total renewal amount of \$135,060.00 also includes a one-time \$100 expedite fee and \$5,000.00 to accommodate any new libraries who may join the service and receive a subsidy during the renewal term.

SOURCE OF FUNDS

A breakdown of funding is provided below:

Grant Number: LS-00-16-0044-16 - FFY 2016 CFDA: 45.310 - Grants to States Institute of Museum and Library Services	
Percentage of total costs of the program which will be financed with Federal money:	100%
Dollar Amount of Federal funds for this project:	\$135,060.00
Percentage of total costs of the program which will be financed with non-Federal sources:	0%
Dollar amount of non-Federal sources for the project:	\$0.00

VI. TERMS AND CONDITIONS

TSLAC’s Terms and Conditions are those listed in Appendix A. The Texas State Library and Archives Commission reserves the right to amend or add to the terms and conditions as necessary. Amigos Library Services, Inc. will be made aware of any changes.

8. Prohibited Use of Appropriated or other Funds Under Control of State Agency; Lobbying Updated

The Library Services and Technology Act (LSTA) Terms and Conditions are those listed in Appendix B. LSTA Terms and Conditions have also been revised and are hereby fully incorporated into this Amendment 3.

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
CONTRACT FOR SERVICES
Amendment 3 to Contract # 306-14-8000

THE UNDERSIGNED RECEIVING AGENCY Hereby certifies that:

- (1) Services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of State Government;
- (2) The services, supplies or materials contracted for are not required by Section 21, Article 16, of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

RECEIVING AGENCY

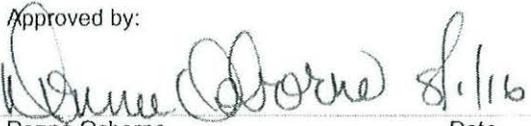
PERFORMING VENDOR

Texas State Library & Archives Commission
1201 Brazos Street
Austin, Texas 78701

Amigos Library Services, Inc.
1440 Midway Road
Dallas, Texas 75244

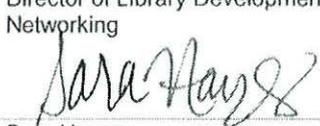
 8/4/16
Date
Mark Smith
Director & Librarian

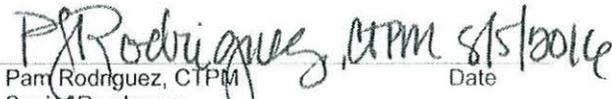
 8/9/16
Date
Bonnie Juergens
President and Chief Executive Officer

Approved by:
 8/1/16
Date
Donna Osborne
Chief Operations and Fiscal Officer

President and Chief Executive Officer
Title

 8/5/16
Date
Deborah Littrell
Director of Library Development and Networking

 8/5/16
Date
Sara Hayes
ILL Coordinator

 8/5/2016
Date
Pam Rodriguez, CTPM
Senior Purchaser

APPENDIX A
Texas State Library and Archives Commission
Terms & Conditions

All of the following terms and conditions are hereby made part of this contract with the Texas State Library and Archives Commission (TSLAC) by reference. Submitting a Response with a false statement is a material breach of contract and shall void the submitted Response or any resulting contracts, and the Vendor shall be removed from all bid lists.

Contracts awarded by TSLAC shall be governed by and construed in accordance with the laws of the State of Texas. The federal or state courts of the United State located in Texas shall have jurisdiction to hear any dispute under potential contracts and serviced may be made upon TSLAC by first class mail to its address as set forth herein.

In the events of conflicts or inconsistencies between this Contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the following order of priority: Signed TSLAC Contract, TSLAC Terms and Conditions, Attachments to the Contract, the Solicitation, and Vendor's Response to the Solicitation.

1. **Notices.** Unless specifically noted elsewhere in this Contract, any written notices required under this Contract will be either hand delivered to Vendor's office address specified on the signature page of this Contract or to TSLAC's Purchasing Department, 1201 Brazos Street, Room 309, Austin, Texas 78701, or by U.S. Mail, certified, return receipt requested, addressed to the appropriate foregoing address. Notice will be effective on receipt by the affected party. Either party may change the designated notice address by written notification to the other party.
2. **Debarred Vendors List.** Vendor represents and warrants that it 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 government entity and that Vendor is in compliance with the State statues and rules relating to procurement and that Vendor or its subcontractors are not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
3. **Duty to Disclose.** If circumstances change or additional information is obtained regarding any of the representations and warranties, or any other disclosure statements, provided by Vendor subsequent to the date of this Contract, Vendor's duty to disclose continues through the term of this Contract.
4. **Sales and Use Tax.** The TSLAC, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Vendor may be able to claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. Excise Tax Exemption Certificates are available upon request.
5. **Observance of TSLAC Rules and Regulations.** Vendor agrees that at all times its employees will observe and comply with all regulations when accessing the TSLAC facilities, including, but not limited to, parking and security regulations.
6. **Non-Appropriation of Funds.** The State funds are contingent on the availability of lawful appropriates by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing this contract; the order will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments.
7. **No Other Benefits.** Vendor shall have no exclusive rights or benefits other than those set forth herein.
8. **Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying.** Vendor represents and warrants that TSLAC's payment to Vendor and Vendor's receipt of appropriated or other funds under this any resulting Contract are prohibited from use to pay or employ a lobbyist. Refer to Texas Government Code § 556.005 or § 556.008. *[Updated 1/13/2016]*
9. **Public Information Act.** Information, documentation, and other material in connection with this solicitation or contract may be subject to public disclosure pursuant to the Texas Government Code § 552.021 (the "Public Information Act"). Any part of a submitted Response that is of a confidential or proprietary nature must be clearly and prominently marked on each page as such by the Vendor.
10. **Confidentiality and Open Records.** Vendor shall take all necessary and appropriate action to safeguard all sensitive data and other confidential information from unauthorized disclosure. Whenever the transmission of confidential information is necessary, Vendor shall transmit the information electronically, and such electronic transmission shall be secure and the data encrypted, at a minimum, using 128 AES encryption to protect it from unauthorized disclosure.

Notwithstanding any provisions of this Contract to the contrary, Vendor understands that TSLAC will comply with the Texas Public Information Act as interpreted by judicial opinions and opinions of the State's Attorney General. Within three (3) days of receipt, Vendor shall refer to TSLAC any third party requests received directly by Vendor for information to which Vendor has access as a result of or in the course of performance under this Contract. Vendor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

11. **Antitrust.** Vendor represents that neither the Vendor nor the company, corporation, partnership, or institution represented by the Vendor, 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 proposal to any other person engaged in such line of business.

Texas State Library and Archives Commission
Terms & Conditions

- 12. No Conflicts.** Vendor represents and warrants that Vendor has no actual or potential conflicts of interest in providing services to TSLAC under this Contract and that Vendor's provision of services under this Contract would not reasonably create an appearance of impropriety. Without limitation on the foregoing, other disclosures required under this Contract, and other prohibited work provisions of this Contract, Vendor shall, throughout the term of this Contract, comply with and provide all of the following to TSLAC, upon request: a copy of Vendor's most recent audit, if any, together with a full disclosure of any and all internal control weaknesses, if any; disclosure and detailed description of Vendor's most recent peer review, if any, stating the date of the review and irregularities, if any, and concluding comments; disclosure and detailed description of any emerging irregularities, if any, that could materially affect TSLAC's interests; and disclosure and detailed description of how Vendor determines whether Vendor's outside auditors provide consulting or other services to Vendor or Vendor's clients or to TSLAC.
- 13. Specifications.** The State will not be bound by any oral statement or representation contrary to the written specifications.
- 14. Delivery.**

 - a) Delivery shall be made during normal business hours (8am-5pm, CT), unless prior approval has been obtained from the TSLAC.
 - b) No substitutions permitted without written approval of the TSLAC's Purchasing Department.
 - c) If delay is foreseen, vendor shall give written notice to the TSLAC. Vendor must keep the TSLAC advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TSLAC to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
- 15. Permits, Licenses.** Vendor represents and warrants that it has obtained all necessary permits, licenses, easements, waivers, and permissions of whatsoever kind required for its performance and the performance of its subcontractors under this Contract.
- 16. Contract Fulfillment.** If federal or state laws or regulations or other federal or state requirements are amended and judicially interpreted so that either party cannot reasonably fulfill this contract, and if the parties cannot agree to an amendment that would enable substantial continuation of the contract, the parties shall be discharged from any further obligations under this contract.
- 17. Control; Ownership; Legal Proceedings.** Vendor shall immediately notify TSLAC in writing of any actual or anticipated change in the control or ownership of Vendor and of any legal or administrative investigations or proceedings initiated against Vendor regardless of the jurisdiction from which such proceedings originate.
- 18. Time Limits.** Time is of the essence in the performance of this Contract. Vendor shall strictly comply with all of the deadlines, requirements, and Standards of Performance for this Contract.
- 19. Inspection and Tests.** All goods will be subject to inspection and test by the State. Authorized TSLAC 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 Response or on samples taken from regular shipments. 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 award.
- 20. Payment.** Payment shall be made in accordance with Texas Prompt Payment Act, as specified in the Texas Government Code Chapter 2251. TSLAC shall not pay any amounts for any purpose to Vendor or any entity, except as expressly provided in the Contract. TSLAC reserves the right to make payments only upon receipt of a correct invoice, including all of the required supporting documentation. TSLAC also reserves the right to refuse payments for invoices that exceed the rates specified in the Contract.
- 21. Dispute Resolution.** Unless an applicable state statute or applicable federal law establishes another procedure for the resolution of disputes, the dispute resolution process provided for in Texas Government Code Chapter 2260 shall be used, as further described herein, by TSLAC and the Vendor to attempt to resolve all disputes arising under this contract. Vendor claims for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in the Texas Government Code Chapter 2260, Subchapter B. To initiate the process, Vendor shall submit written notice, as required by subchapter B, to the Chief Financial Officer or the designate. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Vendor and the TSLAC otherwise entitled to notice under the parties' contract. Compliance by Vendor with Subchapter B is a condition precedent to the filing of a contested case proceeding under the Texas Government Code Chapter 2260, Subchapter C. The contested case process, provided in the Texas Government Code Chapter 2260, Subchapter C, is Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TSLAC if the parties are unable to resolve their disputes under this Section. Compliance with the contested case process provided in Subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TSLAC nor any other conduct of any representative of TSLAC relating to this contract shall be considered a waiver of sovereign immunity to suit. The submission, processing and resolution of Vendor's claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found in the Texas Administrative Code. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Vendor, in whole or in part.
- 22. Gifts.** The Vendor 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 Response or contract.
- 23. Compensation.** Pursuant to the Texas Government Code § 2155.004, the Vendor has not received compensation for participation in the preparation of the specifications for this solicitation or contract.

Texas State Library and Archives Commission
Terms & Conditions

- 24. Certification Regarding Non-Payment of Child Support.** Pursuant to Family Code § 231.006 (d), re: child support, the Vendor certifies that the individual or business entity named in this Response 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 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.
- 25. Eligibility.** Under the Texas Government Code § 2155.004, the vendor certifies that the individual or business entity named in this Response 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. Vendor represents and warrants that it is not delinquent in the payment of any franchise taxes owed the State.
- 26. Liability for Taxes.** Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of Vendor or its employees. TSLAC shall not be liable for any such taxes resulting from this Contract.
- 27. HUBs.** Vendor represents and warrants that it shall comply with the Historically Underutilized Business requirements of this Contract.
- 28. Indemnification.** Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- 29. Debt.** Vendor agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas. Vendor shall comply with rules adopted by TSLAC under the Texas Government Code § 403.055, §403.0551, §2252.903 and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State.
- 30. Executive Head of a State Agency.** Pursuant to Texas Government Code §669.003, the TSLAC may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a response to the solicitation, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years.
- 31. State Auditor's Clause.** Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards.
- 32. Infringements.**
- a) Vendor shall indemnify and hold harmless TSLAC and the State of Texas, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, trade and service marks, copyrights, trade secrets or other proprietary rights, and any other intellectual or intangible property rights in connection with the PERFORMANCE OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEY'S FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDEANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.
 - b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to TSLAC's specific instructions, (iv) any intellectual property right owned by or licensed to TSLAC, or (v) any use of the product or service by TSLAC that is not in conformity with the terms of any applicable license agreement.
 - c) If Vendor becomes aware of an actual or potential claim, or TSLAC provides the Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against TSLAC, shall) at Vendor's sole option and expense; (i) procure for the Vendor the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that TSLAC's use in non-infringing.

Texas State Library and Archives Commission
Terms & Conditions

- 33. Patents and Copyrights.** Vendor shall defend and indemnify TSLAC and the State of Texas against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from TSLAC's or Vendor's use of or acquisition of any services or other items provided to TSLAC by Vendor or otherwise to which TSLAC has access as a result of Vendor's performance under this Contract, provided that TSLAC notify Vendor of any such claim within a five (5) working days time of TSLAC's receiving notice of any such claim. If Vendor is notified of any claim subject to this Section, Vendor shall notify TSLAC of such claim within five (5) working days of such notice. If TSLAC determines that a conflict exists between its interests and those of Vendor or if TSLAC is required by applicable law to select separate counsel, TSLAC shall be permitted to select separate counsel, and the actual costs TSLAC's counsel shall be paid by Vendor. No settlement of any such claim shall be made by Vendor without TSLAC's prior written approval. Vendor shall reimburse TSLAC and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs arising from any such claim. Vendor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and claims.
- 34. Vendor Assignments.** Vendor hereby assigns an ordering agency 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).
- 35. 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 and conditions of the Contract, the TSLAC 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.
- The TSLAC 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 TSLAC 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 Respondent shall be liable for all costs and expenses, including court costs, incurred by the TSLAC with respect to the enforcement of any of the remedies listed herein.
- 36. Cancellation.** The cancellation of the agreement, under any circumstances whatsoever, shall not effect or relieve Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to this agreement, and such cancellation by TSLAC shall not limit any other right or remedy available to the TSLAC at law or in equity.
- 37. Agreement Amendments.** No modification or amendment to the agreement shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the agreement must be forwarded to the TSLAC Purchasing Department for prior review and approval. Only the contract administrator within the Purchasing Department or his/her designee will be authorized to sign changes or amendments.
- 38. Independent Vendor Status.** Vendor agrees that Vendor and Vendor's employees and agents have no employer-employee relationship with TSLAC. TSLAC shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation insurance payments, or any other insurance payments, nor will TSLAC furnish any medical or retirement benefits, any paid vacation or sick leave.
- 39. Publicity.** Vendor agrees that it shall not publicize this agreement or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of TSLAC's name in connection with any sales promotion or publicity event without the prior express written approval of TSLAC.
- 40. Severability.** If one or more provisions of this agreement, or the application of any provision to any party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of the agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
- 41. No Waiver.** Nothing in this agreement shall be construed as a waiver of the state's sovereign immunity. This agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TSLAC does not waive any privileges, rights defenses, or immunities available to TSLAC by entering into this agreement or by its conduct prior to or subsequent to entering into this agreement.
- 42. Property Rights.** For purposes of this contract, the term "work" is defined as all reports, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. The TSLAC and Vendor intend this contract to be a contract for services, and each considers the work and any and all documentation or other products and results of the services to be rendered by Vendor to be a work made for hire. By execution of a contract for these services, Vendor acknowledges and agrees that the work (and all rights therein) belongs to and shall be the sole and exclusive property of the TSLAC.

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If, for any reason, the work would not be considered a work-for-hire under applicable law, Vendor does hereby sell, assign, and transfer to the TSLAC, its successors and assigns, the entire right, title and interest in and to the copyright of the work and any registrations and copyright applications relating thereto, and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Vendor agrees to execute all papers and to perform such other property rights as the TSLAC may deem necessary to secure for TSLAC or its designee the rights herein assigned.

Copyrightable material made by the Vendor for TSLAC shall be considered work-made-for-hire for TSLAC within the meaning of the copyright laws. Vendor shall assign all rights, title and interest in such copyrightable materials to TSLAC. Should this work product prove to be patentable, Vendor will assign all patent rights to TSLAC upon request. TSLAC shall have the right, at its discretion, to keep such work product as a trade secret.

Vendor and Vendor's employees shall have no rights of ownership of the Work and any documentation or other products and results of the services or any other property of TSLAC. Any property or Work not specifically scheduled in this Contract as property of Vendor shall constitute property of TSLAC.

In addition to compliance with the right to examination provisions of the Contract, Vendor must deliver to TSLAC, no later than the forty-eight (48) hours after receipt of TSLAC's written request for same, all completed or partially completed Work and any and all documentation or other products and results of the Services under such Contract. Vendor's failure to timely deliver such Work or any documentation or other products and results of the Services will be considered a material breach of the Contract. With the prior written approval of TSLAC, this forty-eight (48) hour period may be extended for delivery of certain completed or partially completed Work or other such information, if such extension is in the best interest of the State of Texas or TSLAC. If Vendor fails to deliver such Work within forty-eight (48) hours after receipt of written request for same, TSLAC may withhold all payments to Vendor, may withhold all authorization for payment of previously approved and future invoices, may impose liquidated damages of \$1,000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. During the transition from any successor of the Vendor, TSLAC may impose liquidated damages of \$2,000 rather than \$1,000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. These liquidated damages are in addition to other remedies and rights that are applicable or available to TSLAC for such failure or delay under this Contract.

43. **Acceptance of Products and Services.** All products furnished and all services performed under this agreement shall be to the satisfaction of TSLAC and in accordance with the specifications, terms, and conditions of this contract. TSLAC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.
44. **Deceptive Trade Practices Act (DTPA).** Vendor represents and warrants that it has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit, and that Vendor has not been found to be guilty of such practices in such proceedings. Vendor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business administrative hearing or court suit, and that such officers have not been found to be guilty of such practices in such proceedings.
45. **Immigration.** Vendor represents and warrants that it will comply with the requirements of the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 ("Immigration Act"), and the Illegal Reform and Immigrant Responsibility Act of 1996 ("IRIRA") regarding employment verification and retention of verification forms for any individuals hired who will perform any labor or services under this Contract. Vendor also represents and warrants that it shall comply with the requirements of the Immigration Act regarding creation of the lottery system for granting visas and IRIRA which created three (3) year, ten (10) year and permanent bars to entrance into the United States.
46. **Criminal Conviction Certification.** The Vendor represents and warrants that Vendor has not and Vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Vendor has fully advised TSLAC as to the facts and circumstances surrounding the conviction. Vendor has a continuing duty to amend, supplement or correct this representation and warranty not later than ten (10) days after discovering additional information relating to felony criminal convictions of Vendor or any of its employees. Vendor shall not allow any employee convicted of a felony criminal offense to perform tasks related to the contract without such disclosure and express permission from TSLAC.
47. **Subcontracting.** It is contemplated by the parties hereto that the Vendor shall conduct the performances provided by this contract substantially with its own resources and through the services of its own staff. In the event the Vendor should determine that it is necessary or expedient to subcontract for any of the performances specified herein, the Vendor shall subcontract for such performances only after the Vendor has transmitted to TSLAC a true copy of the subcontract the Vendor proposes to execute with a subcontractor and has obtained TSLAC's written approval for subcontracting the subject performance in advance of executing a subcontract. The Vendor, in subcontracting for any products or performances specified herein, expressly understands and acknowledges that in entering into such subcontracting(s), TSLAC is in no manner liable to any subcontractor(s) of the Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the finished products and/or services rendered under all subcontracts are rendered so as to comply with all terms of this contract.
48. **Assignment.** The Vendor will not assign its rights under this contract or delegate the performance of its duties under this contract without prior written approval from TSLAC.
49. **Accessibility.** TSLAC is required to follow Texas Administrative Code, Title 1, Part 10, Chapter 206, Accessibility and Usability of State Web Sites, Texas Administrative Code, Title 1, Part 10, Chapter 213, and the Federal Section 508, Accessibility Standards.

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- 50. Ethics.** Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in the Texas Government Code §2155.003. The Rule outlines the ethical standards required of public purchaser, employees, and vendors who interact with public purchasers in the conduct of state business. Specifically, a TSLAC employee may not have an interest in, or in any matter be connected with a contract or solicitation 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. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TSLAC or purchasers of other state agencies.
- 51. Convictions in connection with Hurricane Katrina, Hurricane Rita, and subsequent disasters.** Per Senate Bill 608, 80th Legislative Session, TSLAC will not accept Responses, nor award contracts to persons convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Katrina, Hurricane Rita, and subsequent disasters.
- 52. Equal Opportunity.** Vendor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age and disability in the performance of awards.
- 53. Drug Free Workplace.** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 54. Force Majeure.** Neither Vendor nor TSLAC shall be liable to the other for any delay in, or failure of performance, of any requirement included in any award resulting from a solicitation caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- 55. Termination.** Vendor shall have the right to terminate contracts awarded from this Contract upon a material breach of its terms by TSLAC, which are not cured within thirty (30) days of written notice. If Vendor (a) terminates or suspends its business (b) becomes subject to any bankruptcy or insolvency proceeding under any Federal or State statute or (c) becomes or subject to direct control by a trustee, receiver, or similar authority, TSLAC may, in addition to its other legal rights and remedies, terminate this agreement on seven (7) days notice to Vendor. Upon such termination, Vendor will offer TSLAC a prorated refund or subscription fee.

In the event that the Contract is terminated for any reason, or upon its expiration, the TSLAC shall retain ownership of all associated work products and documentation obtained from the Vendor under the Contract.

- 56. Termination for Convenience.** TSLAC reserves the right, in its sole discretion, to terminate the Contract on thirty (30) days written notice to the Vendor. TSLAC also reserves the right, in its sole discretion, to terminate the Contract immediately, with written notice to the Vendor, if it is in the best interests of TSLAC or the State.
- 57. Termination Remedies.** Upon an Event of Default, TSLAC, without limiting any other rights or remedies it may have by law, equity, or under this Contract, will have the right to institute an action for actual damages and/or injunctive relief and/or to terminate the Contract immediately. TSLAC's termination of this Contract shall not limit or waive any remedies TSLAC may have for breach by Vendor of its past, present, or future duties and obligations created by this Contract or otherwise required by applicable law.

All remedies available to TSLAC for breach or anticipatory breach of this Contract by Vendor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunction relief and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

- 58. Survival of Terms.** Termination of this Contract for any reason shall not release the Vendor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
- 59. Supporting Documents; Right to Audit; Independent Audits.** Vendor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable TSLAC and State of Texas requirements. Vendor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Vendor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TSLAC, State of Texas or their authorized representatives. Vendor shall cooperate with auditors and other authorized TSLAC and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TSLAC or the State of Texas. By example, and not as exclusion to other breaches or failures, Vendor's failure to comply with this Section shall constitute a

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material breach of this Contract and shall authorize TSLAC to immediately assess liquidated damages as described in Section 29 of Appendix C for such failure. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in the solicitation. TSLAC may require, at Vendor's sole cost and expense, independent audits by a qualified certified public accounting firm of Vendor's books and records or the State's property. The independent auditing shall provide TSLAC with a copy of such audit at the same time it is provided to Vendor. TSLAC retains the right to issue the request for Statement of Qualifications for the services of an independent certified public accounting firm under this Contract. In addition to and without limitation on the other audit provisions of this Contract, pursuant to the Texas Government Code §2262.003, the state auditor may conduct an audit or investigation of Vendor 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 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, Vendor 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 Contract may be amended unilaterally by TSLAC to comply with any rules and procedures of the state auditor in the implementation and enforcement of § 2262.003.

Under procedures provided by the state auditor on September 5, 2003, in addition to the above,

1. Vendor understands that the acceptance of funds under this Contract acts as acceptance of the authority of the state auditor to conduct an audit or investigation in connection with those funds;
2. Vendor further agrees to cooperate fully with the state auditor in the conduct of the audit or investigation, including providing all records requested;
3. Vendor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards; and
4. The state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Vendor relating to this Contract.

60. Limitation on Authority; No Other Obligations. Vendor shall have no authority to act for or on behalf of TSLAC or the State of Texas except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TSLAC.

61. Records Retention. Vendor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Vendor shall maintain all such documents and other records relating to this Contract and the State's property seven (7) years after the expiration or termination of the Contract. *[Updated 04/08/2016]*

62. Insurance & Other Security. Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current written certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage:

- a) Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract;
- b) Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate.
- c) Professional Liability Insurance: \$500,000 minimum each occurrence limit; \$1,000,000 minimum aggregate limit.

Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.

63. Workers' Compensation Insurance Coverage.

- a) Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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- b) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- c) The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- d) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- e) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f) The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- g) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4) obtain from each other person with whom it contracts, and provide to the contractor:
 - i. a certificate of coverage, prior to the other person beginning work on the project; and
 - ii. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- j) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.
- l) **VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TSLAC AND/OR THE STATE SHALL NOT BE**

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LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

- m) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS TSLAC, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE TSLAC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

64. Workers Compensation & Employers Liability. Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage: must maintain Workers' Compensation insurance coverage in accordance with statutory limits as follows:

- a) Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract
- b) Commercial General Liability Insurance, Occurrence based:
 - Bodily injury and Property Damage
 - Each Occurrence limit: \$1,000,000
 - Aggregate limit: \$2,000,000
 - Medical Expense each person: \$5,000
 - Personal Injury & Advertising Liability: \$1,000,000
 - Products/Completed Operations Aggregate Limit: \$2,000,000
 - Damage to Premise Rented to You: \$50,000
- c) Professional Liability Insurance: \$500,000 minimum each occurrence limit; \$1,000,000 minimum aggregate limit
- d) Employers Liability: Each Accident \$1,000,000
- e) Disease – Each Employee: \$1,000,000
- f) Disease – Policy Limit: \$1,000,000

Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.

65. Vendor Responsibility for Damage to Government Property. The Vendor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Vendor or its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Vendor shall notify the TSLAC Project Manager in writing of any such damage within one (1) calendar day.

66. Vendor Performance. The TSLAC may monitor the performance of the Contract issued under this solicitation. All services and goods under the Contract shall be performed at an acceptable service levels and in a manner consistent with acceptable industry standards, custom, and practice. The Vendor will receive a paper copy of this report, as well as an e-mailed copy. The TSLAC will provide a sample of the Vendor Performance Report upon request.

67. Change Management. Vendor shall assign only qualified personnel to this Contract. Vendor, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the tasks and services required. Vendor shall provide to TSLAC prior written notice of any proposed change in key personnel involved in providing services under this Contract. Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of the Vendor. No subcontract under the Contract shall relieve the Vendor of responsibility for ensuring the requested services are provided. If Vendor uses a subcontractor for any or all of the work required, the following conditions shall apply:

- a) Vendors planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors.
- b) Subcontracting shall be solely at Vendor's expense.
- c) TSLAC retains the right to check subcontractor's background and approve or reject the use of submitted subcontractors.
- d) Vendor shall be the sole contact for TSLAC. Vendor shall list a designated point of contact for all TSLAC inquiries.

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- 68. Federal, State, and Local Requirements.** Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Vendor is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Vendor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Vendor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Vendor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of this Section.
- 69. Applicable Law & Conforming Amendments.** Vendor must comply with all laws, regulations, requirements and guidelines applicable to a Vendor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TSLAC reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TSLAC or Vendor's compliance with all applicable State and federal laws, and regulations.
- This Contract may be amended only upon written agreement between TSLAC and Vendor; however, this Contract may not be amended so as to make it conflict with the laws of the State. TSLAC may issue Purchase Order Change Notices for ordering and tracking purposes consistent with this Contract provided such Purchase Order Change Notices reference the Contract.
- 70. No Liability Upon Termination.** If this Contract is terminated for any reason, TSLAC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Vendor may be entitled to the remedies provided in Texas Government Code Chapter 2260. Vendor or Vendor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing services under any Contract resulting from this solicitation. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of TSLAC. Should Vendor subcontract any of the services required in this solicitation, Vendor expressly understands and acknowledges that in entering into such subcontract(s), TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this solicitation.
- 71. Independent Vendor.** Vendor or Vendor's employees, representatives, agents, and any subcontractors shall serve as an independent contracting in providing services under any Purchase Order. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of the TSLAC. Should Vendor subcontract any of the services required, Vendor expressly understands and acknowledges that in entering into such subcontract(s), the TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with the specifications.
- 72. Buy Texas.** Vendor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.
- 73. Texas Bidder.** Vendor represents and warrants that if a Texas address is shown as the address of Vendor, then Vendor qualifies as a Resident Bidder as defined by the Texas Government Code § 2155.444. This term is not applicable when Federal funds are used.
- 74. Environmental Protection.** The Vendor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).
- 75. TSLAC Anti-Fraud Policy.** Vendor represents and warrants that it has read and understood and shall comply with the Comptroller of Public Account's Anti-Fraud Policy located on the Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of this Contract.
- 76. Electronic and Information Resources Accessibility Standards.** As Required by 1 Texas Administrative Code Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only)
- 1) Effective September 1, 2006 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 Texas Administrative Code Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
 - 2) Vendor shall provide TSLAC 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 TSLAC 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/>.
- 77. Provision for Direct Deposit.** The electronic funds transfer ("EFT") provisions of Texas law were codified in the Texas Government Code §403.016. Depending on eligibility under the law, certain payments from the State may be directly deposited into Vendor's bank account or may be made by warrant. If Vendor is eligible for direct deposit and wishes to be paid by direct deposit, Vendor must complete the form title "Vendor Direct Deposit Authorization" and return it as soon as possible to: Texas State Library & Archives Commission, Attention: Accounting, PO Box 12516 Austin, Texas 78711.

Texas State Library and Archives Commission Terms & Conditions

78. Disclosure of Security Breach. Vendor shall provide notice to the Purchasing Department at (512) 463-3037 or purchasing@tsl.texas.gov within twenty-four (24) hours of Vendor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or confidential TSLAC information ("Security Incident"). Within twenty-four (24) hours of the notification of a Security Incident, Vendor shall provide a written report to TSLAC's Purchasing Department detailing the circumstances of the incident, which includes at a minimum:

- a) A description of the nature of the Security Incident;
- b) The type of TSLAC information involved;
- c) Who may have obtained TSLAC information;
- d) What steps Vendor has taken or will take to investigate the Security Incident;
- e) What steps Vendor has taken or will take to mitigate any negative effect of the Security Incident; and
- f) A point of contact for additional information.

Each day thereafter until the investigation is complete, Vendor shall provide TSLAC's Purchasing Department with a written report regarding the status of the investigation and the following additional information as it becomes available:

- a) Who is known or suspected to have gained unauthorized access to TSLAC information;
- b) Whether there is any knowledge if TSLAC information has been abused or compromised;
- c) What additional steps Vendor has taken or will take to investigate the Security Incident;
- d) What steps Vendor has taken or will take to mitigate any negative effect of the Security Incident; and
- e) What corrective action Vendor has taken or will take to prevent future similar unauthorized use or disclosure.

Vendor shall confer with TSLAC's Purchasing Department regarding the proper course of the investigation and risk mitigation. TSLAC reserves the right to conduct an independent investigation of any Security Incident, and should TSLAC choose to do so, Vendor shall cooperate fully by making resources, personnel, and systems access available to TSLAC and TSLAC's authorized representative(s). Subject to review and approval of TSLAC, Vendor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If TSLAC, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to TSLAC by Vendor. If Vendor does not reimburse such costs within thirty (30) days of TSLAC's written request, then TSLAC shall have the right to collect such costs.

79. Information Security Requirements.

- a) Vendor shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security pertaining to TSLAC confidential information.
- b) Access to sensitive or confidential TSLAC information. Vendor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard sensitive or confidential TSLAC information and to protect it from unauthorized disclosure. If communications with Vendor necessitate the release of confidential TSLAC information, the Confidential Treatment of Information Acknowledgement form (CTIA) must be signed by each individual who will require access to or may be exposed to that information. Vendor shall access TSLAC's systems and sensitive or confidential TSLAC information only for the purposes for which it is authorized.

Vendor shall ensure that any sensitive or confidential TSLAC information in the custody of Vendor is properly sanitized or destroyed when the information is no longer required to be retained by TSLAC or Vendor in accordance with this agreement. Electronic media used for storing any confidential TSLAC information must be sanitized by clearing, purging or destroying in accordance with NIST Special Publication 800-88 Guidelines for Media Sanitization. Vendor must maintain a record documenting the removal and completion of all sanitization procedures with the following information:

- 1) Date and time of sanitization/destruction,
- 2) Description of the item(s) and serial number(s) if applicable,
- 3) Inventory number(s), and
- 4) Procedures and tools used for sanitization/destruction.

No later than sixty (60) days from contract expiration or termination or as otherwise specified in this agreement,

Vendor must complete the sanitization and destruction of the data and provide to TSLAC all sanitization documentation.

Vendor shall not access, process, store or transmit IRS Federal Taxpayer Information unless expressly authorized by this agreement. Vendor shall comply with IRS Publication 1075 requirements if it accesses, processes, stores, or transmits IRS Federal Taxpayer Information.

Texas State Library and Archives Commission Terms & Conditions

- c) Access to Internal TSLAC Network and Systems. As a condition of gaining remote access to any internal TSLAC network and systems, Vendor must comply with TSLAC's policies and procedures. TSLAC's remote access request procedures will require Vendor to submit a Remote Access Request form for TSLAC's review and approval. Remote access technologies provided by Vendor must be approved by TSLAC's Information Security Officer. Individuals shall not access internal TSLAC network and systems from outside the United States. Individuals who are provided with access to TSLAC network or systems will be required to participate in TSLAC's Security Awareness Training on an annual basis. The State and TSLAC's Fiscal Year begins on September 1 and ends on August 31. Vendor shall maintain records of all individuals who have completed TSLAC-required training for the duration of the individual's employment with Vendor, plus five years. Upon TSLAC's written request, Vendor shall provide copies of the certificates of completion for TSLAC's Security Awareness Training. On November 1st of each year, Vendor shall submit a list to TSLAC which identifies all individuals who have current access to TSLAC network or systems as well as the most recent training completion date for each individual. TSLAC, in its sole discretion, may deny network or system access to any individual that does not complete TSLAC-required training within thirty (30) calendar days following the date of TSLAC's grant of access under this Contract.
 - d) TSLAC reserves the right to audit the security measures in effect on Vendor's connected systems without prior warning. Vendor must secure its own connected systems in a manner consistent with an auditable information security framework. TSLAC's audit can consist of a review of third party audit results of Vendor's security measures (e.g., SSAE-16 Type II, ISO 27002 assessment). TSLAC also reserves the right to immediately terminate network and system connections not meeting such requirements.
 - e) TSLAC data shall not be accessed from, stored at or transported to locations outside of the United States.
 - f) Where applicable, encryption shall conform to or exceed Federal Information Processing Standard (FIPS) 140-2:
 - 1) Backup media containing TSLAC data shall be encrypted at all times.
 - 2) Transmission of TSLAC data across public networks shall be protected by encryption methods such as Virtual Private Network ("VPN"), Secure Shell File Transfer Protocol ("SFTPS"), or File Transfer Protocol over SSL/TLS ("FTPS").
 - g) If Vendor is a software manufacturer, then Vendor represents and warrants that it has implemented processes for the protection, detection, remediation, mitigation and timely customer notification of software vulnerabilities associated with its software provided under this agreement.
- 80. Transition.** Upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new agreement and provider. In accordance with this Contract, Vendor shall deliver to TSLAC all completed, or partially completed work and any and all documentation or other products and results of these services.

APPENDIX B
Texas State Library and Archives Commission
Library Services and Technology Act (LSTA) Terms & Conditions

I. GENERAL TERMS AND CONDITIONS

- A. The Vendor will comply with the following parts of the Texas Comptroller of Public Accounts UGMS revised June 2004, located at: <http://www.window.state.tx.us/procurement/catrad/ugms.pdf>
- B. The Vendor will comply with Grant Reform 2 CFR Parts §200 and §3187.
- C. *Vendor will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:*
- (a) *Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, religion or national origin;*
 - (b) *Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;*
 - (c) *Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of disability and the Americans With Disabilities Act of 1990;*
 - (d) *The Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;*
 - (e) *The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;*
 - (f) *The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism;*
 - (g) *§§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;*
 - (h) *Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;*
 - (i) *Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and*
 - (j) *The requirements of any other nondiscrimination statute(s) which may apply to the application.*
- D. The Vendor, *if a private entity*, will comply with Federal law pertaining to trafficking in persons. Vendor and its employees may not
- 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - 2. Procure a commercial sex act during the period of time that the award is in effect; or
 - 3. Use forced labor in the performance of the award or subawards under the award.
- E. The Vendor certifies by this contract that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, 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 making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid for such purpose, the Vendor shall complete and submit OMB form SF-LLL, Disclosure of Lobbying Activities, in accordance with its instructions. The Vendor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all Vendors shall certify and disclose accordingly, as specified in Title 31 U.S. Code, Sec. 1352.

**Texas State Library and Archives Commission
Terms & Conditions**

- F. *Vendor's authorized representative certifies to the best of his or her knowledge and belief that neither Vendor nor any of its principals:*
- (a) *are presently excluded or disqualified;*
 - (b) *have been convicted within the preceding three years of any of the offenses listed in 2 CFR Part §180.800(a) or had a civil judgment rendered against it or them for one of those offenses within that time period;*
 - (c) *are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in 2 CFR §180.800 (a); or*
 - (d) *have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default. Where the Vendor is unable to certify to any of the statements in this certification, the Vendor shall attach an explanation to these Terms and Conditions.*
- G. Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the Texas State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by Sub-Contractors through Vendor, and the requirement to cooperate, is included in any sub-grant awarded.
- H. The Vendor agrees to main all financial and programmatic records, supporting documents, statistical records, and other records relating to this grant award for three year after the last State Program Report for the Texas LSTA 5-Year Plan 2013-2017, is submitted on December 31, 2018. The Contractor will maintain their records through December 31, 2021.
- I. The Vendor agrees to develop or revise, as necessary, any specific written documentation of its current procedures for
- (1) collecting and reporting performance measures;
 - (2) conducting a fixed asset inventory; and or,
 - (3) any other issues identified in Vendor's internal audit report or grant activities.
- Drafts of this procedural documentation will be submitted to TSLAC by dates established mutually between TSLAC and Vendor. TSLAC will provide review and guidance to enable final versions to be approved on or before established deadlines.
- J. Vendor may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. Vendor understands that the federal awarding agency, IMLS, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use; and to authorize others to use, for Federal purposes (2 CFR §200.315).

Texas State Library and Archives Commission
Terms & Conditions

II. ENFORCEMENT

- A. Remedies for noncompliance. If Vendor materially fails to comply with any term of the contract, whether stated in a state or federal statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, TSLAC may take one or more of the following actions, or impose other sanctions, as appropriate in the circumstances:
1. Temporarily withhold cash payments pending correction of the deficiency by the Vendor, or more severe enforcement action by TSLAC;
 2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the current contract for the Vendor's program;
 4. Withhold further awards for the program; or
 5. Take other remedies that may be legally available.
- B. Hearings, appeals. In taking an enforcement action, TSLAC will provide the Vendor an opportunity for such hearing, appeal, or other administrative proceeding to which the Vendor is entitled under any statute or regulation applicable to the action involved.
- C. Effects of suspension and termination. Costs of Vendor resulting from obligations incurred by the Vendor during a suspension or after termination of an award are not allowable unless TSLAC expressly authorized in the notice of suspension or termination, or subsequently. Other Vendor costs during suspension or after termination that are necessary, and not reasonably avoidable, are allowable if:
1. The costs resulting from obligations that were properly incurred by the Vendor before the effective date of suspension or termination are not in anticipation of it and, in the case of a termination, are non-cancelable; and,
 2. The costs would be allowable if the award were not suspended, or expired normally at the end of the funding period in which the termination takes effect.
- D. Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude Vendor from being subject to "Debarment and Suspension" under Executive Order 12549 (see UGMS Part III, Subpart C, Sec 35) and state law.

**INVOICING INSTRUCTIONS
NON-COMPLIANCE WITH INSTRUCTION MAY DELAY PAYMENT**

Please use the following procedure when submitting your invoice:

1. Invoices must be in U.S. dollars
2. Invoices **must** be submitted to the agency at the invoice address shown in Section IV of this Contract. If you prefer to submit your invoice electronically, **use the following email address:** ap@tsl.texas.gov
3. Your invoice must show vendor name and remit to address.
4. Invoice must be issued to the Texas State Library and Archives Commission (TSLAC).
5. The Contract Number must be on the invoice and packing slips. Invoices submitted without the Tracking Number are not in compliance and will result in delays in payment processing.
6. Vendor's Texas Identification Number (if issued) or Federal Tax ID Number must be on the invoice. Vendors who have not been issued a Texas Identification Number should contact the TSLAC Accounting Office at (512) 463-5473 for assistance.
7. Invoice must have description of each item or service, that corresponds with the description on the Contract and be in the order listed on this purchase order. Item numbers must be shown to correspond with the item numbers on the Contract.
8. Quantity delivered, unit and total price of each item or service must be shown, and all prices extended on the invoice.
9. All extensions on the invoice must be totaled, and the grand total shown.
10. Discount, if applicable, must be stated, and deducted to arrive at a Net total for the invoice.
11. Final delivery date of merchandise or period of service must be shown on the invoice.

DIRECT DEPOSIT

The Texas State Library and Archives Commission encourage vendors to receive payment by direct deposit. To receive future payments by direct deposit, vendors should download and fill out the New Setup Direct Deposit/Advance Payment Notification, Form 74-207 available at www.txdirectdeposit.org. Completed forms should be sent to the Agency invoice address listed in Section IV of the Purchase Order.

SALES AND USE TAX

The TSLAC, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Vendor may be able to claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. Excise Tax Exemption Certificates are available upon request.

FRANCHISE TAX CERTIFICATION

Article 2.45, Texas business Corporation Act, prohibits the awarding of a contract to a corporation that is delinquent in a franchise tax owed to the state under Chapter 171, Tax Code. By delivering merchandise or services on this order, a corporate contractor certifies that is not delinquent in a tax owed to the state under Chapter 171, Tax Code. Delivering merchandise or services on this order while such a tax is delinquent constitutes material breach of the purchase contract. A warrant payable to a corporate contractor will not be processed by the comptroller of public accounts until all corporate indebtedness to the state is retired.

PAYMENT

Payment shall be made in accordance with Texas Prompt Payment Act, Chapter 2251 of Texas Government Code. TSLAC shall not pay any amounts for any purpose to Vendor or any entity, except as expressly provided in the Contract. TSLAC reserves the right to make payments only upon receipt of a correct invoice, including all of the required supporting documentation. TSLAC also reserves the right to refuse payments for invoices that exceed the rates specified in the Contract. 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, whichever is later. Any payments later than 30 days from an uncontested invoice will start to accrue interest.

CERTIFICATION REGARDING NON-PAYMENT OF CHILD SUPPORT

Pursuant to Section 231.006 (d), Family Code, re: child support, the Vendor 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.

DELINQUENT TAX/DEBT NOTIFICATION

Payments owed under this contract may be used towards any debt or delinquent taxes owed to the State of Texas by the vendor until debt or taxes are paid in full.

DISPUTE RESOLUTION

Chapter 2260 Government Code, requires a contractor, as a condition precedent to seeking permission to sue the State of Texas under a contract, to first negotiate, then mediate, then take the claim to a contested case hearing before the State Office of Administrative Hearings.

Vendors may request Advance Payment Notification by fax or email. This feature includes notification one business day before the deposit posts to the vendor's bank account. It also provides the amount of the deposit and which agency it came from. Vendors may also receive remittance information with the notification. <https://mycpa.cpa.state.tx.us/securitymp1portal/displayLoginUser.do>

**STATE OF TEXAS
PURCHASE ORDER**

1. Agency Name & No. TEXAS STATE LIBRARY & ARCHIVES COMMISSION 306 Tax Exempt agency of the Texas State Government	4. Purchase Order No. 306-16-8012	12. HUB: N/A	13. Order Type: Service
	5. PCC	14. Vendor Identification No: XXXXXXXXXX	
2. Agency Billing Address **ACCOUNTING DEPARTMENT** Texas State Library & Archives Commission PO Box 12516 Austin, TX 78711-2516 Email invoices to: AP@tsl.texas.gov Phone: (512) 463-5473; Fax: (512) 475-0185	6. Current Document No. DT-9	15. Vendor Address: Amigos Library Services, Inc. 14400 Midway Road Dallas, TX 752443509	
	7. Document (order) amt \$131,738.00		
	8. REF DOC	16. Vendor Contact Info: Bonnie Juergen, President & Chief Executive Officer Phone: (972) 340-2820 Fax: (972) 991-6061 Email: juergens@amigos.org	
*VENDOR MUST REFERENCE PURCHASE ORDER NUMBER ON ALL INVOICES OR INVOICE WILL BE RETURNED TO VENDOR. THIS PURCHASE HAS BEEN DETERMINED TO BE THE "BEST VALUE."	9. Service Period or Expected Delivery Date: 9/1/2015 - 8/31/2016	10. Agency Contact: Renee Pogue Phone: (512) 463-5488 Email: purchasing@tsl.texas.gov Fax: (512) 475-3393	
3. Destination of goods or service FOB Destination Receiving Dock, Room G-007 Texas State Library & Archives Commission 1201 Brazos Street Austin, TX 78701	11. TSLAC Project Contact: Sara Hayes Phone: (512) 463-5406 Email: shayes@tsl.texas.gov		

17. Description

Amendment 2 to Contract 306-14-8000 is for the 2nd year of the four (4) one year renewal options that may be executed by TSLAC at TSLAC's sole discretion.

Grant Number: LS-00-15-0044-15 – FFY 2015 | CFDA: 45.310 – Grants to States | Institute of Museum and Library Services

18. SFX	INDEX	AY	COBJ	AOBJ	AMOUNT	INVOICE NO.
001	17152	16	7299	7102	\$131,738.00	

19. Line No	20. Goods & Service	21. NIGP Code	22. Qty	23. Units	24. Unit Price	25. Extended Amt
1.	All work performed will be per the specification and contract awards under RFP 306-14-8000. Services performed will be during the period of September 1, 2015 - August 31, 2016.	962-24	1	Year(s)	\$131,738.00	\$131,738.00

INTERNAL PO ONLY

Grand Total \$131,738.00

26. Legal Cites: Purchase made for a library or resource-sharing program operated by the Texas State Library & Archives Commission as defined by the Texas Government Code, Title 10, Section 2155.139 (1)(B)

27. Division Tracking Number: LDN 16-027

Per Texas Tax Code 151.309, the Texas State Library and Archives Commission is a tax-exempt agency.
If you need further proof of this, please contact the Agency Contact in box #10.

Confirmation of receipt is required, please sign box #29 and return signed PO via email: purchasing@tsl.texas.gov or fax: (512) 475-3393.

28. Approval Signature 	Date 8-10-2015	29. Vendor Signature	Date
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**TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
CONTRACT FOR SERVICES**

AMENDMENT 2 TO CONTRACT: 306-14-8000

This Contract is entered into by and between the Texas State Library and Archives Commission (TSLAC) and Amigos Library Services, Inc., pursuant to the authority contracted and in compliance with the provisions of the Texas Government Code Chapter 441.

Except as amended below, all terms of the original contract between TSLAC and Amigos Library Services, dated August 1, 2013, will remain in effect.

III. Term of Contract

The term of service will begin September 1, 2015, and will conclude no later than August 31, 2016, unless otherwise terminated earlier by either party.

Amendment 2 is the second of four annual renewals.

IV. Payment for Services

Place the following tracking number on the invoice for this Amendment 2. Tracking numbers for remaining terms will be assigned for future renewals.

September 1, 2015 – August 31, 2016 – Tracking number: **306-16-8012**

Invoices for services provided under this Amendment 2 must contain the tracking number listed above and be submitted to the following address. Invoices not submitted to either the physical OR email address below **will not** be accepted.

Texas State Library and Archives Commission
Accounting Department
PO Box 12516
Austin, Texas 78711

OR

AP@tsl.texas.gov

V. Contract Amount

The renewal amount under this Amendment 2 for the period of September 1, 2015 thru August 31, 2016, is \$131,738.00.

This amount includes TSLAC's portion of the monthly service payments for the renewal term under this Amendment 2. The total renewal amount of \$131,738.00 also includes a one-time \$100 expedite fee and \$5,000.00 to accommodate any new libraries who may join the service and receive a subsidy during the renewal term.

Source of Funds

A breakdown of funding is provided below:

- Percentage of total costs of the program which will be financed with General Revenue appropriations from Texas Legislature: 0%
- Dollar amount of General Revenue appropriations from Texas Legislature: \$0.00
- Percentage and dollar amount of total costs of the program, with all Attachments and Amendments, which will be financed with Federal money: **100% & \$131,738.00**
- Percentage and dollar amount of total costs of the project that will be financed with non-government sources: 0% & \$0.00
- Grant Number: LS-00-15-0044-15 – FFY2015 – CFDA: 45.310 – Grant to States – Institute of Museum and Library Services

VI. Terms and Conditions

The TSLAC Terms and Conditions (Appendix A) have been amended to add the following. The Amended TSLAC Terms and Conditions are hereby fully incorporated into this Amendment 2.

2016 TSLAC Terms and Conditions Additions (Appendix A)

- | | |
|---|---|
| 1. Notices | 56. Termination for Convenience |
| 2. Debarred Vendors List | 57. Termination Remedies |
| 3. Duty to Disclose | 58. Survival Terms |
| 7. No Other Benefits | 59. Supporting Documents; Right to Audit;
Independent Audits |
| 8. Prohibited Use of Appropriated or Other Funds
Under Control of State Agency; Lobbying | 62. Insurance & Other Security |
| 10. Confidentiality and Open Records | 60. Workers' Compensation Insurance Coverage |
| 12. No Conflicts | 64. Workers Compensation & Employers Liability |
| 13. Specifications | 65. Vendor Responsibility for Damage to
Government Property |
| 14. Permits, Licenses | 73. Texas Bidder |
| 17. Control; Ownership; Legal Proceedings | 74. Environmental Protection |
| 18. Time Limits | 76. TSLAC Anti-Fraud Policy |
| 20. Payment | 74. Provision for Direct Deposit |
| 26. Liability for Taxes | 79. Disclosure of Security Breach |
| 28. Indemnification | 80. Information Security Requirements |
| 29. Infringements | 81. E-Verify |
| 42. Property Rights | |
| 53. Drug Free Workplace | |

The Library Services and Technology Act (LSTA) Terms and Conditions (Appendix B) have also been revised. The revised LSTA Terms and Conditions are hereby fully incorporated into this Amendment 2.
LSTA Terms and Conditions revised (Appendix B)

THE UNDERSIGNED RECEIVING AGENCY Hereby certifies that (1) services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of State Government; (2) the services, supplies or materials contracted for are not required by Section 21, Article 16, of the Constitution of Texas to be supplied under contract given to the lowest bidder.

Receiving Agency

Performing Agency

Texas State Library and Archives Commission
P.O. Box 12927
Austin, Texas 78711-2927

Amigos Library Services
14400 Midway Road
Dallas, TX 75244-3509

Mark Smith

Bonnie Juergens

Mark Smith
Director and Librarian

Bonnie Juergens
President and Chief Executive Officer.

8/6/15

July 16, 2015

Date

Date

Approved:

Donna Osborne 8/6/15

Donna Osborne
Chief Fiscal Officer

Deborah Littrell 8/6/15

Deborah Littrell
Director of Library Development and Networking

Sara Hayes 8/10/15

Sara Hayes
Project Manager

Christa Ely, CPA, CTC 8-10-15

Purchaser

Date

Appendix A
Texas State Library and Archives Commission
Terms and Conditions

All of the following terms and conditions are hereby made part of this contract with the Texas State Library and Archives Commission (TSLAC) by reference. Submitting a Response with a false statement is a material breach of contract and shall void the submitted Response or any resulting contracts, and the Vendor shall be removed from all bid lists.

Contracts awarded by TSLAC shall be governed by and construed in accordance with the laws of the State of Texas. The federal or state courts of the United State located in Texas shall have jurisdiction to hear any dispute under potential contracts and serviced may be made upon TSLAC by first class mail to its address as set forth herein.

In the events of conflicts or inconsistencies between this Contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the following order of priority: Signed TSLAC Contract, TSLAC Terms and Conditions, Attachments to the Contract, Request for Proposals, and Vendor's Response to Request to Proposals.

1. **Notices.** Unless specifically noted elsewhere in this Contract, any written notices required under this Contract will be either hand delivered to Vendor's office address specified on the signature page of this Contract or to TSLAC's Purchasing Department, 1201 Brazos Street, Room 309, Austin, Texas 78701, or by U.S. Mail, certified, return receipt requested, addressed to the appropriate foregoing address. Notice will be effective on receipt by the affected party. Either party may change the designated notice address by written notification to the other party.
2. **Debarred Vendors List.** Vendor represents and warrants that it 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 government entity and that Vendor is in compliance with the State statues and rules relating to procurement and that Vendor or its subcontractors are not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
3. **Duty to Disclose.** If circumstances change or additional information is obtained regarding any of the representations and warranties, or any other disclosure statements, provided by Vendor subsequent to the date of this Contract, Vendor's duty to disclose continues through the term of this Contract.
4. **Sales and Use Tax.** The TSLAC, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Vendor may be able to claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. Excise Tax Exemption Certificates are available upon request.
5. **Observance of TSLAC Rules and Regulations.** Vendor agrees that at all times its employees will observe and comply with all regulations when accessing the TSLAC facilities, including, but not limited to, parking and security regulations.
6. **Non-Appropriation of Funds.** The State funds are contingent on the availability of lawful appropriates by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing this contract; the order will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments.
7. **No Other Benefits.** Vendor shall have no exclusive rights or benefits other than those set forth herein.
8. **Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying.** Vendor represents and warrants that TSLAC's payment to Vendor and Vendor's receipt of appropriated or other funds under this any resulting Contract are prohibited by Section 556.005 or Section 556.008 of the Texas Government Code.
9. **Public Information Act.** Information, documentation, and other material in connection with this RFP or contract may be subject to public disclosure pursuant to Chapter 552.021 of the Texas Government Code (the "Public Information Act"). Any part of a submitted Response that is of a confidential or proprietary nature must be clearly and prominently marked on each page as such by the Vendor.
10. **Confidentiality and Open Records.** Vendor shall take all necessary and appropriate action to safeguard all sensitive data and other confidential information from unauthorized disclosure. Whenever the transmission of confidential information is necessary, Vendor shall transmit the information electronically, and such electronic transmission shall be secure and the data encrypted, at a minimum, using 128 AES encryption to protect it from unauthorized disclosure.

Notwithstanding any provisions of this Contract to the contrary, Vendor understands that TSLAC will comply with the Texas Public Information Act as interpreted by judicial opinions and opinions of the State's Attorney Genera. Within three (3) days of receipt, Vendor shall refer to TSLAC any third party requests received directly by Vendor for information to

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which Vendor has access as a result of or in the course of performance under this Contract. Vendor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

- 11. Antitrust.** Vendor represents that neither the Vendor nor the company, corporation, partnership, or institution represented by the Vendor, 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 proposal to any other person engaged in such line of business.
- 12. No Conflicts.** Vendor represents and warrants that Vendor has no actual or potential conflicts of interest in providing services to TSLAC under this Contract and that Vendor's provision of services under this Contract would not reasonably create an appearance of impropriety. Without limitation on the foregoing, other disclosures required under this Contract, and other prohibited work provisions of this Contract, Vendor shall, throughout the term of this Contract, comply with and provide all of the following to TSLAC, upon request: a copy of Vendor's most recent audit, if any, together with a full disclosure of any and all internal control weaknesses, if any; disclosure and detailed description of Vendor's most recent peer review, if any, stating the date of the review and irregularities, if any, and concluding comments; disclosure and detailed description of any emerging irregularities, if any, that could materially affect TSLAC's interests; and disclosure and detailed description of how Vendor determines whether Vendor's outside auditors provide consulting or other services to Vendor or Vendor's clients or to TSLAC.
- 13. Specifications.**

The State will not be bound by any oral statement or representation contrary to the written specifications.
- 14. Delivery.**
 - a) Delivery shall be made during normal working hours (8am-5pm, CT), unless prior approval has been obtained from the TSLAC.
 - b) No substitutions permitted without written approval of the TSLAC's Purchasing Dept.
 - c) If delay is foreseen, vendor shall give written notice to the TSLAC. Vendor must keep the TSLAC advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TSLAC to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
- 15. Permits, Licenses.** Vendor represents and warrants that it has obtained all necessary permits, licenses, easements, waivers, and permissions of whatsoever kind required for its performance and the performance of its subcontractors under this Contract.
- 16. Contract Fulfillment.** If federal or state laws or regulations or other federal or state requirements are amended and judicially interpreted so that either party cannot reasonably fulfill this contract, and if the parties cannot agree to an amendment that would enable substantial continuation of the contract, the parties shall be discharged from any further obligations under this contract.
- 17. Control; Ownership; Legal Proceedings.** Vendor shall immediately notify TSLAC in writing of any actual or anticipated change in the control or ownership of Vendor and of any legal or administrative investigations or proceedings initiated against Vendor regardless of the jurisdiction from which such proceedings originate.
- 18. Time Limits.** Time is of the essence in the performance of this Contract. Vendor shall strictly comply with all of the deadlines, requirements, and Standards of Performance for this Contract.
- 19. Inspection and Tests.** All goods will be subject to inspection and test by the State. Authorized TSLAC 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 Response or on samples taken from regular shipments. 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 award.
- 20. Payment.** Payment shall be made in accordance with Texas Prompt Payment Act, Chapter 2251 of Texas Government Code. TSLAC shall not pay any amounts for any purpose to Vendor or any entity, except as expressly provided in the

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Contract. TSLAC reserves the right to make payments only upon receipt of a correct invoice, including all of the required supporting documentation. TSLAC also reserves the right to refuse payments for invoices that exceed the rates specified in the Contract.

- 21. Dispute Resolution.** Unless an applicable state statute or applicable federal law establishes another procedure for the resolution of disputes, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, as further described herein, by TSLAC and the Vendor to attempt to resolve all disputes arising under this contract. Vendor claims for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Texas Government Code. To initiate the process, Vendor shall submit written notice, as required by subchapter B, to the Chief Financial Officer or the designate. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Vendor and the TSLAC otherwise entitled to notice under the parties' contract. Compliance by Vendor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Texas Government Code. The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TSLAC if the parties are unable to resolve their disputes under this Section. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TSLAC nor any other conduct of any representative of TSLAC relating to this contract shall be considered a waiver of sovereign immunity to suit. The submission, processing and resolution of Vendor's claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found in the Texas Administrative Code. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Vendor, in whole or in part.
- 22. Gifts.** The Vendor 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 Response or contract.
- 23. Compensation.** Pursuant to Chapter 2155.004 of the Texas Government Code, the Vendor has not received compensation for participation in the preparation of the specifications for this RFP or contract.
- 24. Certification Regarding Non-Payment of Child Support.** Pursuant to Section 231.006 (d), Family Code, re: child support, the Vendor certifies that the individual or business entity named in this Response 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 Section 231.006 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.
- 25. Eligibility.** Under Chapter 2155.004 of the Texas Government Code, the vendor certifies that the individual or business entity named in this Response 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. Vendor represents and warrants that it is not delinquent in the payment of any franchise taxes owed the State.
- 26. Liability for Taxes.** Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of Vendor or its employees. TSLAC shall not be liable for any such taxes resulting from this Contract.
- 27. HUBs.** Vendor represents and warrants that it shall comply with the Historically Underutilized Business requirements of this Contract.
- 28. Indemnification.** Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUTIS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

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29. **Debt.** Vendor agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas. Vendor shall comply with rules adopted by TSLAC under Sections 403.055, 403.0551, 2252.903 of the Texas Government Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State.
30. **Executive Head of a State Agency.** Pursuant to §669.003, Government Code, the TSLAC may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Proposal, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years.
31. **State Auditor's Clause.** Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditors Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditors Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards.
32. **Infringements.**
- a) Vendor shall indemnify and hold harmless TSLAC and the State of Texas, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, trade and service marks, copyrights, trade secrets or other proprietary rights, and any other intellectual or intangible property rights in connection with the PERFORMANCE OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEY'S FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDEANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.
 - b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to TSLAC's specific instructions, (iv) any intellectual property right owned by or licensed to TSLAC, or (v) any use of the product or service by TSLAC that is not in conformity with the terms of any applicable license agreement.
 - c) If Vendor becomes aware of an actual or potential claim, or TSLAC provides the Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against TSLAC, shall) at Vendor's sole option and expense; (i) procure for the Vendor the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that TSLAC's use is non-infringing.
33. **Patents and Copyrights.** Vendor shall defend and indemnify TSLAC and the State of Texas against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from TSLAC's or Vendor's use of or acquisition of any services or other items provided to TSLAC by Vendor or otherwise to which TSLAC has access as a result of Vendor's performance under this Contract, provided that TSLAC notify Vendor of any such claim within a five (5) working days time of TSLAC's receiving notice of any such claim. If Vendor is notified of any claim subject to this Section, Vendor shall notify TSLAC of such claim within five (5) working days of such notice. If TSLAC determines that a conflict exists between its interests and those of Vendor or if TSLAC is required by applicable law to select separate counsel, TSLAC shall be permitted to select separate counsel, and the actual costs TSLAC's counsel shall be paid by Vendor. No settlement of any such claim shall be made by Vendor without TSLAC's prior written approval. Vendor shall reimburse TSLAC and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs arising from any such claim. Vendor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and claims.
34. **Vendor Assignments.** Vendor hereby assigns an ordering agency 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).

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- 35. 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 and conditions of the Contract, the TSLAC 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.

The TSLAC 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 TSLAC 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 Respondent shall be liable for all costs and expenses, including court costs, incurred by the TSLAC with respect to the enforcement of any of the remedies listed herein.

- 36. Cancellation.** The cancellation of the agreement, under any circumstances whatsoever, shall not effect or relieve Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to this agreement, and such cancellation by TSLAC shall not limit any other right or remedy available to the TSLAC at law or in equity.

- 37. Agreement Amendments.** No modification or amendment to the agreement shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the agreement must be forwarded to the TSLAC Purchasing Department for prior review and approval. Only the contract administrator within the Purchasing Department or his/her designee will be authorized to sign changes or amendments.

- 38. Independent Vendor Status.** Vendor agrees that Vendor and Vendor's employees and agents have no employer-employee relationship with TSLAC. TSLAC shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation insurance payments, or any other insurance payments, nor will TSLAC furnish any medical or retirement benefits, any paid vacation or sick leave.

- 39. Publicity.** Vendor agrees that it shall not publicize this agreement or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of TSLAC's name in connection with any sales promotion or publicity event without the prior express written approval of TSLAC.

- 40. Severability.** If one or more provisions of this agreement, or the application of any provision to any party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of the agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

- 41. No Waiver.** Nothing in this agreement shall be construed as a waiver of the state's sovereign immunity. This agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TSLAC does not waive any privileges, rights defenses, or immunities available to TSLAC by entering into this agreement or by its conduct prior to or subsequent to entering into this agreement.

- 42. Property Rights.** For purposes of this contract, the term "work" is defined as all reports, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. The TSLAC and Vendor intend this contract to be a contract for services, and each considers the work and any and all documentation or other products and results of the services to be rendered by Vendor to be a work made for hire. By execution of a contract for these services, Vendor acknowledges and agrees that the work (and all rights therein) belongs to and shall be the sole and exclusive property of the TSLAC.

If, for any reason, the work would not be considered a work-for-hire under applicable law, Vendor does hereby sell, assign, and transfer to the TSLAC, its successors and assigns, the entire right, title and interest in and to the copyright of the work and any registrations and copyright applications relating thereto, and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and all to rights corresponding to the foregoing. Vendor agrees to execute all papers and to perform such other property rights as the TSLAC may deem necessary to secure for TSLAC or its designee the rights herein assigned.

Copyrightable material made by the Vendor for TSLAC shall be considered work-made-for-hire for TSLAC within the

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meaning of the copyright laws. Vendor shall assign all rights, title and interest in such copyrightable materials to TSLAC. Should this work product prove to be patentable, Vendor will assign all patent rights to TSLAC upon request. TSLAC shall have the right, at its discretion, to keep such work product as a trade secret.

Vendor and Vendor's employees shall have no rights of ownership of the Work and any documentation or other products and results of the services or any other property of TSLAC. Any property or Work not specifically scheduled in this Contract as property of Vendor shall constitute property of TSLAC.

In addition to compliance with the right to examination provisions of the Contract, Vendor must deliver to TSLAC, no later than the forty-eight (48) hours after receipt of TSLAC's written request for same, all completed or partially completed Work and any and all documentation or other products and results of the Services under such Contract. Vendor's failure to timely deliver such Work or any documentation or other products and results of the Services will be considered a material breach of the Contract. With the prior written approval of TSLAC, this forty-eight (48) hour period may be extended for delivery of certain completed or partially completed Work or other such information, if such extension is in the best interest of the State of Texas or TSLAC. If Vendor fails to deliver such Work within forty-eight (48) hours after receipt of written request for same, TSLAC may withhold all payments to Vendor, may withhold all authorization for payment of previously approved and future invoices, may impose liquidated damages of \$1000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. During the transition from any successor of the Vendor, TSLAC may impose liquidated damages of \$2000 rather than \$1000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. These liquidated damages are in addition to other remedies and rights that are applicable or available to TSLAC for such failure or delay under this Contract.

- 43. Acceptance of Products and Services.** All products furnished and all services performed under this agreement shall be to the satisfaction of TSLAC and in accordance with the specifications, terms, and conditions of this contract. TSLAC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.
- 44. Deceptive Trade Practices Act (DTPA).** Vendor represents and warrants that it has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit, and that Vendor has not been found to be guilty of such practices in such proceedings. Vendor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business administrative hearing or court suit, and that such officers have not been found to be guilty of such practices in such proceedings.
- 45. Immigration.** Vendor represents and warrants that it will comply with the requirements of the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 ("Immigration Act"), and the Illegal Reform and Immigrant Responsibility Act of 1996 ("IRIRA") regarding employment verification and retention of verification forms for any individuals hired who will perform any labor or services under this Contract. Vendor also represents and warrants that it shall comply with the requirements of the Immigration Act regarding creation of the lottery system for granting visas and IRIRA which created three (3) year, ten (10) year and permanent bars to entrance into the United States.
- 46. Criminal Conviction Certification.** The Vendor represents and warrants that Vendor has not and Vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Vendor has fully advised TSLAC as to the facts and circumstances surrounding the conviction. Vendor has a continuing duty to amend, supplement or correct this representation and warranty not later than ten (10) days after discovering additional information relating to felony criminal convictions of Vendor or any of its employees. Vendor shall not allow any employee convicted of a felony criminal offense to perform tasks related to the contract without such disclosure and express permission from TSLAC.
- 47. Subcontracting.** It is contemplated by the parties hereto that the Vendor shall conduct the performances provided by this contract substantially with its own resources and through the services of its own staff. In the event the Vendor should determine that it is necessary or expedient to subcontract for any of the performances specified herein, the Vendor shall subcontract for such performances only after the Vendor has transmitted to TSLAC a true copy of the subcontract the Vendor proposes to execute with a subcontractor and has obtained TSLAC's written approval for subcontracting the subject performance in advance of executing a subcontract. The Vendor, in subcontracting for any products or performances specified herein, expressly understands and acknowledges that in entering into such subcontracting(s), TSLAC is in no manner liable to any subcontractor(s) of the Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the finished products and/or services rendered under all subcontracts are rendered so as to comply with all terms of this contract.
- 48. Assignment.** The Vendor will not assign its rights under this contract or delegate the performance of its duties under this contract without prior written approval from TSLAC.

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- 49. Accessibility.** TSLAC is required to follow Texas Administrative Code, Title 1, Part 10, Chapter 206, Accessibility and Usability of State Web Sites, Texas Administrative Code, Title 1, Part 10, Chapter 213, and the Federal Section 508, Accessibility Standards.

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- 50. Ethics.** Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Chapter 2155.003 of the Texas Government Code. The Rule outlines the ethical standards required of public purchaser, employees, and vendors who interact with public purchasers in the conduct of state business. Specifically, a TSLAC employee may not have an interest in, or in any manner be connected with a contract or RFP 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. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TSLAC or purchasers of other state agencies.
- 51. Convictions in connection with Hurricane Katrina, Hurricane Rita, and subsequent disasters.** Per Senate Bill 608, 80th Legislative Session, TSLAC will not accept Responses, nor award contracts to persons convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Katrina, Hurricane Rita, and subsequent disasters.
- 52. Equal Opportunity.** Vendor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age and disability in the performance of awards.
- 53. Drug Free Workplace.** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 54. Force Majeure.** Neither Vendor nor TSLAC shall be liable to the other for any delay in, or failure of performance, of any requirement included in any award resulting from a RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- 55. Termination.** Vendor shall have the right to terminate contracts awarded from this Contract upon a material breach of its terms by TSLAC, which are not cured within thirty (30) days of written notice. If Vendor (a) terminates or suspends its business (b) becomes subject to any bankruptcy or insolvency proceeding under any Federal or State statute or (c) becomes or subject to direct control by a trustee, receiver, or similar authority, TSLAC may, in addition to its other legal rights and remedies, terminate this agreement on seven (7) days notice to Vendor. Upon such termination, Vendor will offer TSLAC a prorated refund or subscription fee.

In the event that the Contract is terminated for any reason, or upon its expiration, the TSLAC shall retain ownership of all associated work products and documentation obtained from the Vendor under the Contract.

- 56. Termination for Convenience.** TSLAC reserves the right, in its sole discretion, to terminate the Contract on thirty (30) days written notice to the Vendor. TSLAS also reserves the right, in its sole discretion, to terminate the Contract immediately, with written notice to the Vendor, if it is in the best interests of TSLAC or the State.
- 57. Termination Remedies.** Upon an Event of Default, TSLAC, without limiting any other rights or remedies it may have by law, equity, or under this Contract, will have the right to institute an action for actual damages and/or injunctive relief and/or to terminate the Contract immediately. TSLAC's termination of this Contract shall not limit or waive any remedies TSLAC may have for breach by Vendor of its past, present, or future duties and obligations created by this Contract or otherwise required by applicable law.

All remedies available to TSLAC for breach or anticipatory breach of this Contract by Vendor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunction relief and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

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- 58. Survival of Terms.** Termination of this Contract for any reason shall not release the Vendor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
- 59. Supporting Documents; Right to Audit; Independent Audits.** Vendor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable TSLAC and State of Texas requirements. Vendor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Vendor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TSLAC, State of Texas or their authorized representatives. Vendor shall cooperate with auditors and other authorized TSLAC and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TSLAC or the State of Texas. By example, and not as an exclusion to other breaches or failures, Vendor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize TSLAC to immediately assess liquidated damages as described in Section 29 of Appendix C for such failure. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in the RFP. TSLAC may require, at Vendor's sole cost and expense, independent audits by a qualified certified public accounting firm of Vendor's books and records or the State's property. The independent auditing shall provide TSLAC with a copy of such audit at the same time it is provided to Vendor. TSLAC retains the right to issue the request for Statement of Qualifications for the services of an independent certified public accounting firm under this Contract. In addition to and without limitation on the other audit provisions of this Contract, pursuant to Section 2262.003 of the Texas Government Code, the state auditor may conduct an audit or investigation of Vendor 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 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, Vendor 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 Contract may be amended unilaterally by TSLAC to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.003. Under procedures provided by the state auditor on September 5, 2003, in addition to the above, (1) Vendor understands that the acceptance of funds under this Contract acts as acceptance of the authority of the state auditor to conduct an audit or investigation in connection with those funds; (2) Vendor further agrees to cooperate fully with the state auditor in the conduct of the audit or investigation, including providing all records requested; (3) Vendor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards; and (4) the state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Vendor relating to this Contract
- 60. Limitation on Authority; No Other Obligations.** Vendor shall have no authority to act for or on behalf of TSLAC or the State of Texas except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TSLAC.
- 61. Records Retention.** Vendor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Vendor shall maintain all such documents and other records relating to this Contract and the State's property until December 31, 2021.
- 62. Insurance & Other Security.** Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current written certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage:
- a) Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract;
 - b) Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate.
 - c) Professional Liability Insurance: \$500,000 minimum each occurrence limit; \$1,000,000 minimum aggregate limit.

Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.

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63. Workers' Compensation Insurance Coverage.

a) Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- c) The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- d) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- e) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f) The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- g) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4) obtain from each other person with whom it contracts, and provide to the contractor:
 - i. a certificate of coverage, prior to the other person beginning work on the project; and
 - ii. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

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- 5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- j) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.
- l) VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TSLAC AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.
- m) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS TSLAC, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE TSLAC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

64. Workers Compensation & Employers Liability. Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage: must maintain Workers' Compensation insurance coverage in accordance with statutory limits as follows:

- a) Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract
- b) Commercial General Liability Insurance, Occurrence based:
 - Bodily injury and Property Damage
 - Each Occurrence limit: \$1,000,000
 - Aggregate limit: \$2,000,000
 - Medical Expense each person: \$5,000
 - Personal Injury & Advertising Liability: \$1,000,000
 - Products/Completed Operations Aggregate Limit: \$2,000,000
 - Damage to Premise Rented to You: \$50,000
- c) Professional Liability Insurance: \$500,000 minimum each occurrence limit; \$1,000,000 minimum aggregate limit
- d) Employers Liability: Each Accident \$1,000,000
- e) Disease – Each Employee: \$1,000,000
- f) Disease – Policy Limit: \$1,000,000

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Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.

- 65. Vendor Responsibility for Damage to Government Property.** The Vendor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Vendor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Vendor shall notify the TSLAC Project Manager in writing of any such damage within one (1) calendar day.
- 66. Vendor Performance.** The TSLAC may monitor the performance of the Contract issued under this RFP. All services and goods under the Contract shall be performed at an acceptable service levels and in a manner consistent with acceptable industry standards, custom, and practice. The Vendor will receive a paper copy of this report, as well as an e-mailed copy. The TSLAC will provide a sample of the Vendor Performance Report upon request.
- 67. Change Management.** Vendor shall assign only qualified personnel to this Contract. Vendor, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the tasks and services required. Vendor shall provide to TSLAC prior written notice of any proposed change in key personnel involved in providing services under this Contract. Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of the Vendor. No subcontract under the Contract shall relieve the Vendor of responsibility for ensuring the requested services are provided. If Vendor uses a subcontractor for any or all of the work required, the following conditions shall apply: a) Vendors planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors. b) Subcontracting shall be solely at Vendor's expense. c) TSLAC retains the right to check subcontractor's background and approve or reject the use of submitted subcontractors. d) Vendor shall be the sole contact for TSLAC. Vendor shall list a designated point of contact for all TSLAC inquiries.
- 68. Federal, State, and Local Requirements.** Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Vendor is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Vendor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Vendor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Vendor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of this Section.
- 69. Applicable Law & Conforming Amendments.** Vendor must comply with all laws, regulations, requirements and guidelines applicable to a Vendor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TSLAC reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TSLAC or Vendor's compliance with all applicable State and federal laws, and regulations.
- This Contract may be amended only upon written agreement between TSLAC and Vendor; however, this Contract may not be amended so as to make it conflict with the laws of the State. TSLAC may issue Purchase Order Change Notices for ordering and tracking purposes consistent with this Contract provided such Purchase Order Change Notices reference the Contract.
- 70. No Liability Upon Termination.** If this Contract is terminated for any reason, TSLAC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Vendor may be entitled to the remedies provided in Government Code, Chapter 2260. Vendor or Vendor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing services under any Contract resulting from this RFP. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of TSLAC. Should Vendor subcontract any of the services required in this RFP, Vendor expressly understands and acknowledges that in entering into such subcontract(s), TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this RFP.
- 71. Independent Vendor.** Vendor or Vendor's employees, representatives, agents, and any subcontractors shall serve as an independent contracting in providing services under any PO. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of the TSLAC. Should Vendor subcontract any of the services required, Vendor

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expressly understands and acknowledges that in entering into such subcontract(s), the TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with the specifications.

72. **Buy Texas.** Vendor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.
73. **Texas Bidder.** Vendor represents and warrants that if a Texas address is shown as the address of Vendor, then Vendor qualifies as a Resident Bidder as defined by Section 2155.444 of the Texas Government Code. This term is not applicable when Federal funds are used.
74. **Environmental Protection.** The Vendor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).
75. **Recovered Materials.** Contractors must comply with Section 6002 of the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items that contain the highest percentage of recovered materials practicable, as designated in the guidelines of the Environmental Protection Agency (EPA) at 40 Code of Federal Regulations (CFR) Part 247.
76. **TSLAC Anti-Fraud Policy.** Vendor represents and warrants that it has read and understood and shall comply with the Comptroller of Public Account's Anti-Fraud Policy located on the Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of this Contract.
77. **Electronic and Information Resources Accessibility Standards.** As Required by 1 Texas Administrative Code Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only) 1) Effective September 1, 2006 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 Texas Administrative Code Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. 2) Vendor shall provide TSLAC 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 TSLAC 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/>.
78. **Provision for Direct Deposit.** The electronic funds transfer ("EFT") provisions of Texas law were codified in Section 403.016 of the Texas Government Code. Depending on eligibility under the law, certain payments from the State may be directly deposited into Vendor's bank account or may be made by warrant. If Vendor is eligible for direct deposit and wishes to be paid by direct deposit, Vendor must complete the form title "Vendor Direct Deposit Authorization" and return it as soon as possible to: Texas State Library & Archives Commission, Attention: Accounting, PO Box 12516 Austin, Texas 78711.

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- 79. Disclosure of Security Breach.** Vendor shall provide notice to the Purchasing Department, Purchasing Manager at (512) 936-2774 or purchasing@tsl.texas.gov within twenty-four (24) hours of Vendor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or confidential TSLAC information ("Security Incident"). Within twenty-four (24) hours of the notification of a Security Incident, Vendor shall provide a written report to TSLAC's Purchasing Manager detailing the circumstances of the incident, which includes at a minimum:
- a) A description of the nature of the Security Incident;
 - b) The type of TSLAC information involved;
 - c) Who may have obtained TSLAC information;
 - d) What steps Vendor has taken or will take to investigate the Security Incident;
 - e) What steps Vendor has taken or will take to mitigate any negative effect of the Security Incident; and
 - f) A point of contact for additional information.

Each day thereafter until the investigation is complete, Vendor shall provide TSLAC's Purchasing Manager with a written report regarding the status of the investigation and the following additional information as it becomes available:

- a) Who is known or suspected to have gained unauthorized access to TSLAC information;
- b) Whether there is any knowledge if TSLAC information has been abused or compromised;
- c) What additional steps Vendor has taken or will take to investigate the Security Incident;
- d) What steps Vendor has taken or will take to mitigate any negative effect of the Security Incident; and
- e) What corrective action Vendor has taken or will take to prevent future similar unauthorized use or disclosure.

Vendor shall confer with TSLAC's Purchasing Manager regarding the proper course of the investigation and risk mitigation. TSLAC reserves the right to conduct an independent investigation of any Security Incident, and should TSLAC choose to do so, Vendor shall cooperate fully by making resources, personnel, and systems access available to TSLAC and TSLAC's authorized representative(s). Subject to review and approval of TSLAC, Vendor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If TSLAC, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to TSLAC by Vendor. If Vendor does not reimburse such costs within thirty (30) days of TSLAC's written request, then TSLAC shall have the right to collect such costs.

80. Information Security Requirements.

- a) Vendor shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security pertaining to TSLAC confidential information.
- b) Access to sensitive or confidential TSLAC information. Vendor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard sensitive or confidential TSLAC information and to protect it from unauthorized disclosure. If communications with Vendor necessitate the release of confidential TSLAC information, the Confidential Treatment of Information Acknowledgement form (CTIA) must be signed by each individual who will require access to or may be exposed to that information. Vendor shall access TSLAC's systems and sensitive or confidential TSLAC information only for the purposes for which it is authorized.

Vendor shall ensure that any sensitive or confidential TSLAC information in the custody of Vendor is properly sanitized or destroyed when the information is no longer required to be retained by TSLAC or Vendor in accordance with this agreement. Electronic media used for storing any confidential TSLAC information must be sanitized by clearing, purging or destroying in accordance with NIST Special Publication 800-88 Guidelines for Media Sanitization. Vendor must maintain a record documenting the removal and completion of all sanitization procedures with the following information:

- 1) Date and time of sanitization/destruction,
- 2) Description of the item(s) and serial number(s) if applicable,
- 3) Inventory number(s), and
- 4) Procedures and tools used for sanitization/destruction.

No later than sixty (60) days from contract expiration or termination or as otherwise specified in this agreement,

Vendor must complete the sanitization and destruction of the data and provide to TSLAC all sanitization documentation.

Vendor shall not access, process, store or transmit IRS Federal Taxpayer Information unless expressly authorized by

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this agreement. Vendor shall comply with IRS Publication 1075 requirements if it accesses, processes, stores, or transmits IRS Federal Taxpayer Information.

- c) Access to Internal TSLAC Network and Systems. As a condition of gaining remote access to any internal TSLAC network and systems, Vendor must comply with TSLAC's policies and procedures. TSLAC's remote access request procedures will require Vendor to submit a Remote Access Request form for TSLAC's review and approval. Remote access technologies provided by Vendor must be approved by TSLAC's Information Security Officer. Individuals shall not access internal TSLAC network and systems from outside the United States. Individuals who are provided with access to TSLAC network or systems will be required to participate in TSLAC's Security Awareness Training on an annual basis. The State and TSLAC's Fiscal Year begins on September 1 and ends on August 31. Vendor shall maintain records of all individuals who have completed TSLAC-required training for the duration of the individual's employment with Vendor, plus five years. Upon TSLAC's written request, Vendor shall provide copies of the certificates of completion for TSLAC's Security Awareness Training. On November 1st of each year, Vendor shall submit a list to TSLAC which identifies all individuals who have current access to TSLAC network or systems as well as the most recent training completion date for each individual. TSLAC, in its sole discretion, may deny network or system access to any individual that does not complete TSLAC-required training within thirty (30) calendar days following the date of TSLAC's grant of access under this Contract.
- d) TSLAC reserves the right to audit the security measures in effect on Vendor's connected systems without prior warning. Vendor must secure its own connected systems in a manner consistent with an auditable information security framework. TSLAC's audit can consist of a review of third party audit results of Vendor's security measures (e.g., SSAE-16 Type II, ISO 27002 assessment). TSLAC also reserves the right to immediately terminate network and system connections not meeting such requirements.
- e) TSLAC data shall not be accessed from, stored at or transported to locations outside of the United States.
- f) Where applicable, encryption shall conform to or exceed Federal Information Processing Standard (FIPS) 140-2:
 - 1) Backup media containing TSLAC data shall be encrypted at all times.
 - 2) Transmission of TSLAC data across public networks shall be protected by encryption methods such as Virtual Private Network ("VPN"), Secure Shell File Transfer Protocol ("SFTPS"), or File Transfer Protocol over SSL/TLS ("FTPS").
- g) If Vendor is a software manufacturer, then Vendor represents and warrants that it has implemented processes for the protection, detection, remediation, mitigation and timely customer notification of software vulnerabilities associated with its software provided under this agreement.

81. E-Verify. By entering into a Contract, the Vendor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- a) All persons employed to perform duties within Texas, during the Term of the Contract; and
- b) All persons (including subcontractors) assigned by the Vendor to perform work pursuant to the Contract, within the United States of America.

The Vendor shall provide, upon request of the Texas State Library & Archives Commission, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Vendor, and Vendor's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the State, with no prior notification. The Vendor shall also be responsible for the costs of any re-solicitation that the State must undertake to replace the terminated Contract.

Appendix B
Texas State Library and Archives Commission
Library Services and Technology Act (LSTA) - Terms and Conditions

I. GENERAL TERMS AND CONDITIONS

- A. The Vendor will comply with the following parts of the Texas Comptroller of Public Accounts UGMS revised June 2004, located at:
<http://www.window.state.tx.us/procurement/catrad/ugms.pdf>
- B. The Vendor will comply with Grant Reform 2 CFR Parts §200 and §3187.
- C. Vendor will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, religion or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of disability and the Americans With Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- D. The Vendor, *if a private entity*, will comply with Federal law pertaining to trafficking in persons. Vendor and its employees may not
1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the award.
- E. The Vendor certifies by this contract that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, 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 making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid for such purpose, the Vendor shall complete and submit OMB form SF-LLL, Disclosure of Lobbying Activities, in accordance with its instructions. The Vendor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including

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Texas State Library and Archives Commission
Library Services and Technology Act (LSTA) - Terms and Conditions

subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all Vendors shall certify and disclose accordingly, as specified in Title 31 U.S. Code, Sec. 1352.

- F. Vendor's authorized representative certifies to the best of his or her knowledge and belief that neither Vendor nor any of its principals (a) are presently excluded or disqualified; (b) have been convicted within the preceding three years of any of the offenses listed in 2 CFR Part §180.800(a) or had a civil judgment rendered against it or them for one of those offenses within that time period; (c) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in 2 CFR §180.800 (a); or (d) have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default. Where the Vendor is unable to certify to any of the statements in this certification, the Vendor shall attach an explanation to these Terms and Conditions.
- G. Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the Texas State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by Sub-Contractors through Vendor, and the requirement to cooperate, is included in any sub-grant awarded.
- H. The Vendor agrees to main all financial and programmatic records, supporting documents, statistical records, and other records relating to this grant award for three year after the last State Program Report for the Texas LSTA 5-Year Plan 2013-2017, is submitted on December 31, 2018. The Contractor will maintain their records through December 31, 2021.
- I. The Vendor agrees to develop or revise, as necessary, any specific written documentation of its current procedures for (1) collecting and reporting performance measures; (2) conducting a fixed asset inventory; and or, (3) any other issues identified in Vendor's internal audit report or grant activities. Drafts of this procedural documentation will be submitted to TSLAC by dates established mutually between TSLAC and Vendor. TSLAC will provide review and guidance to enable final versions to be approved on or before established deadlines.
- J. Vendor may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. Vendor understands that the federal awarding agency, IMLS, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use; and to authorize others to use, for Federal purposes (2 CFR §200.315).
- K. Vendor will, with guidance from the TSLAC, properly acknowledge the federal awarding agency, IMLS, on TSLAC branded subscribed resources and materials.

II. ENFORCEMENT

- A. Remedies for noncompliance. If Vendor materially fails to comply with any term of the contract, whether stated in a state or federal statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, TSLAC may take one or more of the following actions, or impose other sanctions, as appropriate in the circumstances:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the Vendor, or more severe enforcement action by TSLAC;

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2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the current contract for the Vendor's program;
 4. Withhold further awards for the program; or
 5. Take other remedies that may be legally available.
- B. Hearings, appeals. In taking an enforcement action, TSLAC will provide the Vendor an opportunity for such hearing, appeal, or other administrative proceeding to which the Vendor is entitled under any statute or regulation applicable to the action involved.
- C. Effects of suspension and termination. Costs of Vendor resulting from obligations incurred by the Vendor during a suspension or after termination of an award are not allowable unless TSLAC expressly authorized in the notice of suspension or termination, or subsequently. Other Vendor costs during suspension or after termination that are necessary, and not reasonably avoidable, are allowable if:
1. The costs resulting from obligations that were properly incurred by the Vendor before the effective date of suspension or termination are not in anticipation of it and, in the case of a termination, are non-cancelable; and,
 2. The costs would be allowable if the award were not suspended, or expired normally at the end of the funding period in which the termination takes effect.
- D. Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude Vendor from being subject to "Debarment and Suspension" under Executive Order 12549 (see UGMS Part III, Subpart C, Sec 35) and state law.



July 9, 2015

Attachment A

Ms. Sara Hayes
Interlibrary Loan Program Coordinator
Library Development and Networking Division
Texas State Library and Archives Commission
1201 Brazos, Austin TX 78701
512-463-5406

RE: TSLAC Contract #306-14-8000

Dear Sara,

Thank you for your selection of Amigos Library Services to serve as the TExpress courier service vendor. Your services will renew on September 1, 2015. New pricing for the September 1, 2015 – August 31, 2016 service period is provided below.

The basic fee schedule for service is:

\$5,150/site for five-days-per-week service
\$3,500/site for three-days-per-week service
\$2,675/site for two-days-per-week service

Sites previously participating in the TExpress program and receiving subsidies (included with this attachment) will receive subsidies as follows:

\$850/site for five-days-per-week service
\$700/site for three-days-per-week service
\$428/site for two-days-per-week service

The TSLAC total amount for the program year is \$131,738. Upon approval from TSLAC, any leftover funds at the end of the fiscal year will be used to purchase courier bags for the TExpress program.

Please sign and date the signature line below and return to:

Amigos Library Services
14400 Midway Road
Dallas, TX 75244-3509

The Texas State Library and Archives Commission is renewing Contract #306-14-8000 for the program year 2016 (September 1, 2015 – August 31, 2016) and accepts the rates stated above.

Ms. Sara Hayes
July 9, 2015
Page 2

Amigos appreciates this opportunity to work with TSLAC and looks forward to serving TExpress libraries in the coming year. Please let me know if you have any questions about this renewal proposal or require further information.

Sincerely,

Bonnie Juergens
President and C.E.O.

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

By: _____

Name: _____

Title: _____

Date: _____

CTPM

Date

Chief Financial Officer

Date

Division Director

Date

Project Manager

Date

TExpress Libraries to Receive Subsidies in FY2016

Service Period : 09/01/2015 - 08/31/2016

Customer ID	LOC #	INSTITUTION/LIBRARY	Start Date for FY2016 CONTRACT	SUBSIDY AMOUNT	SERVICE LEVEL
TXAHM	9248	A.H. Meadows Public Library	09/01/15	\$ 428.00	2-day service
TXC	36	Abilene Library Consortium	09/01/15	\$ 850.00	5-day service
TXB	155	Abilene Public Library	09/01/15	\$ 850.00	5-day service
TOP	95	Allen Public Library	09/01/15	\$ 700.00	3-day service
2NT	8801	Alvarado Public Library	09/01/15	\$ 428.00	2-day service
TAP	156	Amarillo Public Library	09/01/15	\$ 428.00	2-day service
TAM	27	Amberton University	09/01/15	\$ 428.00	2-day service
ANG	19	Angelo State University	09/01/15	\$ 700.00	3-day service
AR9	98	Arlington Public Library	09/01/15	\$ 428.00	2-day service
2NT	8802	Aubrey Area Library	09/01/15	\$ 428.00	2-day service
IAU	37	Austin College	09/01/15	\$ 700.00	3-day service
TXG	153	Austin Public Library	09/01/15	\$ 700.00	3-day service
IYU	80	Baylor University	09/01/15	\$ 850.00	5-day service
TJX	130	Beaumont Public Library	09/01/15	\$ 700.00	3-day service
BELLA	9299	Bellaire City Library	09/01/15	\$ 428.00	2-day service
2NT	8809	Betty Foster Public Library	09/01/15	\$ 428.00	2-day service
YT7	56	Blinn College	09/01/15	\$ 700.00	3-day service
T7B	137	Brazoria County Library System	09/01/15	\$ 850.00	5-day service
2NT	8803	Bridgeport Public Library	09/01/15	\$ 428.00	2-day service
BCSPL	207	Bryan-College Station Public Library	09/01/15	\$ 428.00	2-day service
XZ9	176	Butt-Holdsworth Memorial Library	09/01/15	\$ 700.00	3-day service
T7A	115	Carrollton Public Library	09/01/15	\$ 428.00	2-day service
CASPL	172	Castroville Public Library	09/01/15	\$ 428.00	2-day service
COLBT	361	Colleyville Public Library	09/01/15	\$ 428.00	2-day service
CQC	86	Collin County Community College District	09/01/15	\$ 700.00	3-day service
CCA	152	Corpus Christi Public Library	09/01/15	\$ 428.00	2-day service
TXCRP	9211	Corsicana Public Library	09/01/15	\$ 428.00	2-day service
2NT	8804	Crowley Public Library	09/01/15	\$ 428.00	2-day service
IDA	84	Dallas Baptist University	09/01/15	\$ 850.00	5-day service
TDJ	26	Dallas County Community College District	09/01/15	\$ 850.00	5-day service
IGA	39	Dallas Public Library	09/01/15	\$ 700.00	3-day service
2NT	8805	Decatur Public Library	09/01/15	\$ 428.00	2-day service
DEERP/DEPPL	9297	Deer Park Public Library	09/01/15	\$ 428.00	2-day service

CDM	7	Del Mar College	09/01/15	\$ 428.00	2-day service
QS3	151	Denton Public Library	09/01/15	\$ 850.00	5-day service
TXENN	9218	Ennis Public Library	09/01/15	\$ 428.00	2-day service
T7X	88	Eules Public Library	09/01/15	\$ 700.00	3-day service
T7F	89	Farmers Branch Manske Public Library	09/01/15	\$ 700.00	3-day service
AM0023	195	Flower Mound Public Library	09/01/15	\$ 700.00	3-day service
FTX	129	Fort Bend County, George Memorial Library	09/01/15	\$ 850.00	5-day service
IFA	42	Fort Worth Public Library	09/01/15	\$ 850.00	5-day service
QS4	201	Friendswood Public Library	09/01/15	\$ 850.00	5-day service
9FP	350	Frisco Public Library	09/01/15	\$ 700.00	3-day service
G4Z	9296	Gatesville Public Library	09/01/15	\$ 700.00	3-day service
TXGIL	9287	Gilbreath Memorial Library	09/01/15	\$ 428.00	2-day service
TXGPM	9226	Grand Prairie Public Library System	09/01/15	\$ 428.00	2-day service
9GV	352	Grapevine Public Library	09/01/15	\$ 428.00	2-day service
HT#	78	Harris County Public Library	09/01/15	\$ 850.00	5-day service
T7L	203	Helen Hall Public Library	09/01/15	\$ 850.00	5-day service
9HP	200	Hitchcock Public Library	09/01/15	\$ 428.00	2-day service
AM0854	173	Hondo Public Library	09/01/15	\$ 428.00	2-day service
T3Q	415	Hood County Library	09/01/15	\$ 700.00	3-day service
TMC	44	Houston Academy of Medicine	09/01/15	\$ 850.00	5-day service
TWH	136	Houston Baptist University	09/01/15	\$ 428.00	2-day service
THC	55	Houston Community College System	09/01/15	\$ 428.00	2-day service
TXN	143	Houston Public Library	09/01/15	\$ 850.00	5-day service
HPU	31	Howard Payne university	09/01/15	\$ 700.00	3-day service
T8H	144	Huntsville Public Library	09/01/15	\$ 428.00	2-day service
QS6	9292	Hurst Public Library	09/01/15	\$ 700.00	3-day service
IJC	116	Irving Public Library System	09/01/15	\$ 850.00	5-day service
TXJPL	9234	Jacksonville Public Library	09/01/15	\$ 428.00	2-day service
9JP	128	Jasper Public Library	09/01/15	\$ 428.00	2-day service
BNR	9302	Joe Barnhart Bee County Library	09/01/15	\$ 428.00	2-day service
2NT	9290	Justin Community Library	09/01/15	\$ 428.00	2-day service
9KP	111	Keller Public Library	09/01/15	\$ 428.00	2-day service
KTX	73	Kilgore College	09/01/15	\$ 850.00	5-day service
2NT	8807	Krum Public Library	09/01/15	\$ 428.00	2-day service
2NT	8808	Lake Cities Library	09/01/15	\$ 428.00	2-day service
TXR	40	Lamar University - Beaumont	09/01/15	\$ 850.00	5-day service
9LQ	205	La Marque Public Library	09/01/15	\$ 428.00	2-day service
TLJ	310	Laredo Community College	09/01/15	\$ 428.00	2-day service
DB\$	182	Laredo Public Library	09/01/15	\$ 428.00	2-day service
YU2	177	Leon Valley Public Library	09/01/15	\$ 428.00	2-day service

TLT	149	LeTourneau University	09/01/15	\$ 700.00	3-day service
LVF	118	Lewisville Public Library	09/01/15	\$ 850.00	5-day service
TXLEC	194	Little Elm Public Library	09/01/15	\$ 428.00	2-day service
FT6	250	Longview Public Library	09/01/15	\$ 850.00	5-day service
TXL	157	Lubbock City County Library	09/01/15	\$ 850.00	5-day service
9MB	204	Mae S. Bruce Library	09/01/15	\$ 428.00	2-day service
MPLBT	185	Mansfield Public Library	09/01/15	\$ 428.00	2-day service
MARES	206	Mares Memorial Library (Now Dickinson Public Library)	09/01/15	\$ 700.00	3-day service
TXMAL	9243	Marshall Public Library	09/01/15	\$ 428.00	2-day service
TY7	302	Mayor Joe V. Sanchez Public Library	09/01/15	\$ 428.00	2-day service
TME	179	McAllen Memorial Public Library	09/01/15	\$ 700.00	3-day service
M\$K	9245	McKinney Memorial Public Library	09/01/15	\$ 428.00	2-day service
MCY	190	Midland County Public Library	09/01/15	\$ 850.00	5-day service
TMI	21	Midwestern State University	09/01/15	\$ 850.00	5-day service
QS2	132	Montgomery County Memorial Library System	09/01/15	\$ 850.00	5-day service
YU6	202	Moore Memorial Public Library	09/01/15	\$ 850.00	5-day service
TXMPP	9250	Mount Pleasant Public Library	09/01/15	\$ 428.00	2-day service
N9G	25	Navarro College	09/01/15	\$ 850.00	5-day service
TXNBP	9254	New Boston Public Library	09/01/15	\$ 428.00	2-day service
D9M	174	New Braunfels Public Library	09/01/15	\$ 700.00	3-day service
NET	92	Nicholson Memorial Library System	09/01/15	\$ 700.00	3-day service
TZN	24	North Central Texas College	09/01/15	\$ 428.00	2-day service
NHA	59	North Harris Montgomery CCD (Lone Star)	09/01/15	\$ 850.00	5-day service
TJT	114	North Richland Hills Public Library	09/01/15	\$ 850.00	5-day service
NTX	198	Northeast Texas Community College	09/01/15	\$ 428.00	2-day service
SAT	66	Our Lady of the Lake University	09/01/15	\$ 850.00	5-day service
TZP	76	Panola College	09/01/15	\$ 700.00	3-day service
PPLBT	9257	Paris Public Library	09/01/15	\$ 428.00	2-day service
UHC	9291	Pearland Campus - University of Houston at Clear Lake	09/01/15	\$ 700.00	3-day service
PLS	91	Plano Public Library	09/01/15	\$ 850.00	5-day service
PVA	142	Prairie View A&M University	09/01/15	\$ 700.00	3-day service
RCE	140	Rice University	09/01/15	\$ 850.00	5-day service
YT2	113	Richardson Public Library	09/01/15	\$ 700.00	3-day service
T3V	9289	Rita & Truett Smith Public Library	09/01/15	\$ 428.00	2-day service
2NT	8810	Roanoke Public Library	09/01/15	\$ 428.00	2-day service
RKWLC	9264	Rockwall County Public Library	09/01/15	\$ 428.00	2-day service
RV8	79	Rosenburg Library	09/01/15	\$ 850.00	5-day service

QT4	93	Round Rock Public Library	09/01/15	\$ 428.00	2-day service
T7R	9265	Rowlett Public Library	09/01/15	\$ 428.00	2-day service
YT3	121	Rusk County Library	09/01/15	\$ 850.00	5-day service
TXSAC	9268	Sachse Public Library	09/01/15	\$ 428.00	2-day service
2NT	8811	Saginaw Public Library (John Ed Keeter)	09/01/15	\$ 428.00	2-day service
SHH	48	Sam Houston State University	09/01/15	\$ 850.00	5-day service
SNC	67	San Antonio College (site for Alamo Community College District)	09/01/15	\$ 428.00	2-day service
SAP	154	San Antonio Public Library	09/01/15	\$ 850.00	5-day service
SJY	54	San Jacinto College - Central Campus	09/01/15	\$ 850.00	5-day service
2NT	8812	Sanger Public Library	09/01/15	\$ 428.00	2-day service
TXSCH	9293	Schertz Public Library	09/01/15	\$ 428.00	2-day service
SUA	104	Schreiner University	09/01/15	\$ 700.00	3-day service
TJZ	171	Seguin-Guadalupe County Public Library	09/01/15	\$ 428.00	2-day service
QT6	9271	Sherman Public Library	09/01/15	\$ 428.00	2-day service
PBF	8	South Texas Community College	09/01/15	\$ 700.00	3-day service
ISM	35	Southern Methodist University	09/01/15	\$ 850.00	5-day service
TSW	38	Southwestern Baptist Theological Seminary	09/01/15	\$ 850.00	5-day service
TXX	4	Southwestern University	09/01/15	\$ 850.00	5-day service
AM0001	301	Speer Memorial Library	09/01/15	\$ 700.00	3-day service
EDX	3	St. Edward's University	09/01/15	\$ 850.00	5-day service
SNM	170	St. Mary's University	09/01/15	\$ 850.00	5-day service
TXK	70	Stephen F. Austin State University	09/01/15	\$ 850.00	5-day service
TJY	127	Sterling Municipal Library	09/01/15	\$ 700.00	3-day service
SUR	122	Sul Ross State University	09/01/15	\$ 850.00	5-day service
TTS	20	Tarleton State University	09/01/15	\$ 850.00	5-day service
TCJ	90	Tarrant County College	09/01/15	\$ 428.00	2-day service
DB@	96	Terrell Public Library	09/01/15	\$ 700.00	3-day service
RKA	123	Texarkana Public Library	09/01/15	\$ 428.00	2-day service
TXA	41	Texas A&M - College Station	09/01/15	\$ 850.00	5-day service
IEA	12	Texas A&M - Commerce	09/01/15	\$ 850.00	5-day service
TXF	5	Texas A&M - Corpus Christi	09/01/15	\$ 850.00	5-day service
TAG	148	Texas A&M - Galveston	09/01/15	\$ 700.00	3-day service
TLS	61	Texas A&M - International	09/01/15	\$ 850.00	5-day service
TAI	6	Texas A&M - Kingsville	09/01/15	\$ 850.00	5-day service
TAMSA	9301	Texas A&M - San Antonio	09/01/15	\$ 700.00	3-day service
IET	117	Texas A&M - Texarkana	09/01/15	\$ 850.00	5-day service
TXJLF	209	Texas A&M University System/University of Texas System Joint Library Facility	09/01/15	\$ 850.00	5-day service

ICU	28	Texas Christian University	09/01/15	\$ 850.00	5-day service
SAZ	184	Texas Lutheran University	09/01/15	\$ 850.00	5-day service
TXT	51	Texas Southern University	09/01/15	\$ 428.00	2-day service
TXI	64	Texas State Univ. San Marcos/Southwest TX St. Univ.	09/01/15	\$ 850.00	5-day service
ILU	16	Texas Tech University	09/01/15	\$ 850.00	5-day service
TWC	34	Texas Wesleyan University	09/01/15	\$ 850.00	5-day service
IWU	14	Texas Woman's University	09/01/15	\$ 850.00	5-day service
IVD	30	The University of Texas - Pan American	09/01/15	\$ 700.00	3-day service
QT5	119	Tom Green County Library System	09/01/15	\$ 850.00	5-day service
TNY	68	Trinity University	09/01/15	\$ 850.00	5-day service
TJN	72	Tyler Junior College	09/01/15	\$ 850.00	5-day service
QT7	9300	Tyler Public Library	09/01/15	\$ 428.00	2-day service
MHB	81	University of Dallas	09/01/15	\$ 700.00	3-day service
TXH	49	University of Houston	09/01/15	\$ 850.00	5-day service
non OCLC user	138	University of Houston - Cinco Ranch	09/01/15	\$ 850.00	5-day service
UHC	45	University of Houston - Clear Lake	09/01/15	\$ 850.00	5-day service
THD	50	University of Houston - Downtown	09/01/15	\$ 850.00	5-day service
THL	108	University of Houston Law Center - O Quinn Library	09/01/15	\$ 850.00	5-day service
TXV	58	University of Houston/Victoria College	09/01/15	\$ 850.00	5-day service
TPN	60	University of Mary Hardin-Baylor	09/01/15	\$ 700.00	3-day service
INT	15	University of North Texas	09/01/15	\$ 850.00	5-day service
TUT	57	University of St. Thomas	09/01/15	\$ 850.00	5-day service
IUA	11	University of Texas - Arlington	09/01/15	\$ 850.00	5-day service
IXA	1	University of Texas - Austin	09/01/15	\$ 850.00	5-day service
TBS	9	University of Texas - Brownsville/Texas Southmost College	09/01/15	\$ 428.00	2-day service
ITD	18	University of Texas - Dallas	09/01/15	\$ 850.00	5-day service
TXU	22	University of Texas - El Paso	09/01/15	\$ 850.00	5-day service
TSA	63	University of Texas - HSC - San Antonio	09/01/15	\$ 700.00	3-day service
TMB	43	University of Texas - Medical Branch at Galveston	09/01/15	\$ 850.00	5-day service
TXO	17	University of Texas - Permian Basin	09/01/15	\$ 850.00	5-day service
TXJ	62	University of Texas - San Antonio	09/01/15	\$ 850.00	5-day service
TEX	71	University of Texas - Tyler	09/01/15	\$ 850.00	5-day service
PAY	110	University of Texas Marine Science Library	09/01/15	\$ 850.00	5-day service
IHS	13	University of Texas Southwestern Medical Center at Dallas	09/01/15	\$ 700.00	3-day service

SAV	69	University of the Incarnate Word	09/01/15	\$ 700.00	3-day service
TVP	100	Victoria Public Library	09/01/15	\$ 700.00	3-day service
W9@	196	W. Walworth Harrison Public Library	09/01/15	\$ 428.00	2-day service
TXW	120	Waco-McLennan County Public Library	09/01/15	\$ 700.00	3-day service
TWB	159	Wayland Baptist University	09/01/15	\$ 700.00	3-day service
TJF	199	Weatherford College	09/01/15	\$ 428.00	2-day service
TWT	33	West Texas A&M University	09/01/15	\$ 850.00	5-day service
TXWVL	10	Westworth Village Public Library	09/01/15	\$ 428.00	2-day service
TXWCL	9282	Whitehouse Community Library	09/01/15	\$ 428.00	2-day service
ZH8	112	Wichita Falls Public Library	09/01/15	\$ 700.00	3-day service
WT2	354	William T. Cozby Public Library-Coppell	09/01/15	\$ 700.00	3-day service

Dallas: 14400 Midway Road, Suite 200, Dallas, TX 75244-3509 St. Louis: 1190 Meramec Station Road, Suite 207, Ballwin,
MO 63021-6902
800-843-8482 • 972-851-8000 • Fax: 972-991-6061 • www.amigos.org

**STATE OF TEXAS
PURCHASE ORDER**

1. Agency Name TEXAS STATE LIBRARY AND ARCHIVES COMMISSION Tax exempt agency of the Texas State Government				2. Purchase order number 306-15-8097		3. Current document number DT-9		
4. PCC	5. Agency number 306		6. Recycled Code N/A		7. Document (order) amount \$2,710.00		8. REF DOC	
9. Vendor address Amigos Library Services, Inc. 14400 Midway Road Dallas, Texas 75244-3509				10. Vendor Identification No. [REDACTED]				
12. Agency invoice address ** Accounting Department Texas State Library and Archives Commission P. O. Box 12516 Email: invoices.accounting@tsl.state.tx.us Phone: 512-463-5473; Fax: 512-475-0185 Austin, TX 78711-2516				11. Person contacted, phone, fax, or other contact info Bonnie Juergens Phone: 1-800-843-8482 Fax: (972)991-6061				
13. Destination of goods or service Receiving Dock Texas State Library and Archives Commission 1201 Brazos Street Austin, TX 78701				14. Agency contact: Renee Pogue; Phone: (512) 463-5488; Fax: (512)475-3393; E-mail: rpogue@tsl.state.tx.us				
15. Order type: SPOT: SERVICE: X CATALOGUE: EMERGENCY: DIRECT PUBLICATION:								
16. SFX	M	TC	INDEX	AY	AOBJ	COBJ	AMOUNT	INVOICE NO.
001			17152	15		7286	\$2,710.00	
17. Service Dates or Expected Delivery Date: September 1, 2014 - August 31, 2015								
18. Line Number	19. Description of Goods or Services			20. NIGP Code	21. Unit	22. Qty	23. Unit Price	24. Extended Amount
1.	Renewal of TSLAC courier services for the period listed in box #17. Service will include a 3 day a week delivery / pick up at TSLAC. LSTA#:LS-00-14-0044-14 Amigos to invoice PO is for Internal Purposes Only			962-24	Year	1	\$2,710.00	\$2,710.00
Shipping or Freight Charges								\$0.00
TOTALS								\$2,710.00
**VENDOR MUST REFERENCE PURCHASE ORDER NUMBER ON ALL INVOICES OR INVOICE WILL BE RETURNED TO VENDOR.								
25. Legal Cites: Texas Government Code, Section 2155.139(b); purchase made for a library or resource-sharing program operated State Library by the Texas State Library and Archives Commission.								
26. Division tracking number: LDN 15-022								
27. Approval signature <i>Renee Pogue, CPA, CTM</i>				Date <i>8/21/14</i>		28. Vendor Approval signature		Date

**STATE OF TEXAS
PURCHASE ORDER**

1. Agency Name TEXAS STATE LIBRARY AND ARCHIVES COMMISSION Tax exempt agency of the Texas State Government				2. Purchase order number 306-14-8000		3. Current document number DT-9			
4. PCC	5. Agency number 306		6. Recycled Code N/A		7. Document (order) amount \$116,567.00		8. REF DOC		
9. Vendor address Amigos Library Services, Inc. 14400 Midway Road Dallas, Texas 75244-3509			HUB:	YES	NO	X			
12. Agency invoice address ** Accounting Department Texas State Library and Archives Commission P. O. Box 12516 Email: invoices.accounting@tsl.state.tx.us Phone: 512-463-5473; Fax: 512-475-0185 Austin, TX 78711-2516				10. Vendor Identification No. [REDACTED]				11. Person contacted, phone, fax, or other contact info Bonnie Juergens Phone: 1-800-843-8482 Fax: (972)991-6061	
14. Agency contact: Renee Pogue; Phone: (512) 463-54884; Fax: (512)475-3393; E-mail:rpogue@tsl.state.tx.us				13. Destination of goods or service Receiving Dock Texas State Library and Archives Commission 1201 Brazos Street Austin, TX 78701					
15. Order type: SPOT: SERVICE: X CATALOGUE: EMERGENCY: DIRECT PUBLICATION:									
16. SFX	M	TC	INDEX	AY	AOBJ	COBJ	AMOUNT	INVOICE NO.	
001			17152	14		7286	\$116,567.00		
17. Service Dates or Expected Delivery Date: September 1, 2013 - August 31, 2014									
18. Line Number	19. Description of Goods or Services			20. NIGP Code	21. Unit	22. Qty	23. Unit Price	24. Extended Amount	
1.	All work performed will be per the specification and contract awarded under RFP 306-14-8000. Service performed will be from September 1, 2013 - August 31, 2014. This contract has four (4) one-year renewal options that may be executed by TSLAC at TSLAC's sole discretion. LSTA#: LS-00-13-0044-13 PO is for Internal Purposes Only Please sign in Box 28 and fax back to 512-475-3393			962-24	Year	1	\$116,567.00	\$116,567.00	
				Shipping or Freight Charges				\$0.00	
				TOTALS				\$116,567.00	
**VENDOR MUST REFERENCE PURCHASE ORDER NUMBER ON ALL INVOICES OR INVOICE WILL BE RETURNED TO VENDOR.									
25. Legal Cites: Texas Government Code, Section 2155.139(b); purchase made for a library or resource-sharing program operated State Library by the Texas State Library and Archives Commission.									
26. Division tracking number: LDN 14-001									
27. Approval signature <i>Renee Pogue, CLM, CLM</i>				Date <i>8/8/13</i>	28. Vendor Approval signature			Date	

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
Contract for Services
Contract # 306-14-8000

This Contract is entered into by and between the Texas State Library and Archives Commission (TSLAC) and Amigos Library Services, Inc., pursuant to the authority contracted and in compliance with the provisions of the Texas Government Code Chapter 441 and Chapter 791.

I. CONTRACTING PARTIES

The Receiving Agency: Texas State Library and Archives Commission (TSLAC)

Sue Bennett will serve as Project coordinator and primary contact for TSLAC. TSLAC may reassign Project coordinator responsibilities at its sole discretion. TSLAC will notify Performing Vendor within 24 hours of making any reassignments.

The Performing Vendor: Amigos Library Services, Inc (Amigos)

Laura Kimberly will serve as the Project coordinator and primary contact on all services performed under this contract. Amigos may reassign Project coordinator responsibilities in consultation with TSLAC. Amigos will notify TSLAC within twenty-four (24) hours of making any reassignments.

II. STATEMENT OF SERVICES TO BE PERFORMED

Services performed under this contract are for the administration of the TexShare Courier Program, per the specifications outlined in RFP # 306-14-8000 (Appendix A) and the Performing Vendor's response (Appendix B) and TSLAC's Terms and Conditions, which supersede those listed within Appendix A (Attachment I), LSTA Terms and Conditions (Appendix H), and will include responsibilities as stated below.

Service Requirements

- a) Amigos will expedite the delivery of shipments of books and other materials among TexShare member libraries throughout Texas with the same level of paperwork as required for current TExpress sites. The period of service will be from September 1, 2013 – August 31, 2014.
Amigos will provide a five-days-per-week, three-days-per-week and / or a two-days-per-week (Monday through Friday, excluding holidays) delivery service to all currently participating locations according to one of the three options selected by the library. The three-days per week and two-days-per-week will be determined by the carrier. All exceptions exclude holidays. Holidays include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- b) Amigos must provide continual and uninterrupted services to all sites currently participating in TExpress and any new sites added during the term of this Contract. Services will begin within fifteen (15) days of the addition of any new sites added.
- c) Amigos will expedite direct mailing of misdirected TExpress items.
- d) With written approval from TSLAC, Amigos may enroll additional subsidy-eligible sites (see *Section II, Item j*) for definition of eligible site), during the term of the Contract. Amigos may enroll subsidy-eligible sites at the five-days-per-week, three-days-per-week

and/or two-days-per-week option with prior written approval by TSLAC as long as the additional subsidy-cost does not exceed the amount set forth in this Contract.

- f) With written approval from TSLAC, Amigos may add any number of non-subsidy-eligible Texas sites during the Contract term. Non-subsidy-eligible sites are eligible for the same basic, fixed per-site fee as listed in Appendix B of the Vendor's proposal and those indicated as 'yes' on Appendix B of Vendor's proposal.
- g) Amigos will expand courier service to libraries not currently served by the TExpress program and will provide expanded services to any additional participating library sites that may be brought in to TexShare.
- h) Each participating TExpress library will pay a portion of the costs of providing courier services to their location, and TSLAC will underwrite the remaining costs. At any time during the term of service, should these percentages change, TSLAC will notify Amigos within thirty (30) days of a decision.
- i) Individual participating TExpress libraries shall contract directly with Amigos, based on agreed-upon per-site contract prices, as submitted in the proposal to TSLAC. Amigos will invoice each participating library directly for their share of the cost. Participants are responsible for making their own payments to Amigos. TSLAC assumes no responsibility for paying invoices on behalf of individual participating libraries, except as previously described.
- j) Each participating TexShare institution is entitled to only one subsidized site per membership, and all future subsidized sites may be added only after written authorization by TSLAC. Amigos will coordinate with TSLAC to verify whether proposed new sites are eligible for subsidy prior to initiating any new services.
- k) Amigos must allow shared drop-point sub-centers for libraries in close proximity or local consortia arrangements. Conditions for shared drop-point sub-centers include the following: 1) a maximum of 12 libraries sharing one site (direct delivery site, plus up to 11 satellite sites); and, 2) the total delivery load from the combined sites does not become excessive. "Excessive" is defined by Amigos and Subcontractor on a case-by-case basis. The acceptable remedy in such cases is to break the grouping into multiple direct-delivery sites. Amigos will charge the applicable per-site rate for each resulting direct delivery site.
- l) Amigos will provide shipping bags for use by participating libraries when shipping materials via TExpress courier. Amigos and TSLAC will select the appropriate shipping bags for the TExpress service.
- m) Amigos will provide operational guidelines on the courier services to all participating sites (Appendix A of Vendor's proposal), and provide customer service that ensures accurate delivery of items shipped and timely responses to customer inquiries within four (4) business hours of receipt of inquiry. The availability of customer support will be by toll-free telephone and/or via the Internet. Amigos will provide coverage from 8:00 AM – 6:00 PM, Monday through Thursday and from 8:00 AM – 5:00 PM on Friday for participating libraries per Appendix A and B of Vendor's proposal.
- n) On a schedule agreed upon by TSLAC and Amigos, Vendor must provide TSLAC with quarterly statistical reports on the program usage by participating libraries. Quarterly reports are due to TSLAC by the end of the month following the end of the quarter. Amigos will supply estimates when information has not been supplied by participating libraries and will revise the reports when accurate data is received. Quarter ending dates for reporting purposes are: November 30, 2013; February 28, 2014; May 31, 2014; and, August 31, 2014.

The quarterly reports must include all of the following.

1. The total number of calls received by Amigos from TExpress participants during each month of the quarter, and the number of courier service complaints received each of these months. These details will briefly describe key issues or predominate aspects of the complaint and Amigos' efforts to resolve such issues.
 2. The current number of TExpress sites served, the number of Texas regional courier sites linked into the courier system, and current number of libraries in a multi-state area to which TExpress libraries are linked via the broader Trans-Amigos Express service.
 3. The number of new TExpress sites added in each month of the quarter, and how the orientation and training sessions were provided to the new users.
 4. The number of items sent and received by each TExpress participating library during each month. Information and/or estimates must be based upon statistics reported by participating libraries.
 5. Amigos will provide a description and/or sample of all promotional and outreach activities performed during each month of the reporting period.
 6. Amigos will complete a financial report on billing information for TExpress users during each month of the reporting period. Amigos must report billing information on all currently participating libraries for the full term of the Contract in September of the Contract year, and will report monthly on the individual library billings for new participants, which will be a pro-rata amount based on the remaining months of the service period.
- o) Amigos will conduct an annual customer satisfaction survey of all TExpress participants, and provide survey results to TSLAC. The survey instrument will be submitted by Amigos to TSLAC for approval prior to implementation, and must collect information on overall level of customer satisfaction with Vendor's performance. On a scale of 1 (poor) to 5 (excellent), satisfactory performance is considered to be 3.0 or better. This survey will also collect information on actual turnaround times for shipments among the TExpress sites and this information will be included with the customer satisfaction survey results.
1. Survey should be conducted in June of the contract year.
 2. Results are due to TSLAC on or before July 31st of the contract year.
- p) Amigos agrees to retain all financial and programmatic records, supporting documents, statistical records, and any other records pertinent to this Contract until December 31, 2021. Such records shall be made accessible, upon request, to the Governor's Office of Budget and Planning, UGMS, the Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments and Non-Profits as well as to the State of Texas or any of their duly authorized representatives for the purpose of audits or examinations and to make available excerpts or transcripts of any books, documents, papers and other records of Amigos.

Payment Terms

- a) Amigos agrees to add any additional participating library sites during the term of the contract at the same fixed-rate, per-site, as in the original proposal.
- b) Prices quoted by Amigos are annual unit cost per class of service are a fixed fee price, and as such, are not subject to fuel cost adjustments. Current prices are guaranteed for the twelve (12) month period of this contract only and will be subject to renegotiations for any subsequent contract periods.
 1. The basic fee schedule for service under this contract are:
 - a. \$4,800 for five-days-per-week
 - b. \$3,275 for three-days-per-week service

c. \$2,575 for two-days-per-week service

Sites previously participating in the TExpress program and receiving subsidies (Appendix A of Amigos' proposal) will receive subsidies as follows.

a) \$724 for five-days-per-week service

b) \$615 for three-days-per-week service

c) \$385 for two-days-per-week service

- c) Amigos will invoice TSLAC \$1,000.00 with a one-time fee to cover costs associated with all expedited direct mailing of all misdirected items.
- d) Fixed-rate fees are paid on a proportional share rate by TSLAC and participating TexShare libraries. Amigos agrees to invoice TSLAC for only TSLAC's proportional share, and to invoice each participating subsidy-eligible library directly for its proportionate share. Shares are outlined below. Amigos will invoice participating non-subsidy-eligible fix-rate sites at the full service fee.
- e) Costs for services will be determined on a fixed service-rate basis, per participating library site, not on a per-pound or per-shipment basis, and regardless of site location. Libraries eligible for a fixed rate fee include all sites listed on Appendix A of the Performing Vendor's proposal, and those indicated as "Yes" on Appendix B of the Performing Vendor's proposal. Fees for courier services to any TexShare sites shown in Appendix B as "No" will be negotiated on a case-by-case basis, upon prior approval by TSLAC and a mutually agreed upon cost, signed by both parties. Courier services to any proposed new TexShare sites that are not shown in Appendix B during the service term will be negotiated on a case-by-case basis.
- f) During the term of the Contract, Amigos will invoice TSLAC \$60.33 of the monthly per site fee for each subsidy-eligible libraries participating in TExpress at the five-days-per-week level; \$51.25 of the monthly per site fee for each of the subsidy-eligible libraries participating in TExpress each month at the three-days-per-week level; and \$32.08 of the monthly per site fee for each of the subsidy-eligible libraries participating in TExpress each month at the two-days-per-week level. Amigos will invoice TSLAC monthly for only this share of the total Contract price, based on the number of pre-approved subsidy-eligible sites served for each month services are delivered. Hereafter, during the course of the Contract term, Amigos will invoice pre-approved subsidy-eligible libraries that join TExpress after September 1, 2013, for their respective portion of the prorated fixed-rate site fee for the amount of time remaining in the service period of this Contract. Amigos will add the TSLAC portion of the prorated new-participant fees to the ongoing monthly TSLAC invoice.
- g) Amigos will directly invoice each subsidy-eligible fixed-rate library participating in TExpress as of September 1, 2013, a total fee of \$4,076.00 annually for its share of the annual service fee through August 31, 2014 for the five-days-per-week service; \$2,660 for three-days-per-week service and \$2,190 for two-days-per-week.
- h) Amigos will directly invoice each non-subsidy-eligible fixed-rate library participating in TExpress as of September 1, 2013, for the full fixed-rate, annual per-site fee of \$4,800.00 for five-days-per-week service, \$3,275 for three-days-per-week service, \$2,575 for two-days-per-week service. . Amigos will directly invoice all pre-approved non-subsidy-eligible libraries that join TExpress after September 1, 2013, for the full-prorated amount of the fixed rate per-site fee for the amount of time remaining in the service period of this Contract.
- i) Without written consent from TSLAC, Amigos will not impose penalties of any kind for libraries that fail to meet their statistical reporting requirements during a particular month. Such consent will be made rarely, and only after considerable deliberation and consultation with TexShare Advisory bodies.

III. TERM OF CONTRACT

The term of service will begin September 1, 2013, and shall terminate August 31, 2014. This Contract has four (4) one-year renewal options that may be exercised by TSLAC at TSLAC's sole discretion. If TSLAC determines that the Contract will be renewed, Vendor shall be notified by TSLAC thirty (30) days prior to expiration date of this Contract.

The Contracting Parties may terminate this contract by giving written notice at least thirty (30) days prior to the effective dates of such termination.

Contracts awarded by TSLAC shall be governed by and construed in accordance with the laws of the State of Texas. The federal or state courts of the United State located in Texas shall have jurisdiction to hear any dispute under potential contracts and serviced may be made upon TSLAC by first class mail to its address as set forth herein.

This Contract is subject to availability of funds and may be cancelled with no additional cost to the agency if appropriations become unavailable. If this Contract is cancelled due to the unavailability of appropriations, the agency will only pay for services that have already been rendered up to the date of cancellation.

IV. PAYMENT FOR SERVICES

In accordance with the Texas Prompt Payment Act, TSLAC shall timely pay Amigos based upon receipt and acceptance of Project deliverables and receipt of itemized invoices submitted by Amigos. Payments shall be made by TSLAC's issuance of state warrants or electronic transfer of payment to Amigos.

Amigos may submit invoices monthly for the subsidies. Amigos will invoice TSLAC only for authorized expenses performed under the terms of this Contract. Amigos may not submit invoices for authorized expenses under the terms of this Contract which were not incurred by Amigos in performance of this Contract.

Invoices must contain the Vendor name, Vendor Identification Number (VIN) or Texas Identification Number (TIN), remittance address (city, state, zip code), telephone number, TSLAC's full name, delivery address, the tracking number (see below) and a description of the dates of service and the total dollar amount.

Invoices for services must contain the Receiving Agency's Contract number 306-14-8000 and be submitted to the following address:

***Texas State Library and Archives Commission
Accounting Department
P O Box 12516
Austin, TX 78711***

or

Invoices.accounting@tsl.state.tx.us

or

FAX: 512-475-3393

Vendor must submit invoices for all items delivered to and accepted by the Receiving Agency.

V. CONTRACT AMOUNT

The total amount of this contract shall not exceed **\$116,567.00, (one hundred sixteen thousand five hundred sixty-seven and no/100 dollars)** without prior approval from the Receiving Agency's Purchasing Department.

This includes TSLAC's portion of monthly service payments for the Contract term of **\$115,567.00** plus a one-time **\$1,000.00** expedite fee.

In the event total services may exceed \$116,567.00, an amended Contract may be negotiated.

A breakdown of the funding under **Federal Grant LSTA#: LS-00-13-0044-13** is provided below:

Percentage of total costs of the contract which will be financed with Federal money: 100%

- Total dollar amount of Federal funds for the project: **\$116,567.00**
- Percentage and dollar amount of total costs of the project that will be financed by non-government sources: 0%.

VI. TERMS AND CONDITIONS

Terms and Conditions are those listed in Appendix I and the LSTA Terms and Conditions listed Appendix H. TLAC and LSTA/Federal terms and conditions will be made a part of this Contract for all purposes. The Texas State Library and Archives Commission reserves the right to amend and or add to TSLAC's terms and conditions as necessary. TSLAC will provide Vendor notice of any changes.

Federal/LSTA terms and conditions may not be altered.

THE UNDERSIGNED RECEIVING AGENCY Hereby certifies that: (1) services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of State Government; (2) the services, supplies or materials contracted for are not required by Section 21, Article 16, of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

RECEIVING AGENCY

*Texas State Library and Archives Commission
1201 Brazos Street
Austin, Texas 78701*

Donna Osborne
Donna Osborne,
Chief Financial Officer

7/31/13
Date

Approved:

Deborah Littrell
Deborah Littrell, Director Library Development

Sue Bennett
Sue Bennett, Project Coordinator

Renee Pogue CTPM, CTCM
Renee Pogue, CTPM, CTCM

PERFORMING VENDOR

*Amigos Library Services, Inc.
14400 Midway Road
Dallas, TX 75244-3509*

Bonnie Jurgens
Signature

(Must be an official empowered to enter into contract)

BONNIE JURGENS
Typewritten or Printed Name
Above
PRESIDENT + CEO
Title

8/1/13
Date

8/1/13
Date

8/1/13
Date

Appendix I
Texas State Library and Archives Commission
Terms and Conditions

amendment that would enable substantial continuation of the contract, the parties shall be discharged from any further obligations under this contract.

9. **Inspection and Tests.** All goods will be subject to inspection and test by the State. Authorized TSLAC 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 Response or on samples taken from regular shipments. 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 award.
10. **Payment.** 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. Any payments later than 30 days from uncontested invoice will start to accrue interest.
11. **Dispute Resolution.** Unless an applicable state statute or applicable federal law establishes another procedure for the resolution of disputes, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, as further described herein, by TSLAC and the Vendor to attempt to resolve all disputes arising under this contract. Vendor claims for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Texas Government Code. To initiate the process, Vendor shall submit written notice, as required by subchapter B, to the Chief Financial Officer or the designate. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Vendor and the TSLAC otherwise entitled to notice under the parties' contract. Compliance by Vendor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Texas Government Code. The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TSLAC if the parties are unable to resolve their disputes under this Section. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TSLAC nor any other conduct of any representative of TSLAC relating to this contract shall be considered a waiver of sovereign immunity to suit. The submission, processing and resolution of Vendor's claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found in the Texas Administrative Code. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Vendor, in whole or in part.
12. **Gifts.** The Vendor 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 Response or contract.
13. **Compensation.** Pursuant to Chapter 2155.004 of the Texas Government Code, the Vendor has not received compensation for participation in the preparation of the specifications for this RFP or contract.
14. **Certification Regarding Non-Payment of Child Support.** Pursuant to Section 231.006 (d), Family Code, re: child support, the Vendor certifies that the individual or business entity named in this Response 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.
15. **Ineligibility.** Under Chapter 2155.004 of the Texas Government Code, the vendor certifies that the individual or business entity named in this Response 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.
16. **Indemnification.** The Vendor shall defend, indemnify, and hold harmless the State of Texas, 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, subcontractor, or supplier of contractor in the execution or performance of this contract.
17. **Debt.** Vendor agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
18. **Executive Head of a State Agency.** Pursuant to §669.003, Government Code, the TSLAC may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Proposal, the Respondent certifies that it does not

Appendix I
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employ any person who was the Executive Head of a state agency in the past four years. Vendor certifies that they are in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003 of the Government Code, relating to contracting with executive heard of a state agency. If Section 669.03 applies, Vendor will complete the following information in order for the bid to be evaluated: Name of Former Executive; Name of State Agency; Date of Separation from State Agency; Position with Vendor; and Date of Employment with Vendor.

19. **State Auditor's Clause.** Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditors Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditors Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards.
20. **Patents and Copyrights.** The Vendor agrees to protect the State of Texas from claims involving infringement of patents or copyrights.
21. **Vendor Assignments.** Vendor hereby assigns an ordering agency 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).
22. **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 and conditions of the Contract, the TSLAC 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.

The TSLAC 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 TSLAC 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 Respondent shall be liable for all costs and expenses, including court costs, incurred by the TSLAC with respect to the enforcement of any of the remedies listed herein.

23. **Cancellation.** The cancellation of the agreement, under any circumstances whatsoever, shall not effect or relieve Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to this agreement, and such cancellation by TSLAC shall not limit any other right or remedy available to the TSLAC at law or in equity.
24. **Agreement Amendments.** No modification or amendment to the agreement shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the agreement must be forwarded to the TSLAC Purchasing Department for prior review and approval. Only the contract administrator within the Purchasing Department or his/her designee will be authorized to sign changes or amendments.
25. **Independent Vendor Status.** Vendor agrees that Vendor and Vendor's employees and agents have no employer-employee relationship with TSLAC. TSLAC shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation insurance payments, or any other insurance payments, nor will TSLAC furnish any medical or retirement benefits, any paid vacation or sick leave.
26. **Publicity.** Vendor agrees that it shall not publicize this agreement or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of TSLAC's name in connection with any sales promotion or publicity event without the prior express written approval of TSLAC.
27. **Severability.** If one or more provisions of this agreement, or the application of any provision to any party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of the agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
28. **No Waiver.** Nothing in this agreement shall be construed as a waiver of the state's sovereign immunity. This agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TSLAC does not waive

Appendix I
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any privileges, rights defenses, or immunities available to TSLAC by entering into this agreement or by its conduct prior to or subsequent to entering into this agreement.

29. **Property Rights.** For purposes of this contract, the term "work" is defined as all reports, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. The TSLAC and Vendor intend this contract to be a contract for services, and each considers the work and any and all documentation or other products and results of the services to be rendered by Vendor to be a work made for hire. By execution of a contract for these services, Vendor acknowledges and agrees that the work (and all rights therein) belongs to the Vendor (Amigos and TSLAC).
30. **Acceptance of Products and Services.** All products furnished and all services performed under this agreement shall be to the satisfaction of TSLAC and in accordance with the specifications, terms, and conditions of this contract. TSLAC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.
31. **Deceptive Trade Practices Act (DTPA).** Vendor represents and warrants that it has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit, and that Vendor has not been found to be guilty of such practices in such proceedings. Vendor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business administrative hearing or court suit, and that such officers have not been found to be guilty of such practices in such proceedings.
32. **Immigration.** Vendor represents and warrants that it will comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under this Contract.
33. **Criminal Conviction Certification.** The Vendor represents and warrants that Vendor has not and Vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Vendor has fully advised TSLAC as to the facts and circumstances surrounding the conviction. Vendor has a continuing duty to amend, supplement or correct this representation and warranty not later than ten (10) days after discovering additional information relating to felony criminal convictions of Vendor or any of its employees. Vendor shall not allow any employee convicted of a felony criminal offense to perform tasks related to the contract without such disclosure and express permission from TSLAC.
34. **Subcontracting.** It is contemplated by the parties hereto that the Vendor shall conduct the performances provided by this contract substantially with its own resources and through the services of its own staff. In the event the Vendor should determine that it is necessary or expedient to subcontract for any of the performances specified herein, the Vendor shall subcontract for such performances only after the Vendor has transmitted to TSLAC a true copy of the subcontract the Vendor proposes to execute with a subcontractor and has obtained TSLAC's written approval for subcontracting the subject performance in advance of executing a subcontract. The Vendor, in subcontracting for any products or performances specified herein, expressly understands and acknowledges that in entering into such subcontracting(s), TSLAC is in no manner liable to any subcontractor(s) of the Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the finished products and/or services rendered under all subcontracts are rendered so as to comply with all terms of this contract.
35. **Assignment.** The Vendor will not assign its rights under this contract or delegate the performance of its duties under this contract without prior written approval from TSLAC.
36. **Ethics.** Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Chapter 2155.003 of the Texas Government Code. The Rule outlines the ethical standards required of public purchaser, employees, and vendors who interact with public purchasers in the conduct of state business. Specifically, a TSLAC employee may not have an interest in, or in any matter be connected with a contract or RFP 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. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TSLAC or purchasers of other state agencies.
37. **Convictions in connection with Hurricane Katrina, Hurricane Rita, and subsequent disasters.** Per Senate Bill 608, 80th Legislative Session, TSLAC will not accept Responses, nor award contracts to persons convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result

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of Hurricane Katrina, Hurricane Rita, and subsequent disasters.

- 38. Equal Opportunity.** Vendor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age and disability in the performance of awards.
- 39. Drug Free Workplace.** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 40. Force Majeure.** Neither Vendor nor TSLAC shall be liable to the other for any delay in, or failure of performance, of any requirement included in any award resulting from a RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- 41. Convenience of the State of Texas.** The TSLAC 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 TSLAC determines that such termination is in the best interested of the state. In the event of such termination, the Vendor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TSLAC shall be liable for payments for any goods or services ordered from the Vendor before the termination date.
- In the event that the Contract is terminated for any reason, or upon its expiration, the TSLAC shall retain ownership of all associated work products and documentation obtained from the Vendor under the Contract.
- 42. Survival of Terms.** Termination of this Contract for any reason shall not release the Vendor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
- 43. Limitation on Authority; No Other Obligations.** Vendor shall have no authority to act for or on behalf of TSLAC or the State of Texas except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TSLAC.
- 44. Records Retention.** Vendor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Vendor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later.
- 45. Insurance & Other Security.** Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage: Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract; Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate. Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.
- 46. Vendor Responsibility for Damage to Government Property.** The Vendor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Vendor an its employees, agents, subcontractors, and

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suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Vendor shall notify the TSLAC Project Manager in writing of any such damage within one (1) calendar day.

- 47. Vendor Performance.** The TSLAC may monitor the performance of the Contract issued under this RFP. All services and goods under the Contract shall be performed at an acceptable service levels and in a manner consistent with acceptable industry standards, custom, and practice. The Vendor will receive a paper copy of this report, as well as an e-mailed copy. The TSLAC will provide a sample of the Vendor Performance Report upon request. State agencies shall report a vendor's performance on any purchase of \$25,000 or more from contracts administered by the commission or any other purchase made through an agency's delegated authority or a purchase made pursuant to the authority in Government Code, Title 10, Subtitle D or a purchase exemption from CPA/TPASS procurement rules and procedures.

Past Performance: A Vendor's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov't Code. Vendors may fail this selection criterion for any of the following conditions:

- 1) A score of less than 90% in the Vendor Performance System,
- 2) Currently under a Corrective Action Plan through the CPA,
- 3) Having repeated negative Vendor Performance Reports for the same reason,
- 4) Having purchase orders that have been cancelled in the previous 12 months for non-performances (i.e. late delivery, etc.).

Vendor performance information is located on the CPA website at:
http://www.window.state.tx.us/procurement/prog/vendor_performance/

- 48. Change Management.** Vendor shall assign only qualified personnel to this Contract. Vendor, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the tasks and services required. Vendor shall provide to TSLAC prior written notice of any proposed change in key personnel involved in providing services under this Contract. Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of the Vendor. No subcontract under the Contract shall relieve the Vendor of responsibility for ensuring the requested services are provided. If Vendor uses a subcontractor for any or all of the work required, the following conditions shall apply: a) Vendors planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors. b) Subcontracting shall be solely at Vendor's expense. c) TSLAC retains the right to check subcontractor's background and approve or reject the use of submitted subcontractors. d) Vendor shall be the sole contact for TSLAC. Vendor shall list a designated point of contact for all TSLAC inquiries.
- 49. Federal, State, and Local Requirements.** Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Vendor is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Vendor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Vendor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Vendor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of this Section.
- 50. Applicable Law & Conforming Amendments.** Vendor must comply with all laws, regulations, requirements and guidelines applicable to a Vendor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TSLAC reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TSLAC or Vendor's compliance with all applicable State and federal laws, and regulations.
- 51. Change in Federal or State Requirements.** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either the TSLAC or the Vendor cannot reasonably fulfill the Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under the Contract.
- 52. No Liability Upon Termination.** If this Contract is terminated for any reason, TSLAC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Vendor may be entitled to the remedies provided in Government Code, Chapter 2260. Vendor or Vendor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing services under any Contract resulting from this RFP. Vendor or Vendor's employees, representatives, agents and any subcontractors

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shall not be employees of TSLAC. Should Vendor subcontract any of the services required in this RFP, Vendor expressly understands and acknowledges that in entering into such subcontract(s), TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this RFP.

53. **Independent Vendor.** Vendor or Vendor's employees, representatives, agents, and any subcontractors shall serve as an independent contracting in providing services under any PO. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of the TSLAC. Should Vendor subcontract any of the services required, Vendor expressly understands and acknowledges that in entering into such subcontract(s), the TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with the specifications.
54. **Convenience of the State of Texas.** The TSLAC reserves the right to terminate the Contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days' advance written notice, if the TSLAC 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 immediately upon the effective date of termination. TSLAC shall be liable for payments for any goods and services ordered from the Respondent before the termination date.
55. **Buy Texas.** Vendor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.
56. **Environmental Protection.** The Vendor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).
57. **Electronic and Information Resources Accessibility Standards.** As Required by 1 Texas Administrative Code Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only) 1) Effective September 1, 2006 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 Texas Administrative Code Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. 2) Vendor shall provide TSLAC 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 TSLAC 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/>.