

VENDOR

# PURCHASE ORDER

## TEXAS A&M FOREST SERVICE PURCHASING DEPARTMENT

 Order Date  
09/23/2022

Page 01

200 Technology Way, Suite 1120, College Station, TX 77845-3424; Phone 979-458-7380, FAX 979-458-7386

Purchase Order No.	(Include this number on all correspondence and packages)
P300148	

 VENDOR GUARANTEES  
MERCHANDISE DELIVERED ON  
THIS ORDER WILL MEET OR  
EXCEED SPECIFICATIONS IN  
THE BID INVITATION.
**INVOICE TO:**
 TEXAS A&M FOREST SERVICE  
DIRECTOR'S OFFICE  
200 TECHNOLOGY WAY, SUITE 1281  
COLLEGE STATION TX 77845

<b>VENDOR</b>
15417859360 NEW CITY MEDIA INC DBA NEWCITY INC 301 S MAIN ST STE 207 BLACKSBURG, VA 24060-4978

 ALL TERMS AND  
CONDITIONS SET  
FORTH IN OUR BID  
INVITATION BECOME  
A PART OF THIS  
ORDER.
**SHIP TO:**
 TEXAS A&M FOREST SERVICE  
DIRECTOR'S OFFICE  
200 TECHNOLOGY WAY, SUITE 1281  
COLLEGE STATION TX 77845

 ANY EXCEPTIONS TO PRICING OR DESCRIPTION CONTAINED HEREIN MUST BE APPROVED  
BY THE TEXAS A&M FOREST SERVICE PURCHASING DEPARTMENT **PRIOR** TO SHIPPING.

 PLEASE NOTE: IF YOUR INVOICE IS NOT ADDRESSED AS INSTRUCTED  
PAYMENT WILL BE DELAYED.

Item	Description	Quantity	UOM	Unit Price	Ext Price
	USER REF: 000000-JAH				
1	Project management hours	23.50	HR	172.730	4,059.16
2	Designer Hours	43.50	HR	152.410	6,629.84
3	Developer hours	44.50	HR	152.410	6,782.25
				TOTAL	17,471.25
	***** NET 30 *****				
	NOTE TO VENDOR: "SHIP TO" AND "INVOICE TO" ADDRESSES MAY DIFFER. FAILURE TO SUBMIT INVOICE TO PROPER ADDRESS MAY RESULT IN DELAYED PAYMENT.				
	VENDOR HEREBY CERTIFIES THAT THE NETWORK HARDWARE OR SOFTWARE, AS APPLICABLE, PROCURED OR LEASED UNDER THIS CONTRACT, HAS UNDERGONE INDEPENDENT CERTIFICATION TESTING FOR KNOWN AND RELEVANT VULNERABILITIES IN ACCORDANCE WITH SECTION 2059.060 OF THE TEXAS GOVERNMENT CODE.				
	PRICING TERMS AND CONDITIONS OF GSA CONTRACT NUMBER 47QTC21D0049 SHALL APPLY TO THIS PURCHASE. VENDORS PROPOSAL IS ATTACHED. STANDARD AGENCY TERMS AND CONDITIONS SHALL ALSO APPLY.				
	VENDOR QUOTE: R300133 VENDOR REF: MATT SIMMONS 540-392-6538				

RTL

Texas A&amp;M Forest Service cannot accept collect freight shipments.

FOB: DESTINATION FRT INCLUDED

Terms:

FAILURE TO DELIVER - If the vendor fails to deliver those supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications, the State reserves the right to purchase specified supplies elsewhere, and charge the increase in price and cost of handling, if any, to the vendor. No substitutions nor cancellations permitted without prior approval of Purchasing Department.

 IN ACCORDANCE WITH YOUR BID, SUPPLIES/EQUIPMENT MUST BE PLACED IN THE  
DEPARTMENT RECEIVING ROOM BY

The State of Texas is exempt from all Federal Excise Taxes.

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Texas Tax Code, Section 151.309 (4), for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.

The Terms and Conditions of the State of Texas shall prevail.

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT

PURCHASING AGENT FOR

TEXAS A&amp;M FOREST SERVICE

# Task Order

**Date:** 8/31/2022

**Client:** Texas A&M Forest Service

**Developer:** New City Media Inc. (NewCity)

**Project:** Texas A&M Forest Service Nature Challenge Design & Development Phase 2

**Expected Duration:** September - October 2022

**Prepared for:**

Texas A&M Forest Service  
200 Technology Way, Suite 1120  
College Station, TX 77845-3424

**Prepared by:**

Matt Simmons  
Director of Business  
Development & Client Strategist  
New City Media Inc.  
301 S. Main St. #207  
Blacksburg, VA 24060  
(540) 392-6538  
matt@insidenewcity.com

This Task Order is prepared for Texas A&M Forest Service under the terms of NewCity's [GSA Contract #47QTCA21D0049](#), and contains:

Section I: General Overview  
Section II: Project Plan & Estimated Budget  
Section III: Invoicing Schedule  
Section IV: Approach, Expectations, and Dependencies  
Section V: Additional Terms and Conditions

## Section I: General Overview

### Project Approach

NewCity employs a project approach that allows for flexibility in priorities and deliverables. As work progresses, NewCity and Texas A&M Forest Service can agree to adjust the scope of work and/or budgets accordingly. Any significant changes to either will be clearly communicated and mutually agreed upon.

### Expectations and Dependencies

Budget and delivery schedule are dependent on Texas A&M Forest Service assistance with scheduling, feedback, approvals, and access to people and relevant web tools such as analytics accounts.

### Accessibility Requirements:

#### A. State of Texas Mandated Requirements:

Any products created for Nature Challenge that relate directly to the user interface will conform to web accessibility standards as set forth in Texas Administrative Code (TAC) 206, Subchapter C, Rule 206.70.

#### B. Voluntary Product Accessibility Template (VPAT):

Contractor shall supply detailed information on how their developed product addresses the requirements of Section 508 of the Rehabilitation Act of 1973 (revised). Contractor can provide either a statement on the accessibility for the enhancements to FireConnect or fill a VPAT to document conformance to the applicable Section 508 and WCAG 2.0 Standards. The VPAT template can be found here:  
<https://www.itic.org/dotAsset/b282ab06-0ab2-4540-adc2-78698058dfc3.doc>

## Section II: Project Plan & Estimated Budget

The estimated budget outlined below is considered a “**not to exceed**” amount without mutual agreement between NewCity and Texas A&M Forest Service. If the project can be completed in less time than budgeted below, then NewCity will only bill for the time spent.

### Budget & Scope Notes

**Note 1.** Budget assumes that the client will provide all website content and content placement unless otherwise specified in this Task Order.

**Note 2.** Third party or custom integrations are not included unless otherwise specified in this Task Order.

**Note 3.** Software, media (photography, video, etc.), and font licenses or purchases are not included in this budget.

**Note 4.** NewCity is not responsible for any “translation” functionality

**Note 5.** Recurring meetings with your NewCity team, ongoing testing, quality assurance (QA), and project management time are significant pieces of this project and are already included in the estimated budget.

**Note 6.** This budget assumes that items 1-4 in the budget table below will reuse previous designs as much as possible, and do not include client-side scripting. Client-side scripting will increase the overall cost of the project.

### Meetings

- Unless otherwise agreed upon, regularly scheduled meetings with your NewCity team will occur at a minimum of every other week for things such as:
  - planning & consulting
  - status updates and discussing next steps
  - present/demo work in progress & deliverables
  - development check-ins between Texas A&M Forest Service and NewCity developers
  - discussing feedback
  - training

**Table 1. Estimated Budget**

Services & Deliverables	Estimated Budget
Nature Challenge Website Enhancements <ul style="list-style-type: none"> <li>- Discovery               <ul style="list-style-type: none"> <li>- discovery &amp; exploration</li> </ul> </li> <li>- Part 1: Start challenge &amp; challenge exit survey               <ul style="list-style-type: none"> <li>- design (2) pages</li> <li>- page demos for the (2) pages, using existing styles</li> </ul> </li> <li>- Part 2: Provider Directory (Public View)               <ul style="list-style-type: none"> <li>- design</li> <li>- page demos for directory listing</li> </ul> </li> <li>- Part 3: Provider Info &amp; Profile Page               <ul style="list-style-type: none"> <li>- design (2) pages</li> <li>- page demos for provider &amp; detail page</li> </ul> </li> <li>- Part 4: Dev consulting (up to 12 hours)               <ul style="list-style-type: none"> <li>- Provide miscellaneous dev &amp; consulting</li> <li>- Provide additional client-side javascript development</li> </ul> </li> <li>- QA &amp; accessibility testing</li> <li>- user acceptance testing &amp; Bug Fixing</li> </ul>	112 Hours
<b>Estimated Total Budget (not to exceed)</b>	<b>\$17,500</b>

**Table 2. Breakdown of Hours/Role**

Role	Rate	Estimated Hours on Project	Estimated Budget
Designer	\$152.41	43.5	\$6,629.84
Project Manager	\$172.73	23.5	\$4,059.16
Developer	\$152.41	44.5	\$6,782.25

### Section III: Invoicing Schedule

NewCity will invoice Texas A&M Forest Service monthly. Invoices will include the number of hours and hourly rate being billed for and a description of the work associated with the invoice. NewCity will use rates in our [GSA Schedule](#) for all work performed under this Task Order.

Partial List of NewCity's Labor Categories:

Labor Category	Rate per hour
Project Manager	\$172.73
Designer	\$152.41
User Experience Architect	\$172.73
Developer	\$152.41
Senior Developer	\$182.89
Site Strategist	\$182.89

For a full list of our labor categories and rates please see our GSA Schedule:

[https://www.gsaaadvantage.gov/ref\\_text/47QTCA21D0049/0VXNZP.3RO0YG\\_47QTCA21D0049\\_NEWCITYGSAContractCatalog.PDF](https://www.gsaaadvantage.gov/ref_text/47QTCA21D0049/0VXNZP.3RO0YG_47QTCA21D0049_NEWCITYGSAContractCatalog.PDF)

Payment terms are net 30.

## Section IV: Approach, Expectations, and Dependencies

### Managing Scope & Budget

While you will have direct access to your entire multidisciplinary project team throughout this engagement, you will also have a project manager overseeing the process from start to finish. Your project manager will provide strategic leadership and ensure clear communications, appropriate resource allocations, and efficient coordination between the Texas A&M Forest Service and NewCity teams. Recurring video conference meetings with your core group will be scheduled for the duration of the engagement and will usually occur on a weekly basis.

We rely on a project communication website called Basecamp (<http://www.basecamp.com>) along with tools like Google Drive, UXPin, Trello and others. Your Basecamp site will be the central location for project discussion, file downloads, to-do lists, milestone-tracking and contact information.

We've budgeted the cost of this project based on our understanding of the scope (as described in this Task Order) and the amount of time it has taken us to complete similar work for other clients. We think the budget is reasonable given the assumptions we've outlined above. Because we'll be working in close collaboration to deliver a successful project, your team will have a lot of influence over the actual time it takes us. We'll be managing the project scope based on our time spent balanced against what is described in the Task Order or otherwise mutually agreed to, so we need your teams help to keep our work within your budget.

### What You Can Expect From Us

It's our responsibility to provide you with expert guidance and high quality work along with the information you need at the right time to make decisions about the project that affect scope and time. Every month we will let you know the hours we've incurred on the project to date.

### What We Need From You

For our partnership to be successful, the most important thing we need to forge early on is mutual trust and respect for what we each bring to the table. So we ask you to be forthright about your expectations of us, and any questions or concerns you have about our approach. The earlier we can address misaligned expectations, the more efficiently the project will progress.

There are several things you can do to help us make the best use of our time, so that we can deliver as much value as possible within your budget and timeline:

- Provide a project manager or owner on your team who will be responsible for directing the efforts of your team members and communicating with stakeholders during the project.

- Availability and access
  - ensure that any key team members or decision makers are available and on-time for meetings where we will be sharing deliverables or asking for decisions
  - help from the core project team with scheduling stakeholder interviews and audience research efforts in a timely manner
  - ensure stakeholder availability for onsite workshops (if onsites are a part of the project)
  - provide timely access to relevant services and systems such Google Analytics, server and hosting networks, third party platforms, APIs, databases, etc.
- Timely and actionable feedback, for example:
  - limit the layers of decision-makers involved in key approvals, such as design concepts
  - productive feedback within a reasonable time period – for some major deliverables (such as home page designs), we can allow for a longer feedback cycle from a broader group of stakeholders, but we will need to stay on schedule with feedback and approvals
  - work with your team to provide us with consolidated feedback so that we don't have to reconcile conflicting directions

### **Change of Key Project Personnel**

In the event that one of the key members of the Texas A&M Forest Service project team leaves the team and is replaced by someone who was not previously involved with the project, or a new leader with decision-making authority is brought onto the project team, NewCity may spend significant time orienting the new key member to the decisions and progress made up to that point. NewCity will bill for this time or deduct the time from the total time budgeted for this project.

### **Meetings & Presentations**

Additional meetings and presentations outside of regularly scheduled project meetings will be considered part of the overall time allocated towards the project.



## Section V: Additional Terms and Conditions

This Task Order is issued under the terms and conditions of GSA Contract Number 47QTCA21D0049 for New City Media, Inc. If any terms of this Task Order contradict the GSA contract, the terms of the GSA contract will prevail.

### 1. Feedback, Testing and Acceptance.

- a. Client Feedback on Work in Progress. Developer may from time to time during a Project, submit work in progress to Client to evaluate and provide feedback on to Developer. Client agrees to provide its feedback to Developer within seven (7) days of receipt of work in progress deliverables, or such shorter time as specified in the mutually agreed project schedule.
- b. Testing and Acceptance Procedure. Within seven (7) business days of receipt of the final version of Work Product ("Final Version"), Client will, based solely on the compliance of the Work Product with the specifications of the applicable Statement of Work, either: i) accept the Work Product in writing and make any payment required in the Statement of Work; or ii) provide Developer with written notice of the aspects in which the Work Product contains Errors on the part of the Developer and request that Developer correct said Errors. Failure to make the election provided in clauses (i) or (ii) of this Section 5(b) within such seven (7) day period shall be deemed a final and unconditional acceptance of the Final Version and a waiver of any claim with respect to any Error. Errors in the content or source materials supplied by the Client shall not constitute grounds for rejection of the Final Version or withholding of any payment. "Error" means any material failure of the Work Product site to meet the specifications of the applicable Statement of Work.
- c. Additional Quality Assurance. If Client requests that Developer correct the Final Version pursuant to clause (ii) of Section 5(b), Developer shall within ten (10) calendar days of such notice, or such longer period as is commercially reasonable, submit at no additional charge revised Work Product in which such Errors on the part of the Developer have been corrected. Submission of such revised Work Product that cures the Errors and complies with the specifications and requirements in the applicable Statement of Work shall be Client's sole and exclusive remedy with respect to Errors on the part of Developer which were included or which with reasonable diligence should have been included in Client's notice pursuant to clause (ii) of Section 5(b). The Client will be charged for any Errors corrected during this period which result directly from an act or omission of the Client, at the hourly rate specified in the applicable Statement of Work. Upon receipt of the corrected Work Product Client may: i) accept the corrected Work Product and make any payment due as set forth in the Statement of Work; or ii) provide written notice to the Developer to make further corrections to the Work Product for any Errors on the part of the Developer and repeat the correction and review procedure set forth in Section 5(c). Failure to make the election provided in clauses (i) or (ii) of this Section within seven (7) days of receipt of the corrected Work Product shall be deemed a final and

unconditional acceptance of the corrected Work Product and a waiver of any claim with respect to any Error.

2. **Ownership of Web Site Content and Screen Designs.** Client Content and content created by the Developer, including specific screen designs and templates created for Client by the Developer shall be the property of Client. Client ownership does not include Developer Tools as defined in Paragraph 13 below.
3. **Ownership of Developer Tools.** Developer may choose to utilize previously developed software libraries, subroutines or code frameworks to create the Work Product for Client, collectively referred to as "Developer Tools." By way of example, such tools may include, but are not limited to, such items as: client-side HTML/CSS or Javascript code, or server-side code. The use of Developer Tools is generally intended to reduce cost, improve quality and save time. Client acknowledges that Developer retains all right, title and interest in the Developer Tools.
4. **License of Developer Tools.** Subject to full payment of all compensation and expenses due under this Master Agreement, Developer grants Client a nonexclusive, non-sublicenseable, non-assignable perpetual, worldwide license to use the Developer Tools to operate the web site(s) developed by Developer for Client, and all updates and revisions to such web site(s), provided however that Client shall make no other commercial use of Developer Tools without Developer's written consent.
5. **Copyright Notice.** Copyright notices for the web site shall appear in the name of the Client. Third party copyright notices, such as for photography, illustrations and music, shall be included as required in the applicable third party releases.
6. **Warranty and Warranty Disclaimer.** Developer warrants that the Work Product will conform in all material respects to the specifications set forth in the applicable Statement of Work. Developer does not, however, warrant that its Work Product will be error free or that Client will obtain certain results from its use of the web sites or applications. For a period of thirty (30) days after the date of acceptance of the Final Version by the Client (the "Warranty Period"), Developer agrees to fix at its own expense any Errors: (i) which Client gives Developer Written Notice of within ten (10) days after first discovering the Errors and describing the Errors with reasonable detail; and (ii) which Errors are caused by Developer's failure to deliver a Work Product that conforms to the specifications set forth in a Statement of Work and either: (A) were the subject of Client notification delivered during the testing and acceptance process described in Section 5 of this Master Agreement and such Errors were not corrected by the Developer; or (B) the Errors were not actually discovered by Client nor were they capable of being discovered by Client at the time of Client's acceptance of the Final Version. For any work performed by Developer that does not qualify as a warranty obligation, the Developer agrees to fix any Errors at the hourly rate described in the applicable Statement of Work. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION CONSTITUTE THE ONLY WARRANTIES WITH RESPECT TO THE DELIVERY BY DEVELOPER OF WORK PRODUCT AND PERFORMANCE OF SERVICES UNDER THIS MASTER AGREEMENT AND THE EXCLUSIVE REMEDIES IN THE EVENT SUCH WARRANTIES ARE BREACHED. THEY ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY

INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND QUIET ENJOYMENT.

7. **Accessibility Compliance.** Developer shall be compliant with all federal and state laws and requirements in the provision of the Work Product under this Agreement, including but not limited to the provision for equally effective and substantially equivalent ease of use for persons with disabilities, as required by the Americans with Disabilities Act (“ADA”) in compliance with WCAG 2.1 Level AA. Prior to delivery of Work Product, Developer shall test the Work Product for compliance with WCAG 2.1 Level AA and report testing results to the Client. Client understands and agrees however that while Developer shall deliver ADA adherent templates and components, Client shall be solely responsible for ensuring any content it adds following launch shall be ADA compliant.
8. **Privacy.** Client’s data handling practices comply with all applicable privacy laws. Client’s engagement of Developer will not cause Developer to be treated as a “data processor” or “data controller” under the EU General Data Protection Regulation (GDPR). No personally identifiable customer or user data relating to EU citizens will be provided by Client to Developer.
9. **Limitation of Liability.** NEITHER DEVELOPER, NOR CLIENT SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM THE BREACH OF THE MASTER AGREEMENT OR ANY TERMINATION OF THE MASTER AGREEMENT, WHETHER SUCH LIABILITY IS FORESEEABLE OR UNFORESEEABLE OR IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), FAILURE OF WARRANTY, OR OTHERWISE, AND EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL A PARTY’S LIABILITY TO THE OTHER PARTY EXCEED THE CUMULATIVE AGGREGATE AMOUNT OF FEES AND EXPENSES DEVELOPER HAS RECEIVED FROM CLIENT DURING THE TERM OF THE MASTER AGREEMENT.
10. **Confidentiality.** During the term of this Master Agreement and for two (2) years afterward, Developer will use reasonable care to prevent the unauthorized use or dissemination of Client’s confidential information. Reasonable care means at least the same degree of care Developer uses to protect its own confidential information from unauthorized disclosure. Confidential information is limited to information clearly marked as confidential, or disclosed orally that is treated as confidential when disclosed and summarized and identified as confidential in a writing delivered to Developer within 15 days of disclosure. Confidential information does not include information that: (a) the Developer knew before Client disclosed it, (b) is or becomes public knowledge through no fault of Developer, (c) the Developer obtains from sources other than Client who owe no duty of confidentiality to Client, or (d) Developer develops independently.
11. **Developer Indemnification of Client.** Developer agrees to indemnify, hold harmless and defend Client and its directors, officers, its employees, subcontractors and agents from and against any and all losses, damages, liabilities, costs, expenses (including attorneys’ fees and expert witness fees), judgments or settlement amounts arising out of or in connection with any claim that the Developer’s Work Product, Developer Tools or use thereof infringes or violates any third party trademark, copyright, trade secret,

right of publicity or privacy (including but not limited to defamation), patent or other proprietary right.

12. **Force Majeure.** Neither party shall be held responsible for damages caused by any delay or default beyond its reasonable control. The delaying party shall promptly notify the other party of the delay and its anticipated effects on the Delivery Schedule.

This Task Order defines and specifies the Services to be performed and/or Work Product to be delivered by NewCity, as well as compensation to be paid for such Services and Work Product by Texas A&M Forest Service.

Pricing is based on the scope of the project as defined above. Only changes in project scope that are mutually agreed upon may result in changes to delivery time and fees. An authorized signature will constitute acceptance of this Task Order.

**SIGNATURES FOR APPROVAL**

Accepted and approved for  
Texas A&M Forest Service by:

Accepted and approved for  
NewCity by:

\_\_\_\_ See PO \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Acceptance

\_\_\_\_\_  
Date of Acceptance

\_\_\_\_ P300148 \_\_\_\_\_  
PO # to be referenced on invoices

# ATTACHMENT A

## TEXAS A&M FOREST SERVICE

### PURCHASE ORDER

### TERMS AND CONDITIONS

#### 1. REQUIREMENTS OF AWARDED BID

- 1.1 Vendor must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- 1.2 Vendor must have price per unit shown. Unit prices shall govern in the event of extension errors.
- 1.3 Awarded bid was submitted to the Texas A&M Forest Service (TFS) on or before the hour and date specified for the bid opening.
- 1.4 Late and/or unsigned bids were not considered under any circumstances. Person signing bid must have the authority to bind the firm in a contract.
- 1.5 Awarded bid quoted F.O.B. destination, freight prepaid and allowed unless otherwise stated within the order.
- 1.6 Bid prices are to be firm for TFS acceptance for 60 days from opening date. Cash discounts offered will be taken if earned.
- 1.7 Bid cannot be altered or amended after opening time. Any alterations made before opening time should be initiated by bidder or his authorized agent. No bid can be withdrawn after opening time without approval by TFS Purchasing Office based on a written acceptable reason.
- 1.8 Purchases made for TFS are exempt from the State Sales tax and Federal Excise tax. Do not include tax in quotation. Excise Tax Exemption Certificate will be furnished by TFS upon request.
- 1.9 TFS reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the TFS.
- 1.10 Late, illegible, incomplete, or otherwise non-responsive bids will not be considered.

#### 2. SPECIFICATIONS

- 2.1 Vendor shall furnish items as specified by model or catalogue numbers, brand names or manufacture referenced on the purchase order.
- 2.2 Unless otherwise specified, items shall be new and unused and of current production.
- 2.3 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
- 2.4 TFS will not be bound by any oral statement or representation contrary to the written specifications of this purchase order.
- 2.5 Manufacturer's standard warranty shall apply unless otherwise stated in the IFB.
3. **TIE BIDS**  
Awards will be made in accordance with TAC Rule 20.36 (b) (3) and 20.38 (preferences).

#### 4. DELIVERY

- 4.1 Delivery shall be within the quoted number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates bidder to deliver in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.
- 4.2 If delay is foreseen, vendor shall give written notice to TFS. Vendor must keep TFS advised at all times of order status. Default of promised delivery (without accepted reasons) or failure to meet specifications authorizes TFS to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
- 4.3 No substitutions permitted without TFS written approval.
- 4.4 Delivery shall be made during normal working hours only, unless prior approval has been obtained from TFS.
- 4.5 Each shipment must be accompanied by a packing slip which shows the TFS Purchase Order number and the description, quantity shipped and any back-ordered quantity for each item shipped. Each package must be clearly marked with the destination address and TFS Purchase Order number.
5. **INSPECTION AND TESTS**  
All goods will be subject to inspection and test by TFS. Authorized TFS personnel shall have access to any supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at the TFS' option, will be returned to the vendor or held for disposition at vendor's expense. Latent defects may result in revocation of acceptance.

#### 6. AWARD OF CONTRACT AND FORCE MAJURE

A response to this IFB is an offer to contract based upon the terms, conditions and specifications contained herein. Bids do not become contracts until they are accepted through a TFS purchase order. The contract shall be governed, construed and interpreted under the laws of the State of Texas, and as same may be amended. Any legal actions must be filed in Brazos County, Texas. The TFS may grant relief from performance of the contract if the vendor is prevented from compliance and performance by the act of war, order of legal authority, act of God, or other unavoidable causes not attributed to the fault or negligence of the contractor. To obtain release on Force Majeure, the vendor must file a written request to the TFS.

#### 7. PAYMENT

Vendor shall submit one (1) copy of an itemized invoice referencing TFS Purchase Order number. TFS will incur no penalty for late payment if made in 30 or fewer days from receipt of goods or services and an uncontested invoice. **TFS will not be liable for payment of invoices received six (6) or more months after receipt of goods/services.**

#### 8. PATENTS OR COPYRIGHTS

Vendor agrees to protect the TFS from claims involving infringement of patents or copyrights.

#### 9. VENDOR ASSIGNMENTS

Vendor hereby assigns to TFS 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). Inquiries pertaining to quotation must give the quotation number and opening date.

#### 10. BIDDER AFFIRMATION

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

- 10.1 The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted quotation.
- 10.2 The bidder is not currently delinquent in the payment of any franchise tax owed the State of Texas.
- 10.3 Neither the bidder nor the firm, corporation, partnership or institution represented by the bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State, or the Federal Antitrust Laws, (see Section 9 above) nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
- 10.4 Pursuant to Section 2155.004(a) Government Code the bidder has not received compensation for participation in the preparation of the specification for this IFB.
- 10.5 Pursuant to Section 231.006 (d), Family Code, re: child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
- 10.6 Pursuant to Section 2155.004(b) Government Code the bidder certifies that the individual or business entity name in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- 10.7 The Contractor 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 of performance of this contract.
- 10.8 Bidder agrees that any payment due under this contract will be applied towards eliminating any debt or delinquency, regardless of when it arises, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 10.9 Bidder certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, bidder 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 Bidder: \_\_\_\_\_  
Date of Employment with Bidder: \_\_\_\_\_
- 10.10 Bidder agrees to comply with Government Code 2155.4441, pertaining to service contract use of products in the State of Texas.
- 10.11 Contractor 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. Contractor 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. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

#### 11. BUSINESS OWNERSHIP

Pursuant to Section 231.006 (c), Family Code, quotation must include name and Social Security Number of each person with at least 25% ownership of the business entity

submitting quotation. Bidders that have pre-registered this information on the TPASS Centralized Master Bidders List have satisfied the requirement. If not pre-registered, attach name & social security number for each person. Otherwise, information must be provided prior to award.

#### 12. NOTE TO BIDDER

Any terms and conditions attached to a bid will not be considered. Such terms and conditions may result in disqualification of the bid.

#### 13. ALTERNATIVE DISPUTE RESOLUTION

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by Texas A&M Forest Service and the Contractor to attempt to resolve any claim for breach of contract made by the contractor:

- (a) A contractor's claim 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, the contractor shall submit written notice, as required by subchapter B, to Robby DeWitt, Associate Director for Finance and Administration. Said notice shall specifically state the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall be given to all other representatives of Texas A&M Forest Service and the contractor otherwise entitled to notice under the parties' contract. Compliance by the contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, Texas Gov't Code.
- (b) The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is the contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Texas A&M Forest Service, if the parties are unable to resolve their disputes under this subparagraph (A).
- (c) 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 Texas A&M Forest Service nor any other conduct of any representative of Texas A&M Forest Service relating to the contract shall be considered a waiver of sovereign immunity to suit.
- (1) The submission, processing, and resolution of the contractor's claim is governed by the published rules adopted by the Office of the Attorney General of the State of Texas pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found under Title 1, Part 3, Chapter 68 of the TAC.
- (2) Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the contractor, in whole or in part.
- (3) The designated individual responsible on behalf of Texas A&M Forest Service for examining any claim or counterclaim and conducting any negotiations related thereto as required under Title 10, Subchapter B, Section 2260.052 of the Texas Government Code shall be Robby DeWitt, Associate Director for Finance and Administration (979) 458-7300.

#### 14. PUBLIC DISCLOSURE

- (a) Bidder acknowledges that Texas A&M Forest Service is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- (b) Upon Texas A&M Forest Service's written request, bidder will provide specified public information exchanged or created under this Agreement that is not otherwise excluded from disclosure under chapter 552, Texas Government Code, to Texas A&M Forest Service in a non-proprietary format acceptable to Texas A&M Forest Service. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which Texas A&M Forest Service has a right of access.
- (c) Bidder acknowledges that Texas A&M Forest Service may be required to post a copy of the fully executed Agreement on its internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

#### 15. REHAB ACT, VEVRAA, SECTION 503

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

**ATTACHMENT A  
TEXAS A&M FOREST SERVICE  
PURCHASE ORDER  
TERMS AND CONDITIONS**

16. **Conflict of Interest.** By executing this Agreement, Contractor and each person signing on behalf of Contractor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.
17. **Prohibition on Contracts with Companies Boycotting Israel.** Prohibition on Contracts with Companies Boycotting Israel. To the extent that Texas Government Code, Chapter 2270 applies to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
18. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated if this certification is inaccurate.
19. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.