

STATE OF TEXAS §
§
COUNTY OF FORT BEND §

AMENDMENT TO JETTY COMMUNICATIONS SOLUTIONS, LLC'S AGREEMENT

THIS AMENDMENT (“Amendment”) is entered into by and between Fort Bend County, (“County”), a body corporate and politic under the laws of the State of Texas, and Jetty Communications Solutions, LLC, (“Jetty Communications”), a company authorized to conduct business in the State of Texas (collectively referred to as the “parties”).

WITNESSETH:

WHEREAS, the parties previously entered into the Addendum to Jetty Communications Solutions, LLC’s Agreement, on or about August 9, 2022, (the “Agreement”), attached hereto as Exhibit “I” and incorporated herein for all purposes; and

WHEREAS, the County desires that Jetty Communications provide additional services (the “Services”), as indicated in Jetty Communications’ Software Subscription Proposal, dated April 14, 2023, for two Jetty sites, attached hereto as Exhibit “II” and incorporated fully by reference; and

WHEREAS, Jetty Communications is the sole source provider of the Services, as indicated in the Sole Source Letter, attached hereto as Exhibit “III” and incorporated fully by reference; and

NOW, THEREFORE, County and Jetty Communications desire to amend said Agreement as set forth below:

- I. Amendments
 1. **Scope of Services.** Jetty Communications shall provide additional Services as described in Exhibit II for two Jetty sites; and in accordance with Exhibits III and IV.
 2. **Term.** This Agreement shall renew and is effective as of January 1, 2023, and shall expire no later than December 31, 2023, unless terminated sooner pursuant to this Agreement. This Agreement shall not automatically renew, but may renew upon written agreement of the parties.
 3. **Limit of Appropriation.** Jetty Communications’ fees shall be calculated at the rates set forth in the attached Exhibit II. The Maximum Compensation for the performance of services within the Scope of Services as described in Exhibit II is \$12,900.00. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. Jetty Communications clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of \$12,900.00, specifically allocated to fully discharge any and all liabilities County may incur concerning this Amendment. Jetty Communications does further

understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Jetty Communications may become entitled to and the total maximum sum that County may become liable to pay to Jetty Communications concerning this Amendment shall not under any conditions, circumstances, or interpretations thereof exceed \$12,900.00.

4. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Jetty Communications hereby verifies that Jetty Communications and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Jetty Communications does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Jetty Communications does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Jetty Communications does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
5. **Grant Funding.** Jetty Communications understands that and acknowledges that this Agreement may be totally or partially funded with federal funds. Jetty Communications represents and warrants that it is and will remain in compliance with all applicable federal provisions, including those attached as Exhibit "IV" attached hereto and incorporated herein for all purposes.
6. **Termination.**
 - a. **Termination for Convenience.** County may terminate this Agreement at any time upon thirty (30) days written notice.

- b. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
 - (1). If Jetty Communications fails to timely perform Services pursuant to this Agreement or any extension thereof granted by the County in writing;
 - (2). If Jetty Communications materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- c. If, after termination, it is determined for any reason whatsoever that Jetty Communications was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with § 6.a above.
- d. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Jetty Communications.
- e. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.
- f. Upon termination of this Agreement for any reason, if Jetty Communications has any property in its possession belonging to County, Jetty Communications will account for the same, and dispose of it in the manner the County directs.
- 7. **Modifications.** Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- 8. **Conflict.** If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.
- 9. **Understanding, Fair Construction.** By execution of this Amendment, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Amendment. This Amendment, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
- 10. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

IN WITNESS WHEREOF, this Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

JETTY COMMUNICATIONS SOLUTIONS,
LLC

KP George, County Judge

Authorized Agent – Signature

Date

Authorized Agent- Printed Name

ATTEST:

Title

Laura Richard, County Clerk

Date

REVIEWED:

Robyn Doughtie

Information Technology Office

CIO

4/17/2023

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit I: Addendum to Jetty Communications Solutions, LLC's Agreement, on or about August 9, 2022;
Exhibit II: Jetty Communications' Software Subscription Proposal, dated April 14, 2023;
Exhibit III: Sole Source Letter; and
Exhibit IV: Federal Clauses.

EXHIBIT I

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

ADDENDUM TO JETTY COMMUNICATIONS SOLUTIONS, LLC'S AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Jetty Communications Solutions, LLC, (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, the parties have executed and accepted Jetty Communications Solutions, LLC's Invoice #228 and Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal (CONFIDENTIAL), (the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for software annual subscription with 22 sites along with Social Media enhanced features and training (the "Services"); and

WHEREAS, County desires that Contractor provide Services as will be more specifically described in this Agreement; and

WHEREAS, Contractor represents that it is qualified and desires to perform such Services; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

AGREEMENT

1. **Scope of Services.** Subject to this Addendum, Contractor will render Services to County as described in Exhibit A. Any applicable training services shall be scheduled at a time that is mutually agreeable between the parties but without reasonable delay.
2. **Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.
3. **Limit of Appropriation.** Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Sixty-nine Thousand, Five Hundred and 00/100 dollars (\$69,500.00), specifically allocated to fully discharge any and all liabilities County may incur. Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations

thereof exceed Sixty-nine Thousand, Five Hundred and 00/100 dollars (\$69,500.00). In no event will the amount paid by the County for all services under this Agreement exceed this Limit of Appropriation without an agreement executed by the parties.

4. **Public Information Act.** Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Contractor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Contractor for any reason are hereby deleted.
6. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Contractor in any way associated with the Agreement.
7. **No Waiver of Jury Trial.** The County does not agree that all disputes (including any claims or counterclaims) arising from or related to this Agreement shall be resolved without a jury. Therefore, any references to waiver of jury trial are hereby deleted.
8. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
 - a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
 - b. Texas Government Code § 2252.152 Acknowledgment: By signature below, Contractor represents pursuant to § 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2252.153.

9. **Modifications.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute. No other provisions to this Agreement apply except for the terms which appear and/or are incorporated in this Addendum and the attached Exhibits.
10. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, CONTRACTOR ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
11. **Personnel.** Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Services when and as required and without delays.

All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor or agent of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to providing Services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the Services required under this Agreement.

When performing Services for the County, Contractor shall comply with, and ensure that all Contractor Personnel comply with, all rules, regulations and policies of County that are communicated to Contractor, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

12. **Use of Customer Name.** Contractor may use County's name without County's prior written consent only in any Contractor' customer lists, any other use must be approved in advance by County.
13. **Independent Contractor.** In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Contractor or, where permitted, of its subcontractors. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

14. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
15. **Confidential Information.** Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is

inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

16. Insurance. Prior to commencement of the Services under this Agreement, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

- (a). Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- (b). Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- (c). Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
- (d). Professional Liability insurance with limits not less than \$1,000,000.

County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies including Workers' Compensation written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court. For Commercial General Liability, the County shall be named as an Additional Insured on a Primary & Non-Contributory basis.

If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time that work under the Agreement is completed.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, or faxed to the following County contact:

Name: Wyatt Scott, Director of Risk Management
Address: 301 Jackson St., Suite 224, Richmond, TX 77469
Facsimile Number: 281-341-3751

17. **Performance Warranty.** Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with the highest professional standards.

Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

18. **Assignment and Delegation.**

18.1. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

18.2. Neither party may delegate any performance under this Agreement.

18.3. Any purported assignment of rights or delegation of performance in violation of this Section is void.

18.4. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.

19. **Successors and Assigns.** County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

20. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls to the extent of the conflict. In the event there is a conflict between this Addendum and the terms and conditions of Choice Partners Contract Number 19/036MR-03, then the terms and conditions of Choice Partners Contract Number 19/036MR-03 controls to the extent of the conflict.

21. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

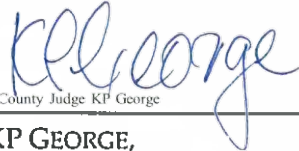
22. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

23. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

24. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Addendum is effective upon execution of both parties.

FORT BEND COUNTY



County Judge KP George

KP GEORGE,
COUNTY JUDGE

August 9, 2022

DATE


ATTEST:



LAURA RICHARD,
COUNTY CLERK



JETTY COMMUNICATIONS SOLUTIONS, LLC



Authorized Agent - Signature



Authorized Agent - Printed Name

CEO

Title



Date

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 69,500.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.



Robert Ed Sturdivant, County Auditor

Exhibit A: Jetty Communications Solutions, LLC's Invoice #228 and Proposal: 20220722
FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal (CONFIDENTIAL)

Exhibit A

JETTY Communications Solutions, LLC
 13939 Telge Rd.
 Cypress, TX 77429

Invoice

| Date | Invoice # |
|-----------|-----------|
| 7/22/2022 | 228 |

| Bill To |
|----------------------------------------------------------------------------------------------------|
| Fort Bend County Emergency Management 301 Jackson Richmond, TX 77469 Attn: County Auditor |

| P.O. No. | Terms |
|----------|--------|
| | Net 30 |

| Description | Qty | Rate | Date | Amount |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----------|--------------|-------------|
| Jetty Software Annual Subscription Fee Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal Houston UASI Fort Bend County, TX PO # Rodney Grimmer | | | | |
| Jetty Software Annual Subscription Fee - 22 Sites - Includes Hosting, 24/7 Customer Support and Software Updates January - December 2022 | 1 | 68,200.00 | | 68,200.00 |
| Blog2Social Annual Fee - 26 Users | 1 | 1,300.00 | | 1,300.00 |
| Employer ID: 46-4689135 | | | Total | \$69,500.00 |



FBCOEM Houston UASI Annual Jetty Renewal 2022

July 22, 2022

Rodney Grimmer
Fort Bend County Emergency Management
Homeland Security and Emergency Management
Desk: 281-238-3417
Email: rodney.grimmer@fortbendcountytx.gov

Dear Mr. Grimmer,

Jetty Communications Solutions (Jetty) is pleased to offer you this proposal to renew the Jetty software annual subscription with an additional 2 sites, for a total of 22 sites, along with Social Media enhanced features for 2022.

Enclosed please find the following information:

Description
Associated Costs
Proposal Acceptance

We look forward to your response and further engagement. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Andy Kendrick". The signature is fluid and cursive.

Andy Kendrick
The Response Group / Jetty
13939 Telge Road
Cypress, TX 77429
Office: 281-880-5000
Cell: 832-684-6777
akendrick@responsegroupinc.com



**Proposal: 20220722 FBCOEM Houston UASI Jetty
Software Subscription 2022 Renewal (CONFIDENTIAL)**

July 22, 2022



Houston UASI





Company Background:

Jetty Communication Solutions, is the provider of the Jetty Software with offices in Houston, TX and Bellingham, WA. Jetty was developed out of over many years of crisis communication experience. The company was founded in November 2013 and has been adopted by both the private and public sectors. It was specifically designed to help groups of communicators quickly respond to situations that require fast and accurate information.

Project Description/Scope of Work:

JETTY proposes the following Jetty Software Renewal:

Annual Subscription: Annual agreement includes: Hosting, 24/7 customer support, one non-public facing training site and software updates. Additional single Jetty sites can be purchased. Subscription term is January 1st, 2022 - Dec 31st, 2022.

Proposed Costs:

Jetty Standard Pricing:

- \$18,500/year for one Jetty site subscription (additional sites @ \$8,000 each)
- \$500/year for Blog2Social with 10 user access (additional users @ \$50/year each)
- \$2,500/year for Language Translation plugin (1-5 sites)
(\$7,500/year for >10 sites with translation for 10 million characters)

Houston UASI Bulk Pricing 2022:

- 1-9 Jetty sites = \$5,700 per Jetty
- 10-19 Jetty sites = \$4,100 per Jetty
- 20-39 Jetty sites = \$3,100 per Jetty
- 40+ Jetty sites = Call for Pricing

2022 Proposed Jetty Annual Renewal:

- 22 Jetty Sites x \$3,100 = \$ 68,200 / year
- Language Translation = \$0 (includes 10 million characters; overages are \$60/per million characters)
- Blog2Social (\$1,300 / year)
 - Annual cost with 10 users = \$500
 - 16 additional users per year = \$800

Subsequent years subject to maximum 4% increase.



Software Usage:

- Includes 100,000 phone units* for all Jetty sites combined in contract.

***Units:**

- 1 phone minute = 1 unit
- 1 SMS = 1 unit
- 1 MMS = 1 unit

Additional Phone Units: \$.05 each

- Includes 1 terabyte of data transfer.

Additional data transfer: \$1 per gigabyte

All email, telephony and text messaging distributions are sent on a best-effort basis. Subscription service provider is not liable or held responsible for delays in message delivery.

Additional Services:

| Jetty Software Maintenance and Support * Does not include expenses | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <ul style="list-style-type: none">• Jetty Software preloading by TRG personnel• Jetty Software Training• Drill Support• Jetty Software custom programming and/or enhancements• Response/Incident Support | \$150/Hour |

Professional service engagements are conducted on a time and materials basis. Expenses (such as flights, hotels, and miscellaneous costs) are billed at actual costs incurred and estimates can be included as requested for on-site support. If it appears that the actual costs will significantly exceed the proposal, contact will be made with the client to determine appropriate action to be taken.



Proposal Acceptance

If the terms set forth in *Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal* meet with your approval, please complete the following and fax or mail a copy to our office. An email indicating approval will also be accepted along with the attached proposal as reference (please also include proposal name).

Cost Summary

- Jetty Annual Renewal: 22 Jetty Sites x \$3,100 = \$ 68,200 / year
- Language Translation: \$0 (overages are \$60/per million characters)
- Blog2Social with 26 user accounts: \$1,300 / year

Total: \$ 69,500 / year

Agreed and accepted this _____ day of _____, _____

Signature

Printed Name

EXHIBIT II



FBCOEM Houston UASI Annual Jetty Subscription 2023

April 14, 2023

Rodney Grimmer
Fort Bend County Emergency Management
Homeland Security and Emergency Management
Desk: 281-238-3417
Email: rodney.grimmer@fortbendcountytexas.gov

Dear Mr. Grimmer,

Jetty Communications Solutions (Jetty) is pleased to offer you this Jetty software subscription proposal, for houstonuasi.com and the Securing the Cities site.

Enclosed please find the following information:

Description
Associated Costs
Proposal Acceptance

We look forward to your response and further engagement. Please do not hesitate to contact me with any questions.

Sincerely,

Andy Kendrick
The Response Group / Jetty
13939 Telge Road
Cypress, TX 77429
Office: 281-880-5000
Cell: 832-684-6777
akendrick@responsegroupinc.com



**Proposal: 20230414 FBCOEM Houston UASI Jetty
Software Subscription 2023 (CONFIDENTIAL)**

April 14, 2023



Houston UASI





Company Background:

Jetty Communication Solutions, is the provider of the Jetty Software with offices in Houston, TX and Bellingham, WA. Jetty was developed out of over many years of crisis communication experience. The company was founded in November 2013 and has been adopted by both the private and public sectors. It was specifically designed to help groups of communicators quickly respond to situations that require fast and accurate information.

Project Description/Scope of Work:

JETTY proposes the following Jetty Software Renewal:

Annual Subscription: Annual agreement includes: Hosting, 24/7 customer support, one non-public facing training site and software updates. Additional single Jetty sites can be purchased. Subscription term is January 1st, 2023 - Dec 31st, 2023.

Proposed Costs:

Jetty Standard Pricing:

- \$18,500/year for one Jetty site subscription (additional sites @ \$8,000 each)
- \$500/year for Blog2Social with 10 user access (additional users @ \$50/year each)
- \$2,500/year for Language Translation plugin (1-5 sites) (\$7,500/year for >10 sites with translation for 10 million characters)

Houston UASI Bulk Pricing 2023:

1-9 Jetty sites = \$5,700 per Jetty
10-19 Jetty sites = \$4,100 per Jetty
20-39 Jetty sites = \$3,100 per Jetty
40+ Jetty sites = Call for Pricing

2023 Proposed Jetty Annual Renewal:

- 2 Jetty Sites x \$5,700 = \$ 11,400 / year
- One time setup fee to re-launch HoustonSTC.org = \$1,500
- Language Translation = \$0 (includes 10 million characters; overages are \$60/per million characters)
- Blog2Social – NOT INCLUDED

Subsequent years subject to maximum 4% increase.



Software Usage:

- Includes 100,000 phone units* for all Jetty sites combined in contract.

***Units:**

- 1 phone minute = 1 unit
- 1 SMS = 1 unit
- 1 MMS = 1 unit

Additional Phone Units: \$.05 each

- Includes 1 terabyte of data transfer.

Additional data transfer: \$1 per gigabyte

All email, telephony and text messaging distributions are sent on a best-effort basis. Subscription service provider is not liable or held responsible for delays in message delivery.

Additional Services:

| Jetty Software Maintenance and Support * Does not include expenses | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <ul style="list-style-type: none">• Jetty Software preloading by TRG personnel• Jetty Software Training• Drill Support• Jetty Software custom programming and/or enhancements• Response/Incident Support | \$150/Hour |

Professional service engagements are conducted on a time and materials basis. Expenses (such as flights, hotels, and miscellaneous costs) are billed at actual costs incurred and estimates can be included as requested for on-site support. If it appears that the actual costs will significantly exceed the proposal, contact will be made with the client to determine appropriate action to be taken.



Proposal Acceptance

If the terms set forth in **Proposal: 20230414 FBCOEM Houston UASI Jetty Software Subscription 2023** meet with your approval, please complete the following and fax or mail a copy to our office. An email indicating approval will also be accepted along with the attached proposal as reference (please also include proposal name).

Cost Summary

- **Jetty Annual Subscription: 2 Jetty Site x \$5,700 = \$ 11,400 / year**
- **One time Site Setup Fee for HoustonSTC.org = \$1,500**
- **Language Translation: \$0 (overages are \$60/per million characters)**

Total: \$ 12,900

Agreed and accepted this _____ day of _____, _____

Signature

Printed Name

EXHIBIT III

Re: The Response Group (TRG) - Sole Source Letter

To Whom It May Concern:

This letter is written to confirm that The Response Group LLC (TRG) is the sole source service provider of the following products:

- IAP Software™, Jetty™, TRG COP, TRG WebPlans
- Mobile Applications: Incident Action Plan, eIMH Enterprise, Initial Response, Resource Request, Resource Manager, Exercise eVal

Additionally, these TRG Products are protected by copyrights, trademarks and service marks.

There are no other items or product practically available that offers the same purpose or function, and TRG determines the prices for above-named products and services provided to support above-named products (e.g. support, development, training, etc) because of exclusive distribution and marketing rights.

For further information, please feel free to contact us at 281-880-5000 or at trg-information@responsegroupinc.com.

Sincerely,



Chad Rodrigue
The Response Group
+1 281 880 5000
crodrigue@responsegroupinc.com
www.responsegroupinc.com

"IAP Software - Developed for Responders by Responders"

EXHIBIT IV

Federal Clauses

Jetty Communications Solutions, LLC (hereinafter "Contractor") understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds from the Department of Homeland Security and or the Office of the Governor. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

1. Activities Conducted Abroad

Contractor must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

2. ADA Access.

The Contractor agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws; (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19; (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.

3. Child Support.

Per Texas Family Code 231.006, a child support obligor or business entity remains ineligible to receive payments from state funds under a contract to provide property, materials, or services; or a state funded loan until: (1) all arrearages have been paid; (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from ineligibility as part of a court-supervised effort to improve earnings and child support payments.

Before payment can be released Contractor will supply County with the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity.

Under Section 231.006, Family Code, the Contractor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

4. Civil Rights/Nondiscrimination Requirements.

Contractor will comply, with the nondiscrimination requirements which may include the Civil Rights Act of 1964 (42 USC § 2000d); the Civil Rights Act of 1968 (42 USC § 3601 et seq.); the Rehabilitation Act of 1973 (29 USC § 794); the Americans with Disabilities Act (ADA) of 1990 (42 USC § 12131-34); the Education Amendments of 1972 (USC §§ 1681, 1683, 1685-86); Title IX of the Education Amendments of 1972 (Equal Employment in Education Act) (20 USC § 1681 et seq.); the Age Discrimination Act of 1975 (42 USC §§ 6101-07); Titles I, II and III of the Americans with Disabilities Act; the Drug Abuse and Treatment Act of 1972 (PL 92-255); the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (PL 91-616); Sections 523 and 527 of the Public Health Service Act of 1912 (42 USC §§ 290dd-3 and 290ee-3); and 28 CFR 38 (Equal Treatment for Faith-Based Organizations); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations) and Ex. Order 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations).

More specifically, Contractor will comply with:

a. Americans with Disabilities Act of 1990. Contractor must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. Sections 12101- 12213), which prohibits recipients of federal funds from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

b. Civil Rights Act of 1968. Contractor must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90- 284, as amended through Pub. L. 113-4, which prohibits recipients of federal funds from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. Section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Section 100, Subpart D).

c. Limited English Proficiency

Contractor must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to

persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

d. Civil Rights Act of 1964-Title VI. Contractors must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. Section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

e. Rehabilitation Act of 1973. Contractor must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. Section 794), as amended, which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

f. Nondiscrimination in Matters Pertaining to Faith-Based Organizations. It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Contractors must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

g. Education Amendments of 1972. Contractors must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. Section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

h. Age Discrimination Act of 1975. Contractor must comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. Code, Section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

5. Compliance with Federal Law, Regulations, and Executive Orders.

Contractor's attention is called to the fact that this Agreement between County and Contractor will be subject to financial assistance contracts between the County and various State or Federal agencies. The Agreement to be awarded, therefore, is subject to the terms of these agreements and

will not proceed without these agreements having been duly executed. The Contractor will be required to comply with, in addition to other provisions of the agreement, the conditions required by applicable federal regulations. Contractor will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

6. Contracting with Small, Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms.

Contractor will take all necessary, affirmative steps to assure that qualified small and minority businesses, women's business enterprises, and labor area surplus firms are used when possible by:

- a) Placing small and minority businesses and women's business enterprises on solicitation lists;
- b) Assuring that it solicits small and minority businesses and women's business enterprises whenever they are potential sources;
- c) Dividing total requirements, *when economically feasible*, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- d) Establishing delivery schedules, *where the requirement permits*, which encourage participation by small and minority businesses and women's business enterprises;
- e) Utilizing the assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
- f) Contractor must require subcontractors to take the five affirmative steps described in a-e above.

7. Cooperation with Monitoring, Audits and Records Requirements.

The Contractor agrees to cooperate with the Office of the Governor and any relevant federal agency generally, including on any compliance review or complaint investigation conducted by the Federal sponsoring agency or the Office of the Governor and on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits.

The Contractor shall maintain adequate records that enable the Office of the Governor and any relevant federal agency to complete monitoring tasks, including to verify all reporting measures, requests for reimbursements, and expenditure of match funds related to this Grant Agreement. The Contractor shall maintain such records as are deemed necessary by the Office of the Governor, the State Auditor's Office, other auditors of the State of Texas, the federal government or such other persons or entities designated or authorized by the Office of the Governor to ensure proper accounting for all costs and performances related to this Grant Agreement.

The Office of the Governor may request documented proof of payment. Acceptable proof of payment includes, but is not necessarily limited to, a receipt or other documentation of a paid invoice, a general ledger detailing the specific revenue and expenditures, a monthly bank statement evidencing payment of the specific expenditure, bank reconciliation detail, copies of processed

checks, or a printed copy of an electronic payment confirmation evidencing payment of the specific expenditure to which the reimbursement relates.

The Contractor authorizes DHS, the Office of the Governor, the Texas State Auditor's Office, the Comptroller General of the United States, and any relevant federal agency, and their representatives, the right to audit, examine, and copy all paper and electronic records, books, documents, accounting procedures, practices, and any other requested records, in any form; relevant to this Agreement and will make them readily available upon request. The Contractor will similarly permit access to facilities, personnel, and other individuals and information as may be necessary.

If requested, the Contractor shall submit to the Office of the Governor a copy of its most recent independent financial audit, any audited financial statements, related management letters and management responses of Contractor, and financial audit documents or portions thereof that are directly related to the Contractor's performance of its obligations under this Agreement.

The Office of the Governor may make unannounced monitoring visits at any time but will, whenever practical as determined at the sole discretion of the Office of the Governor, provide the Contractor with up to five (5) business days advance notice of any such examination or audit. Any audit of records shall be conducted at the Contractor's principal place of business and/or the location(s) of the Contractor's operations during the Contractor's normal business hours. The Contractor shall provide to the Office of the Governor or its designees, on the Contractor's premises, private space, office furnishings (including lockable cabinets), telephone services and Internet connectivity, utilities, and office-related equipment and duplicating services as the Office of the Governor or its designees may reasonably require to perform the audits described in this section.

In addition to the information contained in the required reports, other information may be required as requested by the Office of the Governor, including the Office of the Governor asking for more information regarding project performance or funds expenditures. In the event the Office of the Governor requires additional information regarding the information or data submitted, the Contractor will promptly provide the additional information. The Contractor also agrees to assist the Office of the Governor in responding to questions and assisting in providing information responsive to any audit, legislative request, or other inquiry regarding the grant award. Upon the request of the Office of the Governor, the Contractor must submit to the Office of the Governor any additional documentation or explanation the Office of the Governor may desire to support or document the requested payment or report submitted under this Agreement.

If after a written request by the Office of the Governor or a relevant federal agency, the Contractor fails to provide required reports, information, documentation, or other information within reasonable deadlines set by the Office of the Governor or the relevant federal agency, as required by this Agreement, or fails to fulfil any requirement in this section, then the Office of the Governor may consider this act a possible default under this Agreement, and the Contractor may be subject to sanctions including but not limited to, withholdings and/or other restrictions on the access to funds; referral to relevant agencies for audit review; designation of the Contractor as a high-risk Contractor; or termination of awards.

Contractor, at the sole cost of Contractor, agrees to cooperate with the creation, monitoring, and timely execution of any corrective action plan developed by the County, OOG, or relevant federal agency, to address any findings, discrepancies, inadequacies, or deficiencies which an audit, financial or programmatic monitoring, investigations, review of awards, or other compliance review identifies. The failure to promptly and adequately address any investigative findings may result in grant funds being withheld, other related requirements being imposed, or other sanctions and penalties. Contractor understands and agrees that it must make every effort to address and resolve all outstanding issues, findings, or actions identified by OOG (and/or, in the case of a federally funded grant, a relevant federal agency) through the corrective action plan or any other corrective plan.

8. Debt to State

The State shall not be responsible for any debts associated with this Agreement.

9. DHS Specific Acknowledgements and Assurances.

All Contractors, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

- a. Contractor must cooperate with any compliance reviews or compliance investigations conducted by DHS.
- b. Contractor must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
- c. Contractor must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- d. Contractor must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

10. Disputes and Resolutions.

Contractor understands that for all subcontracts of \$250,000 or more, the Contractor must include terms to address dispute resolution between the parties who shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties.

11. Drug-Free Workplace Regulations.

Contractor must comply with drug-free workplace requirements of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* (41 U.S.C. §§ 8101-8106).

12. Examination of Records.

The Contractor agrees to provide County, the Office of the Governor and U.S. Department of Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to comply and will require all subcontractors of any tier to comply with the record retention requirements in accordance with 2 C.F.R. 200.333. The Contractor agrees to retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, all books, records, accounts, statistics, leases, subcontracts, arrangements other third party arrangements of any type, reports, and supporting materials related to those records required under the Agreement for a period of not less than three years after the date of termination or expiration of the Agreement, except in the event of litigation or settlement of claims arising from the performance of the Agreement, in which case Contractor agrees to maintain same until County, the Office of the Governor and U.S. Department of Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

13. Federal Debt

Contractor is required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129).

14. Fly America.

The Contractor agrees to comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. Section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. Section 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B-138942.

And with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

15. Government-wide Debarment and Suspension.

The Contractor shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. A contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to DHS and County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

16. Health and Human Services, Public Safety or Law Enforcement Agency Compliance

Contractor certifies that it as owner, operator or administrator of a facility has not had any licenses, certificates, or permits revoked by any health and human service agency or public safety or law enforcement agency.

17. Program Fraud, False Claims Act and Program Fraud Civil Remedies.

Contractor understands that County does not tolerate any type of fraud, waste or misuse of funds. Contractor shall comply with the requirements of the False Claims Act (31 U.S.C. Section 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. Contractor understands and agrees that misuse of funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal and state grants, recoupment of monies provided under an award, and civil and/or criminal penalties. (See 31 U.S.C. Section 381-3812 which details the administrative remedies for false claims and statements made.)

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with funds from this Agreement.

18. Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

19. Reporting of Fraud, Waste, and Abuse.

In the event, County becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received for the performance of this Agreement, the County is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The County must promptly refer to OOG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. County must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements.

The County must notify the local prosecutor's office of any possible criminal violations. County must immediately notify OOG in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the County must immediately forward a copy of any demand, notices, subpoenas, lawsuits, or indictments to OOG.

The County shall report any possible fraudulent or dishonest acts, waste, or abuse to OOG's Fraud Coordinator or Ethics Advisor at (512) 463-1788 or in writing to: Ethics Advisor, Office of the Governor, P.O. Box 12428, Austin, Texas 78711.

20. Restrictions and Certifications Regarding Non-Disclosure Agreements and Related Matters.

Contractor certifies that they have not required any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood to contravene requirements applicable to federal Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

21. National Environmental Policy Act.

Contractor must comply with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

22. No Obligation by Federal Government.

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, Contractor, or any other party pertaining to any matter resulting from the Agreement.

23. Notice of Funding Opportunity.

All of the instructions, guidance, limitations, and other conditions set forth in the federal Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions.

24. Political Activities.

Contractor must comply with 31 U.S.C. Section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Grant funds may not be used in connection with the following acts by agencies or individuals employed by grant funds:

A. Unless specifically authorized to do so by federal law, grant recipients or their subgrantees or contractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for “political” activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.

B. Grant officials or grant funded employees may not use official authority or influence or permit the use of a program administered by the grantee agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.

C. Grant-funded employees may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.

D. Grant funds will not be used, either directly or indirectly, in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, without the express prior approval of OOG and applicable federal funding agencies. If any non-grant funds have been or will be used in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, it will notify OOG to obtain the appropriate disclosure form. E. Grant funds may not be used to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 of the Government Code to register as a lobbyist. Furthermore, grant funds may not be used to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 of the Government Code to register as a lobbyist.

F. Grant funds – whether expended by the grantee or by any subgrantee or subcontractor – will not be used for political polling. This prohibition regarding political polling does not apply to a poll conducted by an academic institution as a part of the institution’s academic mission that is not conducted for the benefit of a particular candidate or party.

G. As applicable, the grantee will comply with 31 USC § 1352, which provides that none of the funds provided under an award may be expended by the grantee to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

25. Best Practices for Collection and Use of Personally Identifiable Information (PII)

If Contractor collects Personally Identifiable Information (PII), they are required to have a publically-available privacy policy that describes standards in the usage and maintenance of PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively. This requirement applies to all agreements being paid for with funds from the Office of the Governor.

The award recipient certifies it has written procedures in place to respond in the event of an actual or imminent breach (as defined in OMB M-17-12) of personally identifiable information (PII).

The award recipient either 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of PII (as defined in 2 C.F.R. 200.1) within the scope of an OVW (Office on Violence Against Women) grant-funded program or activity, or 2) uses or operates a Federal information system (as defined in OMB Circular A-130). The breach procedures include a requirement to report actual or imminent breach of PII to an OVW Program Manager (or for subrecipients the OOG Grant Manager) no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

26. Prohibited Telecommunications and Video Surveillance Services and Equipment.

Contractor understands and acknowledges that under 2 CFR 200.216, the County is prohibited from using federal funds to procure, obtain, extend or renew a contract to procure or obtain covered telecommunications equipment or services, including telecom equipment produced by Huawei Technologies Company or ZTE Corp. (or subsidiaries or affiliates of such entities).

Contractor, therefore, certifies that they are in compliance with the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY 2019 NDAA\)](#), Pub. L. No. 115-232 (2018), and that in the performance of this agreement, it will not provide equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

27. Prompt Payment.

The Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work is satisfactorily completed.

28. Retention of Records

The Contractor agrees to maintain fiscal records and supporting documentation for all expenditures related to this Agreement pursuant to 2 CFR 200.333, UGMS, and state law. Contractor must retain, and will require its subcontractors of all tiers to retain, these records and any supporting documentation for a minimum period of not less than three (3) years after the date of termination or expiration of the Agreement or any litigation, dispute, or audit arising from the performance of the Agreement. Records related to real property and equipment acquired with grant funds shall be retained for three (3) years after final disposition. If requested by the Office of the Governor's Homeland Security Grant Division (HSGD), the County may direct the Contractor to retain documents for a longer period of time or transfer certain records to HSGD custody when it is determined the records possess longer term retention value.

29. Rights to Inventions and Copyrighted Material Made Under a Contract or Agreement.

Contractor is subject to the Bayh-Dole Act, 35 U.S.C. section 200, unless otherwise provided by law. Contractors are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. Section 404.14.

Contractor agrees that the OOG and any federal funding agency that has funded work with a federal grant reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes:

- A. Any work subject to copyright developed under an award or subaward; and
- B. Any rights or copyright to which a grantee or subgrantee or subcontractor purchases ownership with state (or Federal) support.

The OOG (and the federal funding agency) have the right to:

- A. Obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and
- B. Authorize others to receive, reproduce, publish or otherwise use such data for state (or federal) purposes. 'Data' includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data- general).

Contractor agrees to cooperate and provide County with all rights and data necessary for the OOG and federal funding agency to exercise their above-mentioned property rights to funded work.

30. SAFECOM

Any emergency communication equipment and its related activities provided as a part of this Agreement must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

31. Termination for Cause and Termination for Convenience.

Contractor understands that all contracts in excess of \$10,000, including subcontracts, must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

32. Terrorist Financing.

Contractor must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism.

33. Text Messaging While Driving.

Contractor is encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, 74 FR 51225 (Oct. 6, 2009), including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

34. Trafficking Victims Protection Act.

Contractor will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from awarding funds to a private entity or individual who has (1) engaged in severe forms of trafficking in persons during the period of time that the award is in effect; (2) procured a commercial sex act during the period of time that the award is in effect; (3) used forced labor in the performance of the award or subawards under the award; or (4) engaged in acts that directly support or advance trafficking in persons as set forth in 22 U.S.C. § 7104(g)(4). Contractor shall inform County immediately upon receipt of any information from any source alleging a violation of a prohibition of the TVPA. Violation of this clause, may result in termination of this Agreement.

Contractor will comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients (subgrantees), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OVW web site at <https://www.justice.gov/ovw/award-conditions> (Award Condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OVW authority to terminate award)), and are incorporated by reference here.

35. USA Patriot Act of 2001.

Contractor must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. Sections 175-175c.

36. Use of DHS Seal, Logo and Flags.

Contractor must obtain permission from DHS, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

37. Veteran Preference.

The Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 USC Section 2108) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

38. Whistleblower Protections.

Contractor must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C Section 2409, 41 U.S.C. 4712, and 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.

39. Non-Supplanting Requirement

Contractor certifies that federal funds shall not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

40. Energy Policy and Conservation Act

Contractor must comply with the requirements of The Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. Section 6201 et seq.) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

41. Homeland Security Grant Program Performance Goal

Contractor shall demonstrate how the grant-funded project addressed the core capability gap associated with this project and identified in the Threat and Hazard Identification and Risk Analysis (THIRA) or Stakeholder Preparedness Review (SPR) or sustains existing capabilities as

applicable. The capability gap reduction must be addressed in the Project Description for each project.

42. Disposition of Equipment

Contractor shall comply with all requirements pursuant to 2 C.F.R. Section 200.313 for the proper disposition of original or replacement equipment acquired under an award when the original or replacement equipment is no longer needed for the original project or for other activities currently or previously supported by DHS/FEMA. Contractor shall contact the County for instructions regarding the disposition of such equipment.

43. Copyright Notices Displayed

Contractor shall affix the applicable copyright notices of 17 U.S.C. Sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.