



STANDARD TERMS AND CONDITIONS

These standard Terms and Conditions (“Standard Terms and Conditions”) and the terms and conditions, specifications, drawings and other requirements included in San Antonio River Authority solicitations are applicable to contracts, to include purchase orders, issued by the San Antonio River Authority hereinafter referred to as the “River Authority” or “Buyer”. The respondent is herein after referred to as “Seller” or “Contractor”. Any deviations from the Standard Terms and Conditions must be in writing and signed by a representative of the River Authority and Seller. No terms and conditions contained in the seller’s proposal response, purchase order, invoice or statement shall serve to modify the Standard Terms and Conditions set forth herein. If there is a conflict between the Standard Terms and Conditions and any other contract or solicitation documentation, the Standard Terms and Conditions shall control.

1. **TERMS AND ACCEPTANCE.** These Terms and Conditions, along with the related contract documentation, constitute a contract between Buyer and Seller indicated on the face hereof and covers the Buyer’s purchase of the items, supplies, equipment, materials (the “Goods) or services also described on the face hereof. The Goods and the services together are the “Deliverables”). Seller’s written acceptance, commencement of work, shipment or partial shipment of any item or service shall constitute acceptance by the Seller of this contract, its Standard Terms and Conditions, and applicable law. If a separate contract has been issued, the terms and conditions established in that contract also apply to the extent that they do not conflict with the Standard Terms and Conditions.
2. **EFFECTIVE DATE/TERM.** Unless otherwise specified, these Terms and Conditions shall be effective as of the date the contract is signed by the River Authority and shall continue in effect until all obligations are performed in accordance with the contract.
3. **PRICE.** Seller’s price for the Deliverables shall be as indicated on the face hereof and Seller may not charge a higher price without the prior written approval of Buyer. The Seller certifies that the prices in the offer for the Deliverables have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
4. **SELLER’S OBLIGATIONS.** The Seller shall fully and timely provide all deliverables described in the solicitation and in the offer to provide the Deliverables in strict accordance with the Standard Terms and Conditions, covenants, and terms of the contract and all applicable Federal, State, and local laws, rules, and regulations.
5. **QUANTITIES AND DELIVERY.** The Goods furnished to Seller pursuant to this contract and/or Purchase Order must be in the exact amounts ordered hereunder unless otherwise agreed and accepted, in writing, by the Buyer. Buyer shall not be required to accept any delivery of Goods which varies from the quantity so ordered. If the Goods are not delivered, and installed if applicable, at the time agreed upon, the Buyer reserves the right to cancel this



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order and hold Seller accountable therefore. All deliveries and orders shall reference the printed number on the face of this Purchase Order.

6. **DELIVERY TERMS AND TRANSPORTATION CHARGES.** Deliverables shall be shipped Free on Board (F.O.B) point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the offer to provide Goods, the Seller's price shall be deemed to include all delivery and transportation charges. The River Authority shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the contract and/or Purchase Order.
7. **INSPECTION AND WARRANTY.** The River Authority expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. Seller expressly represents and warrants that all goods and services will conform to the applicable drawings, specifications, samples, or other descriptions given in all respects, and that the goods delivered hereunder will be of good quality, material, and workmanship, merchantable and free from defects. This warranty shall survive any inspection, delivery, acceptance, or payment by Buyer of the Goods and services.
8. **TITLE & RISK OF LOSS.** Title to and risk of loss of the deliverables shall pass to the River Authority only upon receipt and acceptance of the deliverables. The Seller represents and warrants that it has good and indefeasible title to all deliverables furnished under the contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. **The Contractor shall indemnify and hold the River Authority harmless from and against all adverse title claims to the deliverables.**
9. **NON-CONFORMING GOODS.** All Goods not fully up to standard and not in compliance with the specifications hereof, shipped contrary to instructions, in excess of the quantities herein provided, substituted for Goods described, or allegedly violating any statute, ordinance, or administrative order, rule, or regulation, may be rejected by Buyer and returned or held at Seller's expense and risk. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables the River Authority prefers to accept the Goods, the River Authority may do so. The Seller or Contractor shall pay all claims, costs, losses and damages attributable to the evaluation of and determination to accept such defective or non-conforming Goods. If any such acceptance occurs prior to final payment, the River Authority may deduct such amounts as are necessary to compensate for the diminished value of the defective or non-conforming Goods. If the acceptance occurs after final payment, such amount will be refunded by the Seller or Contractor.
10. **PATENTS/COPYRIGHTS/TRADE SECRETS.** The Seller represents and warrants that the use or sale of the Goods delivered hereunder will not infringe any U.S. patent claim covering the Goods. Seller agrees upon receipt of notification by River Authority to promptly assume full responsibility for the defense of any suit or proceeding which may be brought



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against River Authority for alleged patent infringement resulting from similarity in design, trademark, or appearance or of the use or sale of the goods or materials furnished under this order. Seller shall satisfy all demands that may be made at any time for such royalties and fees, and Seller shall have full responsibility with respect to any claims for such fees, royalties, or related costs incident to the use of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others in performance of the services for River Authority, or incorporation of the completed invention, design, process, product, or device provided by Seller into the work. **Seller further agrees to indemnify River Authority against any and all expenses, losses, royalties, profits, and damages including court costs and attorney's fees resulting from the bringing of such suit or proceedings including any settlement or decree of judgment entered therein.**

11. **ASSIGNMENT.** Seller shall not delegate any duties, or assign any rights or claims under this contract and/or Purchase Order without first obtaining the written consent of Buyer. Any attempted assignment or delegation shall be void and ineffective for all purposes unless made in conformity with this paragraph.

12. **CHANGES AND CANCELLATION.** The Buyer may at its own option or upon the recommendation of the Seller, make written changes or additions to this Purchase Order including, but not limited to the nature of the Goods, packing, testing, destinations, specifications, designs, and delivery dates and schedules. The Buyer may cancel this order at any time by written notice communication to Seller by any commercially reasonable means.

13. **GOVERNING LAW.** This Purchase Order and the acceptance of it shall be a contract made in the State of Texas at the location of the Buyer's principal place of business. **THIS CONTRACT IS PERFORMABLE IN SAN ANTONIO, BEXAR COUNTY, TEXAS AND IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS.**

14. **COMPLIANCE WITH LAW.** The delivery of the Goods and the performance of any work pursuant to this order is and shall be subject in all respects to and in compliance with all laws, rules, regulations, and ordinance, proclamations, demands, directives, or other requirements of the municipal, state, and federal governments and all subdivisions thereof which now govern the manufacture, sale of or delivery of the Goods.

15. **INDEMNIFICATION.**

CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, RIVER AUTHORITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF RIVER AUTHORITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE



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UPON RIVER AUTHORITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT AND/OR PURCHASE ORDER, INCLUDING ANY ACTS OR OMISSIONS OR NEGLIGENCE OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT AND/OR PURCHASE ORDER, ALL WITHOUT HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO RIVER AUTHORITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF RIVER AUTHORITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF RIVER AUTHORITY. THE PROVISIONS OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CONTRACTOR SHALL ADVISE RIVER AUTHORITY IN WRITING WITHIN 24 HOURS OF ANY CLAIM OR DEMAND AGAINST RIVER AUTHORITY OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO OR ARISING OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT AND/OR PURCHASE ORDER AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CONTRACTOR'S COST. RIVER AUTHORITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION, IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY, PROTECT AND HOLD HARMLESS, RIVER AUTHORITY, FROM THE CONSEQUENCES OF RIVER AUTHORITY'S OWN NEGLIGENCE. CONTRACTOR FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND OWN BEHALF OF AND IN THE NAME OF RIVER AUTHORITY, ANY CLAIM OR LITIGATION BROUGHT AGAINST RIVER AUTHORITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.



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16. **OWNERSHIP OF INFORMATION.** All specifications, drawings, data or other information relating to the Goods ordered, whether furnished by the Buyer or otherwise, shall be the property of the Buyer and delivered to the Buyer on request.
17. **INVOICES. Proper Invoices must include a unique invoice number, the Contract or Purchase Order number, and the name of the point of contact for the requesting department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. The Seller's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the vendor's registration with the River Authority. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all subcontract and other authorized expenses at actual cost without markup. **Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount.** The River Authority will furnish a tax exemption certificate upon request. **the invoiced amount.** The River Authority will furnish a tax exemption certificate upon request. Invoices received by River Authority from Contractor/Seller more than 90 days after the completion of the services rendered or goods delivered, will be deemed delinquent. The River Authority will have no obligation to pay such delinquent invoices and Contractor/Seller shall be deemed to have waived its right to payment for the respective services rendered or goods received.
18. **PAYMENTS.** Payments shall be made by Buyer upon satisfactory delivery or acceptance of all services, and submission of a proper invoice bearing the Purchase Order Number, Delivery, and/or Contract Number. For the purposes of payment and discounts, time will begin upon satisfactory delivery of goods or services or submission of a proper invoice, whichever is later. No partial payments shall be made unless specifically set forth in this Purchase Order. Payments will be deemed to have been made on payment postmarked date, or date of electronic transmission. Unless otherwise set forth herein, the terms shall be net 45 days in accordance with Texas Government Code Section 2251.
19. **TERMINATION FOR CONVENIENCE.** River Authority reserves the right to terminate this order, or any part of it, for River Authority's sole convenience. In the event of such termination, Seller shall immediately stop work as to the terminated portion of the order, notify all suppliers and sub-contractors to stop work on contracts for performance hereunder and to protect and preserve property in its possession in which River Authority has or may acquire an interest. In order to entitle the Seller to any termination payment, Seller shall, within thirty (30) days after receipt of said notice to terminate, advise River Authority in writing whether any termination charges will be submitted in connection with the termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by its suppliers or sub-contractors which Seller could reasonably have avoided. In no event shall the aggregate of all termination payments plus all other payments made for goods or items under this order exceed the total sum due under the order. The River Authority shall pay the Seller or Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and



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services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

20. **TERMINATION FOR CAUSE.** If Seller fails to make any delivery in accordance with the delivery schedule, fails to observe or comply with any other instruction, term, , representation or warranty, defaults in its obligations applicable to this Purchase Order, fails to make progress so as to endanger timely performance, or a receiver or trustee is appointed or an assignment is made in favor of a creditor, River Authority may, in addition to any other right or remedy, terminate all or a portion of this Purchase Order by written notice to Seller. In the event of termination for cause, River Authority shall not be liable to Seller for any amount (except for products already received and accepted by River Authority as completed and in conformance), and River Authority may acquire, produce, or otherwise purchase supplies or services elsewhere on such terms or in such a manner as River Authority deems appropriate, and Seller shall be liable to River Authority for any and all damages, expenses or costs incurred by River Authority. If it should be determined that River Authority has improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
21. **PLACE AND CONDITION OF WORK.** The River Authority shall provide the Seller or Contractor access to the sites where services are to be performed as required in order to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Seller or Contractor acknowledges that it has satisfied itself as to the nature of the service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the obligations under the contract. The Seller or Contractor hereby releases and holds the River Authority harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.
22. **WORKFORCE.** The Seller or Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the contract. While engaged in participating or responding to a solicitation or while in the course delivering Goods under a River Authority contract, the Seller, its employees, subcontractors, and subcontractor's employees may not:
- a. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
 - b. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

If the River Authority or a River Authority representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety



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regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from contract services, and may not employ such worker again on contract services without prior written consent.

23. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL.** All material submitted by the Seller or Contractor shall become property of the River Authority upon receipt. Any portions of such material claimed to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
24. **ADVERTISING.** The Seller shall not advertise or publish, without the River Authority's prior consent, the fact that the River Authority has entered into the contract, except to the extent required by law.
25. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS.** No officer, employee, independent consultant, or elected official of the River Authority who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Seller agrees not to provide any gratuity in any form, including entertainment, gifts, or other to any employee, buyer, agent or representative of the Buyer, with a view to securing a contract or favorable treatment with respect to the award, amendment, or the making of any determination with respect to the performance of any contract. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the contract voidable by the River Authority.
26. **NON-SUSPENSION OR DEBARMENT CERTIFICATION.** The River Authority is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or River Authority contracts. By accepting a contract with the River Authority, the Seller or Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the River Authority.
27. **NO WAIVER OF SOVEREIGN IMMUNITY.** The Parties expressly agree that no provision of the contract is in any way intended to constitute a waiver by the River Authority of any immunities from suit or from liability that the River Authority may have by operation of law.



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Should a conflict arise between the Purchase Order, RFP document, Seller terms, drawings, specifications, construction document, or contract; the terms and conditions set forth in the River Authority Standard Terms and Conditions shall prevail.