

VENDOR

# PURCHASE ORDER

## TEXAS A&M FOREST SERVICE PURCHASING DEPARTMENT

Order Date  
11/18/2022

Page 01

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

<b>Purchase Order No.</b>	(Include this number on all correspondence and packages)
P300209	

VENDOR GUARANTEES  
MERCHANDISE DELIVERED ON  
THIS ORDER WILL MEET OR  
EXCEED SPECIFICATIONS IN  
THE BID INVITATION.

<b>VENDOR</b>
15413014130 TIMMONS GROUP INC 1001 BOULDERS PKWY STE 300 NORTH CHESTERFIELD, VA 23225-5512

ALL TERMS AND  
CONDITIONS SET  
FORTH IN OUR BID  
INVITATION BECOME  
A PART OF THIS  
ORDER.

<b>INVOICE TO:</b>
TEXAS A&M FOREST SERVICE FRP--ASSOCIATE DIRECTOR 200 TECHNOLOGY WAY, SUITE 1162 COLLEGE STATION TX 77845-3424
<b>SHIP TO:</b>
TEXAS A&M FOREST SERVICE FRP--ASSOCIATE DIRECTOR 200 TECHNOLOGY WAY, SUITE 1162 COLLEGE STATION TX 77845-3424

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-TM				
1	Senior Software Engineer	200	HR	117.580	23,516.00
2	Senior Project Manager	50	HR	133.290	6,664.50
3	TxWrap Hosting, December 1,2022-November 30, 2023	1	YR	28,800.000	28,800.00
				<b>TOTAL</b>	<b>58,980.50</b>
	***** 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.				
	DIRECT PUBLICATONS PURCHASE NOT AVAILABLE FROM ANY OTHER SOURCE.				
	EXEMPT SOFTWARE LICENSE AND SUPPORT AGREEMENT NOT AVAILABLE FROM ANY OTHER SOURCE.				
	VENDOR QUOTE: 20221116 VENDOR REF: CHRIS GERECKE 804-200-6962				

RTL

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

FOB: NOT SPECIFIED

Terms:

FAILURE TO DELIVER - If the vendor fails to deliver these 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

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT

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.

PURCHASING AGENT FOR

TEXAS A&amp;M FOREST SERVICE

## **APPENDIX A**

# Statement of Work

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TxWRAP Support, Maintenance & Hosting

**Texas A&M Forest Service**

11/16/2022

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## 1. Introduction

Texas A&M Forest Service (TAMFS) requires hosting services, maintenance, updates, and enhancements to the Southern Wildfire Risk Assessment Portal (TxWRAP). This SOW (Appendix A) is incorporated by reference to and shall be in full compliance with the terms and conditions of the GSA Consolidated Schedule with Timmons Group, Inc.—No. GS-35F-0462T.

## 2. Scope – Project Based Services

Contactor shall not exceed the number of hours allocated by position as specified in the purchase order issued by TAMFS. Contractor also shall not exceed 20 hours of support and maintenance for any given month, unless pre-approved by TAMFS. Support and maintenance shall include the following terms, conditions, and requirements:

### A. Bug Fixes and Enhancements

1. Update the web applications and databases as new ESRI and Microsoft platform releases occur. Changes must be pre-approved by TAMFS.
2. Provide an issue and defect tracking system that allows users and staff to log issues, and to track those issues to completion. Access will be granted to users authorized by TAMFS for QA/QC and tracking purposes.
3. The defect system will also be used for logging issues related to data. Administratively, data issues will be handled identical to software issues. However, the target turnaround time for data corrections may vary depending on the specific data issue. In cases where moderate or serious data issues have been identified, a notice will be presented on the internet sites to notify all users as this may impact the utility and usefulness of the application.
4. Utilize a formal internet-based system to document, track and notify users of known issues, fixes, and application updates (e.g. clear browser cache).
5. Response time for correction of defects/bugs will vary depending on the nature of the defect. Customer will work with Contractor to triage reported issues or enhancements and categorize them as either critical or non-critical. Specifications for each category are provided below:
  - a. Critical issues:
    - i. Investigation and correction of these items will utilize a 5-day standard.
    - ii. Requests will be acknowledged within 1 hour and an initial estimation response provided within 4 hours.
    - iii. Subsequent responses will be provided daily until issue is resolved.
    - iv. Items requiring more than 4 hours of work must be pre-approved by Customer.
  - b. Non Critical Issues:
    - i. Investigation and correction of these items shall be packaged and addressed in a monthly release cadence.
    - ii. Requests will be acknowledged within 1 day and an initial estimation response provided within 5 days.

- iii. Contractor will provide subsequent responses as needed or as requested by Customer.
  - iv. Items requiring more than 4 hours of work must be pre-approved by Customer.
- 6. Contractor will prepare acceptance criteria for each reported issue, update or enhancement for TAMFS approval.
- 7. Status tracking: TAMFS will work with Contractor to define an appropriate process to track item's status to final resolution. At a minimum, this shall include the following steps:
  - a. Item is reported by Customer or Contractor
  - b. Customer and Contractor work together to determine if item is critical or non-critical
  - c. Customer prioritizes resolution of non-critical items
  - d. Contractor estimates number of hours to implement fix or enhancement and provides acceptance criteria for implementation
  - e. Customer approves item for Contractor to begin resolving issue
  - f. Contractor pushes fix to the staging environment for Customer evaluation and testing
  - g. Customer approves item for production release based on acceptance criteria
  - h. Contractor pushes item to production environment for final Customer approval
- 8. Production release planning:
  - a. Contractor will work with TAMFS to define a regularly scheduled production release cadence (e.g. monthly, bi-weekly).
  - b. Customer shall have at least 5 days prior to the scheduled production release to review and test items.
  - c. Customer will work with Contractor to determine which items shall be included in each production release cycle.
- 9. Bug fixes requiring more than 4 hours of work must be pre-approved by TAMFS.
- B. Support
  - 1. Contractor shall provide email and phone support via a help desk. A standardized email and phone number shall be established for communications. Phone support will not be provided to the public.
  - 2. TAMFS will provide first line of support for all users and coordinate with Contractor as necessary.
  - 3. Help desk shall be open during normal TAMFS business hours (8 am – 5 pm CST) Monday - Friday, excluding TAMFS holidays.
  - 4. Email support requests will be acknowledged within 2 hours and responses will be provided within 2 business days.
  - 5. Phone support requests will be acknowledged with a call back within 12 business hours with a target of resolving requests within 3 days.
  - 6. Requests requiring more than 2 hours of work must be pre-approved by TAMFS.
  - 7. Extended project support will be limited to users authorized by TAMFS. Project support must be pre-approved by TAMFS on case-by-case basis.

#### C. Reporting

1. Provide monthly summaries and statistics on all support requests (emails, phone) and software updates/changes.
2. Provide an active support log to track bug fixes, enhancements or other support requests status, hours expended on each request, and remaining allotted hours in the purchase order.
3. Contractor will host monthly conference calls with TAMFS and provide a status summary report which shall include the following:
  - a. Activities since last report
  - b. Questions
  - c. Impediments
  - d. Open tasks:
    - i. Tasks pending initial cost (hours) estimation
    - ii. Tasks pending TAMFS approval (hours)
    - iii. Task approved by TAMFS (hours)
  - e. Next release items
  - f. Release schedule
  - g. Hours remaining on contract

### 3. Scope – Hosting Services

The following are the terms, conditions, and requirements under which Contractor shall provide Hosting Services (the “Hosting”) for TxWRAP.

#### A. General

1. Hosting of the software shall occur on Contractor’s servers.
2. Contractor will provide a data backup and disaster recovery plan for TAMFS review and approval.
3. Contractor shall prepare and provide an AICPA Service Organization Control Type 2 Report (SOC 2 Report) for Customer. If Contractor is not able to provide a SOC 2 Report, Customer may accept Contractor’s internal documentation describing the same. In addition, Customer requests a URL link or a current copy of the SOC 3 Report if available.
4. Contractor shall be responsible for securing all server-side software licenses required to support hosting and operation of the system (i.e. ESRI ArcGIS Server, Microsoft SQL, FTP Server, SSL certificate, etc.). Contractor shall provide a list of software licenses required to operate the Software.
5. Servers provided by the Contractor shall be located in a secure datacenter (based on industry best practices and standards) and the datacenter shall provide an SLA uptime of at least 99%.
6. Contractor will secure domain name and SSL certificate on the behalf of TAMFS. Domain name shall be [www.texaswildfirerisk.com](http://www.texaswildfirerisk.com). Ownership of the domain name will transfer to Customer within 30 days of written request by Customer.

7. Customer is responsible for maintenance and installation of any common carrier equipment or communication support related to the operation of the Software and not furnished by Contractor. Customer is also responsible for charges incurred for communication facilities at Customer's facilities, whether incurred by Customer or by Contractor Support representatives while providing Hosting Support of the Software.
8. Customer will contact Contractor through the Timmons GIS Support Portal or via email at [gissupport@timmons.com](mailto:gissupport@timmons.com) to report Hosting service issues.
9. Limit of Liability. To the extent allowed by the laws and constitution of the state of Texas, Contractor will not be responsible to Customer for loss of use of the Software or data or for any other liabilities arising from the use, alterations, additions, adjustments or repairs which are made to the Software by third parties other than authorized representatives of Contractor, or at the direction of Contractor. Contractor reserves the right to terminate this Software Hosting upon written notice to Customer if any such alteration, addition, adjustment or repair adversely affects Contractor's ability to render Hosting of the Software.

B. Availability

1. Contractor shall make a reasonable effort to provide hosting services 24x7x365 not including planned downtime for infrastructure and/or server maintenance. In the event there is an interruption or issue with the hosting service, Contractor shall respond to the incident and make reasonable efforts to resolve the issue and minimize the impacts to the operation of the Software.
2. Contractor shall notify Customer in the event there is an interruption or issue with the hosting service that the Contractor is aware of but not previously reported by the Customer; Contractor shall respond to the incident as if it was reported by the Customer.
3. Contractor guarantees that the network will be available 100% of the time in a given month, excluding maintenance windows. Customer will be able to receive and transmit information from other portions of the internet to the Contractor network without "Downtime," which is defined as a customer experiencing sustained packet loss of more than 50%. If the Customer experiences network Downtime, the Customer will be eligible for a credit of 10% of their monthly fees for each 24 hours of Downtime.

C. Maintenance and Backup

1. Contractor shall perform planned and unplanned hosting maintenance activities as needed for the purposes of applying software patches, updates and system reboots. Contractor will conduct planned hosting maintenance activities during the Nightly Maintenance Period ("NMP") to minimize downtime to the SOFTWARE. The NMP is defined between the hours of 7:00 PM and 7:00 AM, Central Standard Time, Sunday through Saturday, including holidays.
2. Contractor shall back-up of Customer data daily where it is retained for 72 hours and available on site, and every 7 days a backup is archived where it is retained for 90 days. Backups will be stored in multiple physical locations for redundancy.

#### D. Termination

1. Contractor or Customer may terminate Hosting Services by giving at least sixty (60) days written notice.
2. Upon termination, Contractor shall provide to Customer secure access to download all files and data related to the Software. Contractor shall scrub and permanently delete any files, including backup tapes/hard drives, from the system once Customer confirms receipt of the files and data in writing.

## 4. Deliverables

The project will include the following deliverables and terms.

- A. Deliverables must be provided on the agreed upon dates specified by Customer. Any changes to the delivery date must have prior approval (in writing) by the TAMFS Project Manager.
- B. All deliverables must be submitted in a format approved by the TAMFS Project Manager.
- C. All deliverables must have acceptance criteria established and a time period for testing and acceptance. TAMFS will have up to 15 working days to review deliverables once they are received.
- D. If the deliverable cannot be provided within the scheduled time frame, the Contractor is required to contact the TAMFS Project Manager in writing with a reason for the delay and the proposed revised schedule. The request for a revised schedule must include the impact on related tasks and the overall project.
- E. A request for a revised schedule must be reviewed and approved by the TAMFS Project Manager before placed in effect.

## 5. Definitions

- A. Contractor – shall mean Timmons Group with principal business located at 1001 Boulders Parkway, Suite 300, Richmond, Virginia 23225
- B. Customer – shall mean Texas A&M Forest Service with principal business located at 200 Technology Way, College Station, TX 77845
- C. Software – shall mean Texas Wildfire Risk Assessment Portal
- D. TAMFS – shall mean Texas A&M Forest Service
- E. Critical issue – shall mean incident of problem that has made a critical function unusable or unavailable and there are no alternate means to obtain the critical functionality.
- F. Non-critical issue – shall mean any other issue that does not fit the description above.
- G. Fix – shall mean workaround and/or additional replacement lines of software code to remedy a defect causing the software not to operate substantially in accordance with this requirements and specifications of this SOW.



- H. Response time – shall mean elapsed time from when the Vendor receives a request for assistance until the commencement of assistance.

## 6. Pricing

Pricing for Project Based Services will be based on “per hour unit price” for positions and items as referenced in the terms and conditions of GSA contract GS-35F-0462T. Contractor shall itemize the number of hours by position to fulfill the requirements of this SOW.

Pricing for Hosting Services shall be on a per month basis.

Pricing Schedule:

Scope – Project Based Services			
Position (based on GSA contract GS-35F-0462T)	Hourly Rate	# of Hours	Price Quote
Senior Software Engineer	\$117.88	200	\$23,576.00
Senior Project Manager	\$133.29	50	\$6,664.50
Scope – Hosting Services			
Deliverable	Per Unit Price	Units	Price Quote
TxWRAP Hosting Services, 12-month period(Dec 1, 2022 thru Nov 30; 2023)	\$28,800.00	1	\$28,800.00
Total Price			\$59,040.50

## 7. Invoices and Payment

Payment will be as per terms and conditions of GSA contract GS-35F-0462T. Contractor will be paid for used hours only.

A. Inspection and Acceptance

Contractor shall allow TAMFS up to 15 working days for inspection upon receipt of deliverables. If deliverable is not acceptable, TAMFS will return deliverable to Contractor for modification to meet specifications. After modification, Contractor shall return deliverable and allow TAMFS another 15 working days for inspection. This process will repeat until the deliverable is acceptable. TAMFS will provide acceptance in writing and payment will be made 30 calendar days from acceptance of deliverable or receipt of correct invoice, whichever is later.

B. All deliverables must be completed and accepted by Customer before invoices can be submitted.

C. Contractor will provide a 45-day warranty on all work and deliverables from the date of TAMFS acceptance.

D. Invoice shall include:

1. Invoice number
2. Purchase order number

3. Date
  4. Itemized charges and grand total
  5. Description of deliverables
  6. Contractors name
  7. Remit to address
- E. TAMFS “ship to” and “invoice to” addresses will be provided on subsequent purchase order(s)
- F. TAMFS is tax exempt as an agency of the State of Texas. Do not include State Sales tax or Federal Excise tax in prices.
- G. There are no insurance or bonding requirements

## **8. Period of Performance**

Period of performance shall commence on date purchase order is issued and shall conclude on **August 31, 2025**. Any extension for the period of performance must be approved by the Texas A&M Forest Service

## **9. State Ownership of Work Product**

Contractor and Texas A&M Forest Service acknowledge and agree that any and all analyses, evaluations, reports, memoranda, letters, ideas, processes, methods, programs, and manuals that were developed, prepared, conceived, made or suggested by the Contractor for Texas A&M Forest Service pursuant to a SOW, including all such developments as are originated or conceived during the term of this Contract but are completed or reduced to writing thereafter (the “Work Product”) will be and remain the exclusive property Texas A&M Forest Service. All rights, title and ownership interests, including copyright, which Contractor and all Workers may have in any Work Product or any tangible media embodying such Work Product are hereby assigned to Texas A&M Forest Service. Contractor, for itself and on behalf of its Workers, waives any property interest in such work product.

## **10. Intellectual Property Matters**

### **A. Definitions**

1. “ Work Product” means any and all deliverables produced by Contractor for Texas A&M Forest Service under a Statement of Work issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works

fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Texas A&M Forest Service under the Contract or a Statement of Work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Texas A&M Forest Service in connection with this Contract or a Statement of Work, or with funds appropriated by or for Texas A&M Forest Service or Texas A&M Forest Service's benefit: (a) by any Contractor personnel or Texas A&M Forest Service personnel, or (b) any Texas A&M Forest Service personnel who then became personnel to Contractor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Contractor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Texas A&M Forest Service.

2. "Intellectual Property Rights" means the worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
3. "Statement of Work" means a document signed by Texas A&M Forest Service and Contractor describing a specific set of activities and/or deliverables, which may include Work Product and Intellectual Property Rights, that Contractor is to provide Texas A&M Forest Service, issued pursuant to the Contract.
4. "Third Party IP" means the Intellectual Property Rights of any third party not a party to this Contract, and which is not directly or indirectly providing any goods or services to Texas A&M Forest Service under this Contract.

5. "Contractor IP" shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Contractor (a) prior to providing any Services or Work Product to Texas A&M Forest Service and prior to receiving any documents, materials, information or funding from or on behalf of Texas A&M Forest Service relating to the Services or Work Product, or (b) after the Effective Date of the Contract if such tangible or intangible items or things were independently developed by Contractor outside Contractor's provision of Services or Work Product for Texas A&M Forest Service hereunder and were not created, prepared, developed, invented or conceived by any Texas A&M Forest Service personnel who then became personnel to Contractor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Contractor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Texas A&M Forest Service.

B. Ownership

As between Contractor and Texas A&M Forest Service, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Texas A&M Forest Service, and not Contractor. Contractor specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Texas A&M Forest Service. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Contractor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Texas A&M Forest Service all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Texas A&M Forest Service shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Contractor acknowledges that Contractor and Texas A&M Forest Service do not intend Contractor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Texas A&M Forest Service shall have access, during normal business hours and upon reasonable prior notice to Contractor, to all Contractor materials, premises and computer files containing the Work Product. Contractor and Texas A&M Forest Service, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Contractor.

C. Further Actions

Contractor, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Texas A&M Forest Service to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Texas A&M Forest Service to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by Texas A&M Forest Service. In the event Texas A&M Forest Service shall be unable to obtain Contractor’s signature due to the dissolution of Contractor or Contractor’s unreasonable failure to respond to Texas A&M Forest Service’s repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Contractor hereby irrevocably designates and appoints Texas A&M Forest Service and its duly authorized officers and agents as Contractor’s agent and Contractor’s attorney-in-fact to act for and in Contractor’s behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Contractor, provided however that no such grant of right to Texas A&M Forest Service is applicable if Contractor fails to execute any document due to a good faith dispute by Contractor with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Texas A&M Forest Service shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Contractor shall cooperate, at Texas A&M Forest Service’s sole expense, in the preparation

and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

D. Waiver of Moral Rights

Contractor hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Contractor may now have or which may accrue to Contractor's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted.

Contractor acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

E. Confidentiality

All documents, information and materials forwarded to Contractor by Texas A&M Forest Service for use in and preparation of the Work Product, shall be deemed the confidential information of Texas A&M Forest Service, and subject to the license granted by Texas A&M Forest Service to Contractor under sub-paragraph h hereunder, Contractor shall not use, disclose, or permit any person to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Texas A&M Forest Service.

F. Injunctive Relief

The Contract is intended to protect Texas A&M Forest Service's proprietary rights pertaining to the Work Product, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to Texas A&M Forest Service's business.

Therefore, Contractor acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin any material breach of the intellectual property, use, and confidentiality provisions of this Contract, upon a request by Texas A&M Forest Service, without requiring proof of irreparable injury as same should be presumed.

G. Return of Materials Pertaining to Work Product

Upon the request of Texas A&M Forest Service, but in any event upon termination or expiration of this Contract or a Statement of Work, Contractor shall surrender to Texas A&M Forest Service all documents and things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by Contractor or furnished by Texas A&M Forest Service to Contractor, including all materials embodying the Work Product, any Texas A&M Forest Service confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Contractor by Texas A&M Forest Service or by anyone else that pertains to the Work Product.

H. Contractor License to Use

Texas A&M Forest Service hereby grants to Contractor a non-transferable, non-exclusive, royalty-free, fully paid-up license to use any Work Product solely as necessary to provide the Services to Texas A&M Forest Service. Except as provided in this Section, neither Contractor nor any Subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Texas A&M Forest Service, which consent may be withheld in Texas A&M Forest Service's sole discretion.

I. Third-Party Underlying and Derivative Works

To the extent that any Contractor IP or Third Party IP are embodied or reflected in the Work Product, or are necessary to provide the Services, Contractor hereby grants to the Texas A&M Forest Service, or shall obtain from the applicable third party for Texas A&M Forest Service's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for Texas A&M Forest Service's internal business purposes only, to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Contractor IP or Third Party IP and any derivative works thereof embodied in or delivered to Texas A&M Forest Service in conjunction with the Work Product, and (ii) authorize others to do any or all of the foregoing. Contractor agrees to notify Texas A&M Forest Service on delivery of the Work Product or Services if such materials include any Third Party IP. On request, Contractor shall provide Texas A&M Forest Service with documentation indicating a third party's written approval for Contractor to use any Third Party IP that may be embodied or reflected in the Work Product.

J. Agreement with Subcontractors

Contractor agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing Services or Work Product pursuant to the Contract, prior to their providing such Services or Work Product, and that it shall maintain such written agreements at all times during performance of this Contract, which are sufficient to support all performance and grants of rights by Contractor. Copies of such agreements shall be provided to the Texas A&M Forest Service promptly upon request.

K. License to Texas A&M Forest Service

Contractor grants to Texas A&M Forest Service, a perpetual, irrevocable, royalty free license, solely for the Texas A&M Forest Service's internal business purposes, to use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Contractor IP embodied in or delivered to Texas A&M Forest Service in conjunction with the Work Product. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carryout Texas A&M Forest Service's internal business use of the Work Product. Except for the preceding license, all rights in Contractor IP remain in Contractor.

L. Contractor Development Rights

To the extent not inconsistent with Texas A&M Forest Service's rights in the Work Product or as set forth herein, nothing in this Contract shall preclude Contractor from developing for itself, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, provided that no Work Product is utilized, and no Intellectual Property Rights of Texas A&M Forest Service therein are infringed by such competitive materials. To the extent that Contractor wishes to use the Work Product, or acquire licensed rights in certain Intellectual Property Rights of Texas A&M Forest Service therein in order to offer competitive goods or services to third parties, Contractor and Texas A&M Forest Service agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

## 11. Response Submission Requirements

Response submission must be completed and sent to Customer by **Wednesday, November 16, 2022, at 2:00 PM**. Response shall be sent to the following mailing address or email address:

**Mailing Address:**

Texas A&M Forest Service  
Applied Technology  
200 Technology Way, Suite 1162  
College Station, TX 77845

**Email Address:**

Curt Stripling, Geospatial Coordinator, [cstripling@tfs.tamu.edu](mailto:cstripling@tfs.tamu.edu)



# 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.