

# Texas Ethics Commission



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**MODIFICATION AND MAINTENANCE  
SERVICES  
CONTRACT FOR  
TEXAS ETHICS COMMISSION  
ELECTRONIC FILING SYSTEM  
CONTRACT # TEC-FY2022-001**

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**October 15, 2021**

**Modification and Maintenance Services Contract for  
Texas Ethics Commission (TEC) Electronic Filing System**

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## **1. Information**

### **1.1 Overview**

The Texas Ethics Commission (TEC) Electronic Filing System consists of a core architecture framework and engine, a batch processor, several databases, a web-based internal management tool, personal computer/laptop and Mac desktop/MacBook and mobile web-based user filing applications for filing campaign finance, lobby, personal financial statement reports, and Certificates of Interested Parties with the TEC, and a local filing application for local filers to complete and generate PDF reports to file with a local filing authority.

This Modifications and Maintenance Services Contract for the Texas Ethics Commission Electronic Filing System specifies the terms under which a Vendor may provide services to provide the applications, load the database, modify the source code, provide cloud migration services and hosting, and provide maintenance for the web-based TEC Electronic Filing System. The TEC Electronic Filing System was developed by TEC who may license the application for use by designated Texas county and city governments.

For purposes of this Modifications and Maintenance Services Contract for the Texas Ethics Commission Electronic Filing System, Local Authorities are Texas political subdivisions that may request to be licensed by the TEC to use the Electronic Filing System. For purposes of this contract, Contracting Entities are the Local Authorities that are licensed by the TEC to use the Electronic Filing System and that enter into a contract with the awarded Vendor for services described above. Additionally, for purposes of this contract, the TEC is a Contracting Entity for the services described above.

The Contract may be utilized by TEC and all Local Authorities which have been authorized by TEC to use the TEC Electronic Filing System.

Ongoing support and maintenance services will be established and provided in accordance with the specifications contained in this Contract.

Order of Precedence: This Contract will incorporate all of the following documents by reference (including their Attachments, Forms, Exhibits and Addenda) which constitute the entire Agreement. Any inconsistency among the documents shall be resolved in the order in which they are listed below.

1. DIR Contract DIR-TSO-4235 (which incorporates the DIR Request for Offer)
2. TEC SOW No. TEC-FY2022-001
3. Vendor's response including Best and Final Offer (BAFO)

### **1.2 Parties**

This Modifications and Maintenance Services Contract for the Texas Ethics Commission Electronic Filing System, hereinafter referred to as "Contract", is entered into between the Texas Ethics Commission, hereinafter referred to as "TEC," and RFD & Associates, Inc., a corporation existing under the laws of Texas, hereinafter referred to as "Vendor", upon signature of parties and approval by the Texas Department of Information Resources (DIR).

In consideration of the mutual promises and agreements set forth in this Contract, TEC and Vendor agree as follows:

### **1.3 Points of Contact**

The TEC technical point of contact for inquiries concerning this Contract is:

Jessie Haug  
Texas Ethics Commission  
Director, Computer Services Division  
201 E. 14<sup>th</sup> St., SHB – 10<sup>th</sup> Floor  
Austin, Texas 78701  
Phone (512) 463-5816  
jessie.haug@ethics.state.tx.us

The TEC business management point of contact for inquiries concerning this Contract is:

Margaret Sanchez  
Texas Ethics Commission  
Purchaser  
201 E. 14<sup>th</sup> St., SHB – 10<sup>th</sup> Floor  
Austin, Texas 78701  
Phone (512) 463-5806  
margaret.sanchez@ethics.state.tx.us

The Vendor points of contact are:

Scott T. Glover  
RFD & Associates, Inc.  
Chief Operating Officer  
401 Camp Craft Rd.  
Austin, TX 78746  
Phone (512) 791-3600  
sglover@rfdinc.com

Tom Lynch  
RFD & Associates, Inc.  
Client Engagement Manager  
401 Camp Craft Rd.  
Austin, TX 78746  
Phone (512) 628-2621  
tlynch@rfdinc.com

## **2. Contract Term and Renewal Options**

The term of this Contract shall be two (2) years commencing on the last date of approval by TEC, Vendor, and DIR. This Contract shall be effective upon signature of parties and approval by DIR through 8/31/2023. Prior to expiration of the original term, TEC may extend the Contract, by amendment, for up to two (2) additional two-year terms. TEC in its sole discretion, may

extend this period for up to an additional six (6) months or for such additional time as TEC deems necessary to ensure the completion of services.

The term for any agreement between a Local Authority and Vendor for Modification and Application Support Services shall be coterminous with this Contract. Maintenance service costs for the first year the Local Authority participates in this Contract shall be pro-rated for the annual term under which the agreement between the Local Authority and Vendor was entered.

### **3. Terms and Conditions**

The terms and conditions of the Contract shall govern all transactions by Contracting Entities under the Contract. The Contract may only be modified or amended upon mutual written agreement of TEC and Vendor.

Services available under this Contract are limited to the code modification and maintenance services described below. Vendor may incorporate changes to their services offering; however, any changes must be within the scope of services described in this Contract.

Contracting Entities, other than the TEC, shall not have the authority to modify the terms of the Contract; however, additional Contracting Entity terms and conditions that do not conflict with the Contract and are acceptable to Vendor may be added in a written agreement and given effect. No additional term or condition added in a written agreement issued by a Contracting Entity can conflict with or diminish a term or condition of the Contract. In the event of a conflict between a Contracting Entity's written agreement and the Contract, the Contract term shall control, unless the term in question enhances the Contracting Entity's rights or remedies.

Contracting Entities may negotiate the terms and conditions of a written agreement with Vendor to suit their business needs. This includes negotiating and entering into a written agreement regarding services to be provided, acceptance criteria, status meetings and reports, information confidentiality and security requirements, and other terms specific to their written agreement under the Contract with Vendor.

### **4. Authorized Local Authorities**

TEC may enter into interlocal cooperation contracts with Local Authorities authorizing the use of the TEC Electronic Filing System. Local Authorities that are authorized to use the TEC Electronic Filing System must contract with the awarded Vendor from this solicitation in order to receive modification and maintenance services for the TEC Electronic Filing System.

TEC will notify Vendor in writing of each Local Authority for which TEC has entered into an agreement to allow use of the TEC Electronic Filing System. This notification will include the contact information for the Local Authority and any special terms that may have been negotiated in the contract between TEC and the Local Authority. TEC will notify Vendor in writing of any changes regarding a Local Authority's approval to use the TEC Electronic Filing System.

It will be the sole responsibility of each authorized Local Authority to enter into a contract with Vendor to provide modification and application management services. Local Authorities are eligible DIR customers. A local authority may award a procurement through the DIR Cooperative Contract for these services. Each authorized Local Authority will issue a Purchase

Order with reference to the DIR Master Contract to initiate the required services. TEC will not be a party to these contracts. Each Local Authority may negotiate additional terms and conditions of a contract to meet their business requirements. Any such negotiated terms and conditions will not impact the underlying contract between TEC and Vendor.

Vendor must work with the approved Local Authority to ensure that Vendor has sufficient access to the hosted environment with the necessary credentials for Vendor to provide their modification and application management services.

## **5. Scope**

Unless otherwise specified, Section 5, *Scope*, applies to both TEC as a Contracting Entity and a Local Authority as a Contracting Entity.

### **5.1 TEC Electronic Filing System**

The TEC Electronic Filing System consists of a core architecture framework and engine, a batch processor, several databases, a web-based internal management tool, personal computer/laptop and Mac desktop/MacBook and mobile web-based user filing applications for filing campaign finance reports, lobby reports, personal financial statement reports, and Form 1295 Certificates of Interested Parties with TEC, and a local filing application for local filers to complete and generate PDF reports to file with a local filing authority.

For the purposes of this Contract, the TEC Electronic Filing System for TEC Contracting Entity maintenance and warranty purposes shall include:

- Filing Application Manager
- Campaign Finance Filing Application
- Personal Financial Statement Filing Application
- Lobby Filing Application
- Local Authority Filing Application
- Form 1295 Certificate of Interested Parties Filing Application
- Supporting framework/infrastructure/databases
- Page Helps

For the purposes of this Contract, the TEC Electronic Filing System for license to Local Authority Contracting Entities shall include:

- Filing Application Manager
- Campaign Finance Filing Application
- Lobby Filing Application
- Personal Financial Statement Filing Application
- Supporting framework/infrastructure/databases
- Page Helps

The TEC Electronic Filing System is exclusive of the Vendor's batch processor and related source code. Vendor will grant a non-exclusive license to the TEC Contracting Entity to use Vendor's batch processor at no cost for this project.

Vendor is authorized to perform the services listed below in Section 5.3, *Allowable Services*, for the TEC Electronic Filing System on behalf of TEC and the Local Authorities (Contracting Entities). Services provided to a Contracted Entity by Vendor may be provided for a fee to be paid to Vendor by Contracting Entity.

## **5.2 Intellectual Property/Redistribution**

- 5.2.1 The TEC Contracting Entity shall retain all intellectual property rights to the TEC Electronic Filing System.
- 5.2.2 Vendor shall not redistribute the TEC Electronic Filing System or its components except to those Local Authorities for whom the TEC Contracting Entity has provided written approval to Vendor for use of the TEC Electronic Filing System and which have entered into agreement with Vendor to implement the TEC Electronic Filing System. Vendor shall provide the TEC Electronic Filing System to the authorized Local Authority that has entered into agreement with Vendor at no charge for the application. Local Authority implementation and maintenance costs will be negotiated between Vendor and each Local Authority Contracting Entity.
- 5.2.3 The TEC Contracting Entity will provide the existing Page Help source code to Vendor for redistribution to authorized Local Authorities at no initial charge. Vendor may charge the Local Authority for required subsequent updates to the Page Help source code.

## **5.3 Allowable Services**

Vendor is authorized to provide the services listed below to each Contracting Entity.

- 5.3.1 Vendor is licensed to establish the TEC Electronic Filing System in a hosted environment to be provided by Contracting Entity. The hosted environment may be on Contracting Entity's own equipment or provided through a third-party vendor.
- 5.3.2 Vendor may provide services to migrate an existing instance of the TEC Electronic Filing System to the cloud and may provide ongoing managed hosting services for that cloud hosted instance.
- 5.3.3 Vendor shall provide services to migrate the database of Contracting Entity to TEC Electronic Filing System.
- 5.3.4 Vendor shall provide Code Modifications as required by Contracting Entity. This shall include:
  - 1) Code modifications required to maintain the applications to keep current with applicable law, industry standards, and to keep current with the underlying architecture and operating system technologies.
  - 2) Modifications to the software to meet additional requirements specified by Contracting Entity provided that the requested changes do not reduce the functionality that complies with TEC filing requirements. Vendor shall comply with the following requirements:
    - A. The home page for the TEC Electronic Filing System shall remain unchanged except to modify the top logo bar with the name, logo, and color scheme of Contracting Entity that has been granted permission to use the system. The Texas Ethics Commission copyright information must remain on the home page.
    - B. Vendor shall consult with TEC when there is a question concerning modifications by any Contracting Entity that may affect the minimum reporting requirements required by TEC.
  - 3) Code modifications made to TEC instance of the TEC Electronic Filing System may be applied to the code base of any Contracting Entity. Code modifications made to

the code base managed for any Local Authority may be applied to the code base for any other Contracting Entity. However, no modifications shall be made to the code managed for any Contracting Entity without the written approval of Contracting Entity. Each Contracting Entity will be solely responsible for all applicable charges related to their code base.

- 4) Documentation and documentation changes including, but not limited to, design documents, requirement documents, and Page Help documents as may be required for TEC or any Local Authority. This shall be inclusive of any initial updates to the Page Help for each Local Authority's instance of the TEC Electronic Filing System.
- 5) Other changes as may be deemed necessary and authorized by TEC.

5.3.5 Maintenance services as described below in Section 5.7.

5.3.6 Training in use of the TEC Electronic Filing System. Contracting Entities shall be provided the option to select training as agreed to in the resulting contract or to negotiate customized training requirements with Vendor.

#### **5.4 Source Code Changes and Modifications**

Section 5.4, *Source Code Changes and Modifications*, is a requirement for the TEC Contracting Entity and is a guideline for the Local Authority Contracting Entity.

If Source Code Changes and Modifications do not fall under already negotiated pricing for such a change or modification, the following process shall be used to identify the scope and cost of the requested changes. Pricing in this section shall be based on the hourly rates for the listed resources as reflected below in Section 7, *Pricing / Invoicing / Payments – TEC Contracting Entity*, or, for a Local Authority, Section 8, *Pricing / Invoicing / Payments – Local Authority Contracting Entity*.

- 5.4.1 The TEC Contracting Entity will provide written notice to Vendor's project manager describing and prioritizing the requested source code change(s) or modification(s). The TEC Contracting Entity will define the source code changes or modifications (i.e., purpose, scope, timeline, and any other unique requirements, constraints, and assumptions).
- 5.4.2 Unless a longer period is mutually agreed upon by the TEC Contracting Entity and Vendor, within seven (7) business days of receipt of notice from the TEC Contracting Entity, Vendor shall provide the following to the TEC Contracting Entity for their approval and acceptance:
  - 1) Project Work Plan based on the source code changes or modifications requested;
  - 2) Recommended adjustments, if any, to the requested changes or modifications;
  - 3) Not to Exceed Pricing for the requested changes or modifications including, but not necessarily limited to a list of deliverables, resources required, number of hours for each resource, and hourly rate for the listed resource as reflected below in Section 7, *Pricing / Invoicing / Payments – TEC Contracting Entity*, or, for a Local Authority, Section 8, *Pricing / Invoicing / Payments – Local Authority Contracting Entity*;
  - 4) Recommended User Acceptance Testing requirements; and
  - 5) Proposed payment schedule based on the modifications requested with payment being made for work completed and accepted by the TEC Contracting Entity.



- 5.4.3 The TEC Contracting Entity and Vendor will mutually determine the requirements for any source code change or modification including acceptance testing requirements. If the TEC Contracting Entity chooses to proceed with the modification, a contract amendment, Purchase Order Change Notice (POCN), or other authorizing documentation, will be issued by the TEC Contracting Entity.
- 5.4.4 Vendor will have no obligation to perform and the TEC Contracting Entity will not pay for any modification services that are performed prior to the effective date of the contract amendment, or POCN, or other official documentation authorizing the modification services.
- 5.4.5 User Acceptance Testing, as described in Section 5.5, shall be conducted for each change or modification.
- 5.4.6 For each change or modification, Vendor shall update the necessary TEC Contracting Entity project documentation including requirements and design documentation.
- 5.4.7 Services shall be billed for actual hours worked. No payment will be made for any source code change or modification until such change has been accepted following successful completion of the mutually agreed upon testing requirements and written notice of acceptance, including acceptance of project documentation, has been issued by the TEC Contracting Entity.

## **5.5 User Acceptance Testing**

Section 5.5, *User Acceptance Testing*, is a requirement for the TEC Contracting Entity and is a guideline for the Local Authority Contracting Entity.

Vendor and TEC Contracting Entity will mutually determine the requirements to plan, schedule, test, and document each system modification.

- 5.5.1 For each deliverable, the TEC Contracting Entity will conduct User Acceptance Testing (UAT) in collaboration with Vendor. Acceptance criteria may include, but are not limited to:
  - 1) Design Review;
  - 2) Code Inspection;
  - 3) Report Output;
  - 4) Documentation;
  - 5) Configuration; and
  - 6) Test Results.
- 5.5.2 UAT test scenarios and scripts for each stage shall be developed in collaboration between the TEC Contracting Entity and Vendor, and agreed to prior to initiating the respective UAT task. Vendor will provide the TEC Contracting Entity access to Vendor's defect tracking system to support the deliverable validation process.
- 5.5.3 Modification acceptance will occur upon the following:
  - 1) All deliverables have been received by the TEC Contracting Entity.
  - 2) All validation and verification steps have been satisfactorily completed.
  - 3) All requirements of UAT have been successfully met.

4) The TEC Contracting Entity has provided to Vendor a written notice of acceptance of the modification.

## **5.6 Accessibility**

To the greatest extent possible, the TEC Electronic Filing System, including all modified instances, shall be compliant with the following Uniform Electronic and Information Resources (EIR) Accessibility Clause and applicable standards and guidelines contained in the World Wide Web Consortium's Web Content Accessibility Guidelines (WCAG), latest edition. Contracting Entities may include additional accessibility requirements, but may not diminish these requirements.

### **5.6.1 Uniform EIR Accessibility Clause**

1) **Applicability.**

This section applies if the contract requires Vendor to procure or develop EIR for Contracting Entity, or to change any of Contracting Entity's EIR. This section also applies if the contract requires Vendor to perform a service or supply goods that include EIR that: (i) Contracting Entity employees are required or permitted to access; or (ii) members of the public are required or permitted to access.

This section does not apply to incidental uses of EIR in the performance of a contract, unless the parties agree that the EIR will become property of the State or will be used by TEC after completion of the contract.

Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a product/service.

2) **Definitions.**

- A. "Accessibility Standards" means the Electronic and Information Resources Accessibility Standards and the Web Site Accessibility Standards/Specifications.
- B. "Electronic and Information Resources" means information resources, including information resources technologies, and any equipment or interconnected system of equipment that is used in the creation, conversion, duplication, or delivery of data or information. The term includes, but is not limited to, telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.
- C. "Electronic and Information Resources Accessibility Standards" means the accessibility standards for electronic and information resources contained in Title 1, Texas Administrative Code, Chapter 213.
- D. "Web Site Accessibility Standards/Specifications" means standards contained in Title 1, Texas Administrative Code, Chapter 206.
- E. "Products" means information resources technologies that are, or are related to, EIR.

3) **Accessibility Requirements.**

Under Texas Government Code, Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, Contracting Entity must procure Products that comply with the Accessibility Standards when such Products are available in the commercial marketplace or when such Products are developed in response to a

procurement solicitation. Accordingly, Vendor must provide electronic and information resources and associated Product documentation and technical support that comply with the Accessibility Standards.

4) Evaluation, Testing, and Monitoring.

- A. Contracting Entity may review, test, evaluate, and monitor Vendor's Products and associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation, and monitoring may be conducted before and after the award of a contract. Testing and monitoring may include user acceptance testing.

Neither (1) the review, testing (including acceptance testing), evaluation, or monitoring of any Product, nor (2) the absence of such review, testing, evaluation, or monitoring, will result in a waiver of the State's right to contest Vendor's assertion of compliance with the Accessibility Standards.

- B. Vendor agrees to cooperate fully and provide Contracting Entity and its representatives timely access to Products, records, and other items and information needed to conduct such review, testing, evaluation, and monitoring.

5) Representations and Warranties.

- A. Vendor represents and warrants that: (i) as of the effective date of the contract, the Products and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the contract, unless and to the extent the Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the State or TEC after the contract expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or termination of the contract term, unless Contracting Entity uses the Products in a manner that renders it noncompliant.
- B. In the event Vendor should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, Vendor represents and warrants that it will, in a timely manner and at no cost to Contracting Entity, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, and upgrading of the Product, or providing a suitable substitute.
- C. Vendor acknowledges and agrees that these representations and warranties are essential inducements on which Contracting Entity relies in awarding this contract.
- D. Vendor's representations and warranties under this subsection will survive the termination or expiration of the contract and will remain in full force and effect throughout the useful life of the Product.

6) Remedies.

- A. Pursuant to Texas Government Code, Section 2054.465, neither Vendor nor any other person has cause of action against Contracting Entity for a claim of a failure to comply with Texas Government Code, Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
- B. In the event of a breach of Vendor's representations and warranties, Vendor will be liable for direct and consequential damages and any other remedies to which Contracting Entity may be entitled. This remedy is cumulative of any and all other

remedies to which Contracting Entity may be entitled under this contract and other applicable law.

## 5.7 Maintenance Services

Section 5.7, *Maintenance Services*, is a requirement for the TEC Contracting Entity and is a guideline for the Local Authority Contracting Entity.

Maintenance services to include, but not limited to, correction of defects to software, database, and documentation shall be provided. At a minimum, maintenance services shall include the following:

- 5.7.1 Unless otherwise mutually agreed to by the TEC Contracting Entity and Vendor, Vendor shall provide maintenance and production support for the TEC Electronic Filing System to help ensure 24x7 uptime outside of the normal application maintenance windows.
- 5.7.2 Maintenance and production support shall be scheduled with the TEC Contracting Entity and should occur outside of standard business hours to minimize disruption to the ability to use the TEC Electronic Filing System.
- 5.7.3 Maintenance services for the TEC Contracting Entity shall include applying fixes for identified/reported defects and furnishing routine, scheduled update services that include solution-specific patches, bundles, maintenance packs, and service packs required to maintain the as-implemented security, performance, availability, and functionality of the system.
- 5.7.4 Unless otherwise mutually agreed to by TEC Contracting Entity and Vendor, Vendor shall provide on-site, telephone, e-mail, and/or WebEx availability Monday through Sunday as necessary and if requested by the TEC Contracting Entity.
- 5.7.5 Vendor shall respond to a notification from the TEC Contracting Entity of an issue or defect with the TEC Electronic Filing System in accordance with the criteria stated below in the Support Response Table. The TEC Contracting Entity shall have sole authority in determining the severity and support level of each notification sent to Vendor by the TEC Contracting Entity.

### Support Response Table for TEC Contracting Entity:

Severity	Description	Support Level	Support Response
Critical - High	An incident that results in a critical business impact. This could include loss of service, data loss or corruption, or the inability to complete processing or workflows within the application.	One	Within 2 hours to return initial e-mail or phone call.
Non-Critical - Significant	An incident that results in a significant business impact. The system is operational, with workarounds or partial services.	Two	Within 24 hours to return initial e-mail or phone call.

Non-Critical - Low	An incident that results in a low business impact. All core functionality remains operable, but changes are still required.	Three	Within 48 hours to return initial e-mail or phone call.
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## 5.8 Additional Vendor Responsibilities

Section 5.8, *Additional Vendor Responsibilities*, is a requirement for the TEC Contracting Entity and is a guideline for a Local Authority Contracting Entity.

### 5.8.1 Vendor shall, for the TEC Contracting Entity:

- 1) Be prepared for rapid response times and expedited resolution activities for issues that arise around the TEC Contracting Entity's filing deadlines as determined by the TEC Contracting Entity.
- 2) Respond to requests for assistance in troubleshooting problems, applying fixes, or performing other important maintenance tasks during non-business hours as established by the *Support Response Table* provided in Section 5.7.5. Responses may be via telephone, e-mail, or WebEx, as appropriate. For the purposes of this contract, the TEC Contracting Entity business hours are Monday through Friday, from 8:00 A.M. to 5:00 P.M. Central Time. The TEC Contracting Entity and Vendor will exchange non-business hours contact information.
- 3) Correct verifiable and reproducible errors. The term "error" shall be interpreted to include defects in the system application documented processes, database design, or code defects.
- 4) Provide a web-based defect tracking/reporting system that is available to staff of the TEC Contracting Entity.
- 5) Furnish routine, scheduled update services that include solution-specific patches, bundles, maintenance packs, and service packs required to maintain the as-implemented security, performance, availability, and functionality of the system.
- 6) Coordinate as applicable with the TEC Contracting Entity regarding planned system application maintenance.
- 7) Facilitate efforts by the TEC Contracting Entity to secure and back up application data to ensure business continuity or disaster recovery.
- 8) Assist the TEC Contracting Entity as necessary during hardware or operating system upgrades in order to minimize application interruptions. Hardware and operating system upgrades are the responsibility of the TEC Contracting Entity.
- 9) Participate in scheduled Disaster Recovery exercises with the TEC Contracting Entity.

**5.8.2** For each modification performed or as otherwise required for the TEC Contracting Entity, Vendor shall update the TEC Contracting Entity requirements and design documentation to reflect the current state of the TEC Electronic Filing System. Section 5.8.2 is a guideline for a Local Authority Contracting Entity's applicable documentation and additionally may include Page Help documentation.

## 5.9 Defects

Each Contracting Entity will notify Vendor of any defect identified with their instance of the TEC Electronic Filing System. For any defects in the TEC Electronic Filing System that are brought to the attention of, identified by, or corrected by Vendor, Vendor shall provide notification of the defect to the TEC Contracting Entity within two (2) business days for Critical Defects and five (5)

business days for non-critical defects as defined by the *Support Response Table* in Section 5.7.5. At a minimum, this notification shall identify the defect, the information necessary to correct the defect, if known, and those instances of the TEC Electronic Filing System that may be affected by the defect. Additionally, Vendor shall also provide notification of the defect to all Local Authorities that may be affected.

Each Contracting Entity will determine whether to correct all, none, or a subset of the defects to their instance of the TEC Electronic Filing System. The redistribution of all defect fixes shall be managed by Vendor.

## **5.10 Warranty**

Section 5.10, *Warranty*, is a requirement for the TEC Contracting Entity and is a guideline for a Local Authority Contracting Entity.

The TEC Contracting Entity shall have 30 days from the date of signature on Vendor's invoice to inform Vendor of its determination that Vendor had made errors in the completed deliverable. The TEC Contracting Entity will immediately inform Vendor of the TEC Contracting Entity's determination of the errors. Vendor shall correct the errors and make revisions as are necessary so that the deliverables complained of are acceptable to the TEC Contracting Entity and shall be corrected without cost to TEC Contracting Entity. Correction is limited to rework of errors without change to the original specifications and without regard to the amount of the effort expended on the original deliverable.

## **5.11 Meetings and Status Reports**

Section 5.11, *Meetings and Status Reports*, is a requirement for the TEC Contracting Entity and is a guideline for a Local Authority Contracting Entity.

### **5.11.1 Defect Meetings**

Defect meetings will occur on a frequency mutually determined by TEC Contracting Entity and Vendor. Defect meetings may also include any Local Authority that is or may be affected by an identified defect. Defect meetings shall cover, but are not necessarily limited to the following:

- 1) Defect list, containing all known defects, provided by Vendor and made available to the TEC Contracting Entity prior to the meeting;
- 2) Current defect prioritization;
- 3) Discussion of defects in progress; and
- 4) Discussion of new issues that have not been entered into the defect tracking system.

The TEC Contracting Entity reserves the right to reprioritize any defect to meet the then-current needs.

### **5.11.2 Status Updates**

Vendor shall provide Status Updates to the TEC Contracting Entity for any changes or modifications affecting the TEC Contracting Entity that require less than 40 hours to complete. Communication between Vendor and the TEC Contracting Entity will occur by e-mail and telephone communications with formal notifications documented in the Monthly Status Report as set forth in Section 5.11.4, *Monthly Status Reports*.

### **5.11.3 Weekly Status Reports**

Weekly written status reports shall be provided by Vendor to the TEC Contracting Entity for any source code changes or modifications affecting the TEC Contracting Entity that require 40 or more hours to complete. Unless otherwise mutually agreed to by the TEC Contracting Entity and Vendor, weekly status reports shall be provided no later than 4:00 p.m. each Friday.

Weekly status reports shall include, but are not limited to the following:

- 1) Tasks Completed;
- 2) Tasks in Progress;
- 3) Work To Be Initiated During the Next Period;
- 4) Issues Requiring Management Attention including, but not limited to, any problems that may delay performance and proposed corrective action, as well as any failure, delay, or inadequacy of the TEC Contracting Entity's performance; and
- 5) Status of Defects being corrected.

### **5.11.4 Monthly Status Reports**

Vendor shall provide monthly written status reports to the TEC Contracting Entity for all related activities initiated, in progress, or completed during the month being reported. Unless otherwise mutually agreed to by the TEC Contracting Entity and Vendor, monthly status reports shall be provided no later than close of business on the seventh calendar day of each month. Monthly status reports shall include, but are not limited to the following:

- 1) Tasks Completed;
- 2) Tasks in Progress;
- 3) Work to be Initiated during the Next Period;
- 4) Issues Requiring Management Attention including, but not limited to, any problems that may delay performance and proposed corrective action, as well as any failure, delay, or inadequacy of the TEC Contracting Entity's performance; and
- 5) Status of Defects being corrected.

## **6. General**

### **6.1 Background and/or Criminal History Investigation**

Prior to commencement of any services, Vendor may be required to conduct background and/or criminal history investigation of Vendor's employees and subcontractors who will be providing services under the resulting contract. Criminal background checks shall be performed at Vendor's expense. Criminal background checks are for criminal convictions or deferred adjudications entered into in any local, state, or federal jurisdiction in the United States of America. Vendor shall notify TEC prior to duty assignment if worker assigned to this contract is on a work release program or has been convicted of a felony. TEC reserves the right to refuse the services of any personnel based on the results of these checks.

Background checks will not be required more than once every 12 months for a specified employee unless requested for cause.

## **6.2 Confidentiality**

In providing services under this contract, Vendor will have access to confidential information related to each Contracting Entity. Therefore, Vendor may be required to execute a non-disclosure/confidentiality agreement with each Contracting Entity.

Information obtained by Vendor in the performance of this Contract shall be used only for the purposes of carrying out the provisions of this Contract. Inspection by or disclosure of any such information to anyone other than an officer or employee of Vendor or Contracting Entity, other than for the purposes of carrying out, and in accordance with, the provisions of this Contract, shall require prior written approval of Contracting Entity.

Vendor shall implement and document a comprehensive information security program. Vendor shall use, implement, and document reasonable and appropriate security practices to make information secure. If the security of any shared data is compromised or breached by Vendor, subcontractors, or third-party vendors, Vendor shall notify Contracting Entity immediately, and no later than 12 hours after discovery of the potential compromise or breach. Vendor shall be liable to Contracting Entity for any compromise or breach whatsoever and shall be liable for all reasonable and appropriate costs (as determined by Contracting Entity) associated with remedying the compromise or breach.

## **6.3 Annual Cybersecurity Training**

Texas Gov't Code 2054.519 and 2054.5191 require Vendor and each subcontractor, officer, or employee of Vendor who will have access to the TEC's computer systems and/or databases to annually complete a certified cybersecurity training program. The TEC shall specify the certified training program and the timeframe in which the training must be completed. Vendor shall ensure that each such officer, employee, or subcontractor has completed the required cybersecurity training.

## **6.4 Travel**

No travel is allowed under this contract unless approved in writing in advance by Contracting Entity. If travel is authorized by Contracting Entity, travel shall be in accordance with the travel policy and guidelines of Contracting Entity.

## **6.5 Insurance**

As a condition of this Contract, Vendor shall provide the listed insurance coverage within five (5) business days of execution of the Contract. Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to Contracting Entity within five (5) business days following the execution of a Purchase Order or Contract for services under this agreement. All required insurance must be issued by companies that are A rated by A.M. Best, licensed in the State of Texas, and authorized to provide the corresponding coverage. Contracting Entity and TEC will be named as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor thereunder. The minimum acceptable insurance provisions are as follows:



**1) Commercial General Liability**

Commercial General Liability must include a combined single limit of \$1,000,000 per occurrence for coverage A, B, & C including products/completed operations, where appropriate, with a separate aggregate limit of \$2,000,000. Agencies may require additional Umbrella/Excess Liability insurance.

**2) Professional Liability: \$1,000,000 limit.**

**3) Commercial Crime Policy to include Blanket Employee Theft, Computer Fraud, and Funds Transfer Fraud: \$1,000,000 limit.**

The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR, and Customer listed as an additional insured;
- d) 30-day Notice of Termination in favor of DIR and/or Customer; and
- e) Waiver of Transfer Right of Recovery Against Others in favor of DIR and/or Customer.

**4) Workers' Compensation Insurance**

**WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (Tex Labor Code, Chs, 401 through 419) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF \$1,000,000 BODILY INJURY PER ACCIDENT, \$1,000,000 BODILY INJURY DISEASE POLICY LIMIT, AND \$1,000,000 PER DISEASE PER EMPLOYEE.**

If Vendor uses employer vehicles to conduct work on behalf of TEC or a Contracting Entity, Vendor shall provide the insurance coverage listed below.

**5) Business Automobile Liability Insurance**

Business Automobile Liability Insurance must cover all owned, non-owned, and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence, and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of TEC and/or Contracting Entity:

- a) Waiver of Subrogation;
- b) 30-day Notice of Termination; and
- c) Additional Insured.

## **7. Pricing / Invoicing / Payments – TEC Contracting Entity**

Full invoicing requirements will be provided to the Vendor by TEC upon commencement of the Contract. In addition, the following invoicing requirements shall also apply. TEC will not make payment on any invoice containing omissions or errors.

### **7.1 Pricing**

Pricing for the TEC Contracting Entity for maintenance services based on the maintenance scope described in Section 5.1 is \$425,000 per 2022 and 2023 fiscal contract year. The payment schedule is as follows:

**Pricing Details:**

<b>Fiscal Year</b>	<b>Included Hours for Changes under Section 5.4</b>	<b>Payment Schedule</b>
FY2022 9/1/2021-8/31/2022	1000	\$425,000.00
FY2023 9/1/2022-8/31/2023	1000	\$425,000.00
<b>TOTAL</b>	2000	\$850,000.00

TEC has the option to purchase additional hours for changes under Section 5.4 *Source Code Changes and Modifications* from the Vendor at a blended hourly rate of \$150/hour on an as needed basis.

**7.2 Invoicing**

The Vendor may submit annual invoices to TEC as defined in the above *Pricing Details* table. TEC may choose to make advance payments. In the event that TEC chooses to make an advanced payment, TEC will notify the Vendor in writing of the amount of the advanced payment, and the Vendor will invoice accordingly.

Additional hours purchased by TEC for changes under Section 5.4 *Source Code Changes and Modifications* will be invoiced by the Vendor separately after such hours are formally requested by TEC and agreed to by the Vendor.

To receive payment, the Vendor must submit two itemized invoice statements to TEC, which should include, but are not limited to:

- Vendor's mailing and email address
- Vendor's telephone number
- Name and telephone number of a person designated by the Vendor to answer questions regarding the invoice
- TEC requisition, purchase order or Contract number
- TEC's name, agency number, and delivery address
- Valid Texas identification number (TIN) issued by the Comptroller of Public Accounts
- Description of the goods or services, in sufficient detail to identify the order relating to the invoice
- Quantities and unit of measures corresponding with the referenced order.

**7.3 Payment Terms and Conditions**

TEC payments will be made in 30 or fewer days from receipt of an uncontested invoice.

## 8. Pricing / Invoicing / Payments – Local Authority Contracting Entity

### 8.1 Pricing

Local Authority implementation and maintenance costs will be negotiated between Vendor and each Local Authority Contracting Entity. Maintenance pricing for each Local Authority Contracting Entity will be based on the scope of features negotiated for implementation between the Vendor and the Local Authority Contracting Entity, plus any customizations required by the Local Authority Contracting Entity. Pricing will be based on the following Vendor hourly rate:

#### Pricing Details for Hourly Vendor Rate:

Hourly Rates for Source Code Change and Modification Services as stated in Section 5.4	
Classification	Hourly Fee
Blended hourly rate across all labor categories	\$150/hour

#### Pricing Details for Training

Vendor may provide training services to Local Authority Contracting Entities that have entered into agreement with Vendor to implement the TEC Electronic Filing System. Prices for training options include, but are not limited to:

Training Pricing	
Classification	Hourly Fee
Hands-on training sessions - Remote	\$130/hour
Hands-on training sessions - Onsite	\$130/hour + travel
Online Training Class	\$130/hour
Informative Help	Included

### 8.2 Invoicing

Invoicing will be negotiated between the Vendor and the approved Local Authority Contracting Entity.

### 8.3 Payment Terms and Conditions

Payment terms and conditions will be negotiated between the Vendor and the Local Authority Contracting Entity.

## **9. Termination**

### **9.1 Termination for Non-Appropriation**

TEC may terminate the Contract if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the Texas legislature on behalf of state agencies; or ii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of nonappropriation, the Vendor will be provided ten (10) calendar days written notice of intent to terminate. Notwithstanding the foregoing, if TEC has accepted delivery of the product or services, TEC is obligated to pay for the product or services. In the event of such termination, TEC will not be considered to be in default or breach under this Contract, nor shall it be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

### **9.2 Termination for Convenience**

TEC may terminate the Contract, in whole or in part, by giving the Vendor (30) calendar days written notice. The Vendor may terminate the Contract by giving TEC (30) calendar days written notice. In the event the Contract is terminated for convenience, the Vendor shall reimburse TEC for undelivered products and services for which TEC has made payment. In the event that a change order is issued under this Contract, and the change order has not been completed at the time of termination, TEC will pay Vendor at the time and materials rate for hours worked under the change order up to the time of notification.

### **9.3 Termination for Cause**

Either TEC or the Vendor may issue a written notice of default to the other upon the occurrence of a material breach of any covenant, warranty or provision of the Contract, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Contract. In the event the Contract is terminated for cause, the Vendor shall reimburse TEC for undelivered products and services for which TEC has made payment. In the event that a change order is issued under this Contract, and the change order has not been completed at the time of termination, TEC will pay Vendor at the time and materials rate for hours worked under the change order up to the time of notification.

### **9.4 Agency Rights Under Termination**

In the event the Contract expires or is terminated for any reason, TEC shall retain its rights under the Contract issued prior to the termination or expiration of the Contract. If this Contract is terminated for any reason, TEC and the State of Texas shall not be liable to the Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination.

## **9.5 Vendor Rights Under Termination**

In the event a Purchase Order expires or is terminated, TEC shall pay all amounts due for products or services ordered prior to the effective termination date and ultimately accepted. If this Contract is terminated for any reason, the Vendor may be entitled to the remedies provided in Government Code Chapter 2260.

## 10. Execution

This Contract is executed to be effective as of the date of the last party to sign.

\_\_\_\_\_  
RFD & Associates, Inc.

Authorized By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*Scott T. Glover*  
SCOTT T. GLOVER

COO

10/15/2021

\_\_\_\_\_  
THE STATE OF TEXAS, acting by and through the TEXAS ETHICS COMMISSION

Authorized By: \_\_\_\_\_

Name: Anne Temple Peters

Title: Executive Director

Date: October 15, 2021

Texas Department of Information Resources

DIR SOW ID# TEC-000008

DocuSigned by:

*Hershel Becker*

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Name: Hershel Becker

Title: Chief Procurement Officer

Date: 10/25/2021 | 10:51 AM CDT