



WALLER COUNTY

STATE OF TEXAS

REQUEST FOR PROPOSAL

The County of Waller intends to enter into one (1) project specific contract. This Request for Proposal (RFP) is an invitation for interested Vendors to submit Proposals for consideration to be awarded the Contract.

RFP Title: Inmate Phone System

Due Date: January 31, 2023

Please return Original Proposal and two (2) copies in a sealed envelope to the Waller County Auditor's Office, 836 Austin Street, Suite 221, Hempstead, Texas 77445 by 2:00 pm on the Due Date. RFPs will be accepted by hand or mail according to the Terms and Conditions contained in this RFP.

Sealed envelopes must be marked with RFP title and Proposer's company name on the outside of the envelope.

Proposals will be opened in public at the first Waller County Commissioners' Court meeting following the Due Date.

Note: All dates subject to change based on the needs of Waller County.

Questions: Questions about this RFP shall be directed to Dawn Miller at D.Miller@wallercounty.us.

PLEASE READ THIS ENTIRE RFP CAREFULLY

By submitting this proposal, the undersigned hereby certifies that said proposal has been independently arrived at and that price, terms, or conditions appearing or applicable hereto, have not and will not be disclosed by or on behalf of the Proposer to another contractor or competitor.

The undersigned by his/her signature represents that he/she is authorized to bind the Proposer to fully comply with the Terms and Conditions of the RFP for the amount(s) shown on the Proposal. By signing below, you certify that you have read the entire document and agreed to the terms therein.

You must sign below in ink; failure to sign and return WILL disqualify the offer. All Proposals must be typewritten or written in ink.

Company Name: _____

City, State, Zip: _____

Contact Name: _____

FAX Number: _____

Telephone Number: _____

By: _____

By: _____

Address: _____

1. GENERAL INFORMATION

1.1 Definitions

- A. "Waller County" and "County" means Waller County, Texas.
- B. "Proposer" and "Vendor" may be used synonymously.
- C. "Commissioners' Court" means the Waller County Commissioners' Court.
- D. "Contract" means the written agreement(s) the County enters into with the successful Proposer, and includes this RFP in its entirety.
- E. "Must," "shall," or "will" mean that compliance with the intent of the statement is mandatory.
- F. "County Department" means
- G. "Department Contact" is

1.2 Proposal Instructions

- A. **Read this document in its entirety. Ensure your Proposal is complete, and double check it for accuracy.**
- B. **Proposal Requirements:** Proposals submitted shall meet the following requirements:
 - i. Two (2) complete printed copies of the proposal. One (1) printed original shall be signed in BLUE ink, and the remaining two (2) shall be complete copies of the original.
 - ii. One (1) searchable electronic copies on a USB flash drive, CD or DVD of the entire proposal.
 - iii. Be printed on single sided 8.5x11 inch paper.
 - iv. Be delivered in a sealed package bearing the following information:
 - a. RFP Name
 - b. Proposer's Company Name
 - c. Due Date
- C. **Proposal Submission:** Vendor shall be solely responsible for ensuring timely submission of Vendor's Proposal. Vendors must return all completed proposals to the office of the Waller County Auditor's Office at 836 Austin Street, Suite 221, Hempstead, Texas 77445 before the date and time specified for proposal submission. **Late Proposals will not be accepted. Faxed and/or emailed Proposals will not be accepted.**
- D. **Proposal Withdrawal:** Proposals may be withdrawn or modified only in accordance with section 2.88 of the Terms and Conditions of this RFP.

1.3 Formatting Requirements

- A. **Table of Contents and Tabs:** The vendor's proposal shall include a Table of Contents tabbed sections that correspond to Section 4, Specifications of this RFP.
- B. **Letter and Executive Summary:** A letter of transmittal signed by an official authorized to bind the vendor to a resultant contract must be included in the original proposal. The letter must be limited to two pages. The letter shall be followed by an executive summary that briefly summarizes the vendor's proposed solution for the required services and the vendor's ability to provide such services. Executive summary must be limited to three pages.
- C. **Specifications:** Proposer shall acknowledge and indicate compliance (e.g. Understands and Complies) with any and all requirements indicated under each division of **RFP Section 4: Specifications**. Proposer shall provide any information specifically required. The Proposer is encouraged to provide concise responses that respond to the specific requirement. Proposers are cautioned to not provide additional information beyond what is requested. Some numbered

paragraphs simply introduce the requirements that follow or provide information for the Proposer. For such non-technical paragraphs, a simple acknowledgement of the vendor's understanding and compliance is sufficient.

- D. Implementation Plan:** Provide a narrative description and proposed timeline for the implementation of the required service(s) or provision of the required good(s). At a minimum the implementation plan shall include the topics identified in **RFP Section 4.4: Implementation**.
- E. Company Profile and References:** This section of the proposal must include a brief history and overview of the Proposer's company and all information required in **RFP Section 4.9: References and Company Profile**. Only Proposers with proven experience in this field will be considered.
This section shall also include references as specified.
- F. (if applicable) RFP Addenda:** Should it become necessary for Waller County to issue one or more addenda to the RFP, the vendor is required to acknowledge receipt of each addendum issued. **RFP changes per addenda should be noted within the responses as well.**

1.4 Required Forms

- A. Debarment Certification**
- B. Resident/Nonresident Certification**
- C. No Israel Boycott Certification**
- D. No Excluded Nation or Foreign Terrorist Organization Certification**
- E. Historically Underutilized Business Certification**
- F. Deviation and Compliance**
- G. Proposer's Business Name**
- H. Certification of Provisions Applicable to Expenditures of Federal Funds**
- I. Certification on Indebtedness to County**
- J. Conflict of Interest Questionnaire**

2 TERMS AND CONDITIONS

- 2.1 Addenda:** When specifications are revised, Waller County will issue an addendum addressing the nature of the change. In each case, Proposers must sign it and include it in the returned proposal package. It is the Proposer's responsibility to incorporate any issued addendum into their Proposal.
- 2.2 Advertising:** Unless otherwise required by law, Proposers to this RFP shall not publish and shall keep confidential their intentions and actions respecting and response to the RFP.
- 2.3 Alteration of RFP:** Proposer shall in no way alter the County's published RFP package. If any alteration is made, the County's RFP as published by the County shall control. Further, if an alteration of any kind to the County's published RFP is discovered only after the Contract is executed, the Contract is subject to immediate cancellation by County without penalty of any kind to the County.
- 2.4 Alteration of Proposals:** Any interlineations, alteration, or erasure made before the submission deadline must be initialed by the signer of the proposal guaranteeing authenticity.
- 2.5 Assignment:** The successful vendor shall not sell, assign, transfer, or convey this contract, in whole or in part, without the prior written consent of the Waller County Commissioners' Court.
- 2.6 Awarded Pricing:** Vendor shall hold its awarded pricing firm during the Contract term. Any awarded discount shall remain firm during the Contract term.

For awarded pricing based on hourly labor rates, Vendor may not exceed the awarded pricing during the Contract term unless changes to prevailing wage rates under state, local, or federal law applicable to the work to be performed require higher rates. In such event the Vendor must notify the County no later than thirty (30) days prior to a requested increase, and provide documentation supporting the required labor rate increase.

Proposer warrants that prices contained in their Proposal are no higher than Proposer's current prices on orders by others for products of the kind and specification covered by this Contract for similar quantities under similar or like conditions and methods of purchase. In the event Proposer breaches this warranty, the prices contained in the Proposal shall be reduced to the Proposer's current prices on orders by others, or in the alternative, County may cancel the Contract without liability to Proposer for breach or Proposer's actual expense.

2.7 Background Checks: The County may require background checks on Vendor employees, and may require Vendor to pay the cost of obtaining criminal history information.

2.8 Brand Names: Unless otherwise specified, the specifications are intended to be non-proprietary, and should be construed as such. Catalog numbers, brand names, or manufacturer product or reference numbers used in the item specifications in this RFP are intended to be descriptive, not restrictive. These references are intended to identify and indicate the type of product being sought and establish the level of quality desired. Such references should not be construed to imply that a brand name is preferred or would be given preference in the evaluation of responses to this RFP. If any conflict exists in the item specifications between the product descriptions and any brand names or model or reference numbers used, the product descriptions will override the brand names or model references. If any brand name is used, an equal product may be offered that has a comparable performance and meets relevant requirements. In all cases, Proposals must identify the manufacturer, brand, model, etc. of the item being offered. Proposer must supply a complete description and sufficient data for the County to properly analyze the product being proposed, including its functionality and features. In order to conduct such analysis, the County may request samples. If the specification includes a brand name or model as a descriptor, and the Proposer fails to identify the manufacturer, brand, model, etc., for the item being offered, the County will assume Proposer is proposing the exact brand and model identified in the specification, and if awarded a contract, Vendor must furnish the exact brand name, model, etc., as specified. Substitutions will not be allowed after the contract is awarded.

NOTE: If Proposer discovers or suspects that an error in any item specification of this RFP, including that the specification is proprietary where not intended, Proposer must notify the Waller County Criminal District Attorney's Office of the error in writing immediately, but in no event later than the tenth (10th) business day before the Proposal Due Date.

Vendor must comply with any applicable prevailing wage rate requirements under the federal Davis-Bacon or state or local law, including Chapter 2258 of the Texas Government Code.

2.9 Certain Professional Services Excluded: Neither this RFP nor any Contract includes services that are required to be procured under the Professional Services Act (Chapter 2254 of the Texas Government Code), including without limitation architecture and professional engineering services.

2.10 Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion: The Vendor certifies that it is not ineligible for participation in federal or state assistance programs under Executive Order 12549, "Debarment and Suspension." The Proposer further agrees to include this certification in all contracts between itself and any subcontractors in connection with the services performed or goods provided under this Contract. Proposer also certifies that Proposer will notify Waller County in writing immediately if Proposer is not in compliance with Executive Order 12549 during the term of this Contract. Proposer agrees to refund Waller County for any payments made to the Vendor while ineligible.

2.11 Change of Ownership: If ownership of your firm or business should change during the term of this

contract, Waller County must be notified as soon as possible in writing within (10) days and a new declaration of relationship shall be submitted immediately to the Waller County Criminal District Attorney's Office. Failure by the vendor to provide written notification of change of ownership may result in cancellation of the contract.

2.12 Changes or Modifications: No oral statement of any person shall modify or otherwise change, or affect the terms, conditions, or specifications stated in the resulting contract. All changes to the contract must be approved by the Waller County Commissioners' Court and will be made in writing to the Waller County Criminal District Attorney.

Site visits will be provided to allow all vendors to explore the existing conditions at the sites for proposal preparation purposes. If concealed or unknown physical conditions are encountered at the sites at a later date that could not have been reasonably identified during the site visits and those conditions differ materially from those indicated in the Contract Document or from those conditions found normally to exist, the County and selected vendor will work together to resolve the issues in a fair and equitable manner. If appropriate, and agreed to by both parties, the Contract Sum and Contract Time may be equitably adjusted as mutually agreed to by the County and selected vendor; provided that the selected vendor provides notice to the County promptly and before conditions are disturbed,

Upon execution of a contract with the vendor, a project budget and implementation schedule will be established. Change orders for concealed or unknown physical conditions, or scope additions of any kind requested by the County and its partner agencies, will place undue stress on the project budget; therefore the County will limit all vendor and subcontractor markups on such change orders to no more than 15%. In the event that additional vendor project management, engineering, or other vendor services are also required to support the changes, the costs for those vendor services shall also be reviewed by the County prior to approval. Similarly, such actual vendor costs will be limited to a markup of no more than 15%.

2.13 Clean-Up: Following contract award, the vendor shall keep the work premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the vendor shall remove waste materials, rubbish, the vendor or subcontractor's tools, construction equipment, machinery, and surplus material from and about the Project.

2.14 Commissioners' Court Decision: The final decision as to the best overall Proposal rests solely with the Waller County Commissioners' Court. The relevant County Department will provide input to the Commissioners' Court. If the Commissioners' Court awards the contract to a Proposer who does not submit the lowest dollar Proposal, the Proposer(s) who submitted lower dollar amount Proposal(s) shall be given notice of the proposed award, and an opportunity to appear before the Commissioners' Court. Proposers wishing to appear before the Commissioners' court may present previously unconsidered evidence concerning the lower proposal as best, including evidence of the bidder's responsibility. The Proposer who wishes to contest a Proposal award must notify the Waller County Criminal District Attorney in writing of their intent to protest the award of a contract prior to the award of the contract.

2.15 Conformity to Item Specifications and Contract Award: Vendor warrants that the products or services Vendor provides under the Contract conform to the item specifications and other requirements of this RFP, and are free from all defects in material, workmanship, and title. If Vendor deviates from an item specification (unless agreed to by County), including delivering a product other than the specific brand and model of the product awarded, the County may reject the product when delivered and terminate the purchase order at no cost or penalty to the County. Vendor further warrants that all products and services provided under the Contract meet all applicable legal standards and requirements, including OSHA standards and regulations, and that any electrical items bear the appropriate listing from US, FMRC, NEMA, or UL laboratories.

2.16 Conflict of Interest: Consistent with the Waller County Purchasing Policy and Texas Local Government Code, Chapter 171, the Commissioners' Court shall not approve the expenditure of any funds in favor of a business entity in which a county official or employee either directly or indirectly owns a substantial interest unless prior to any vote or decision on any matter involving the business entity, the Commissioners are made aware of the interest of the official or employee and provided further that the official or employee take no part in the negotiating, making, accepting, or approving any payment, agreement, or contract affecting the business entity and performs no duty for Waller County in connection with the business entity.

Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the requirements of this RFP. Any personal or business relationship between the Proposer, its principal(s), affiliate, employee, or subcontractor with an employee or official of the County or its suppliers must be disclosed. Any such relationship that might be perceived or represented as a conflict must be disclosed. Failure to disclose any such relationship or reveal personal relationships with the County employees or officials shall be cause for Contract termination. A Conflict of Interest form should be filed with the Waller County Clerk prior to the submission of a Proposal. A copy of the file-stamped Conflict of Interest form must accompany the submission of a proposal.

Proposers affirm they have not given, nor intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a County official or employee, or representative of the same in connection with this procurement.

An outside consultant or vendor is prohibited from submitting a bid or proposal for services on a Waller County project of which the consultant or vendor was a designer or previous contributor, or was an affiliate, subsidiary, joint venture, or was in any other manner associated by ownership to any party that was a designer or other previous contributor. If such a consultant or vendor submits a prohibited bid or proposal, that bid or proposal shall be disqualified on the basis of conflict of interest, no matter when the conflict is discovered by Waller County.

2.17 Contract Obligation: Waller County Commissioner's Court must award the contract. Following the Court's approval the County Criminal District Attorney shall send an award letter approving the contract and thereby the proposal becomes binding on Waller County and the vendor. Department heads are not authorized to execute a contract, or any amendment or modification therefrom for Waller County.

2.18 Contract Renewals: Renewals may be made only by written agreement between Waller County and the Vendor. The Commissioners' Court must approve contract renewals. Any price escalations are limited to those stated by the offeror in the Original Proposal.

2.19 Contract Termination: This contract shall remain in effect until expiration, completion, and acceptance of services or default. Waller County reserves the right to terminate the contract immediately if the successful vendor fails to (1) meet delivery or completion schedules, or (2) otherwise perform in accordance with the accepted proposal.

Breach of contract or default authorizes the County to award to another vendor or purchase elsewhere and charge the full increase cost to the defaulting vendor.

Waller County reserves the right to terminate the Contract if Vendor becomes insolvent or commits acts of bankruptcy.

Either party may terminate this contract by providing thirty (30) days' written notice to the other party. The Vendor must state therein the reasons for such cancellation. Prior written notice must be delivered in person or sent by registered or certified mail, return receipt requested, proper postage paid, and properly addressed to the other party at the address on the affidavit for the contractor or to the Waller County Criminal District Attorney's Office at 645 12th Street, Hempstead, Texas 77445.

Waller County shall not be charged an early termination penalties or other expenses and shall only pay

for work performed prior to termination.

2.20 County's Right to Stop Work: If the vendor fails to correct work which is not in accordance with the requirements of the Contract, the County may order the Vendor to stop work, or any portion thereof, until the cause for such order is eliminated.

2.21 County's Right to Continue Work: If Vendor defaults or neglects to carry out the work in accordance with the Contract, and fails within a thirty (30)-day period after receipt of notice from the County to provide an acceptable plan to correct such default, the County may correct such deficiencies and may deduct the reasonable cost thereof from the payment due the vendor.

2.22 Delivery: All goods shall be delivered in appropriate packaging to assure safe, undamaged delivery F.O.B. Destination unless otherwise authorized herein. C.O.D. shipments or deliveries are not permitted. The Vendor will coordinate the delivery of all project materials with the Department Contact.

2.23 Design, Standards, and Practices: Design, strength, quality of materials, and workmanship must conform to the highest standards of engineering practices and/or professional services.

2.24 Deviations: Proposer must clearly note and explain in detail any and all limitations, exceptions, qualifications, special conditions, or other deviations from these Terms and Conditions or any of the item specifications in the Proposal at the time the Proposal is submitted. The submission of any such deviation may prevent the County from considering the Proposal.

The County may seek clarification from and/or communicate with Proposer regarding a submitted deviation, consistent with general procurement principles of fair competition.

Other than any deviation submitted in writing with the Proposal and accepted by the County, the County will hold the Proposer accountable to perform in strict compliance with these Terms and Conditions and the item specifications as written.

2.25 Drug Free Workplace: All Proposers shall provide any and all notices as may be required under the Drug-Free Work Place Act of 1988, 28 CFR Part 67, to its employees and all subcontractors. The successful vendor expressly grants Waller County the right to review drug-testing records of any personnel involved in this proposed project. The County may require at vendor's expense drug testing for vendor's personnel if no drug testing records exist or if such test results are older than six (6) months.

2.26 Email Address Consent: Vendors affirmatively consent to the disclosure of its email addresses that are provided to Waller County or any of its Departments. This consent is intended to comply with the requirements of the Texas Public Information Act, Texas Government Code §522.137, as amended, and shall survive termination of this agreement. This consent shall apply to e-mail addresses provided by Vendor, its employees, officers, and agents acting on Vendor's behalf and shall apply to any email addresses provided in any form for any reason whether related to this Proposal, RFP, Contract, or otherwise.

2.27 Environmental Impact: Pursuant to Texas Local Government Code §271.907, in determining the overall best Proposal, the County may evaluate and give preference to Proposals that demonstrate Proposer meets or exceeds any and all state or federal environmental standards, including voluntary standards relating to air quality. If the Proposal being submitted will have an effect on air quality for the County, as it relates to any state, federal, or voluntary air quality standard, the Proposer is encouraged to provide information in narrative indicating anticipated air quality impact. All Proposers are expected to meet all mandated state and federal air quality standards.

Pursuant to Texas Health and Safety Code §361.426, Waller County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. Waller County will

be the sole judge in determining product preference application.

2.28 Errors and Omissions: Due care and diligence have been used in preparation of this request for proposals and it is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all the information presented herein shall rest solely on the vendor. Waller County and its representatives shall not be responsible for errors or omissions in these specifications, nor for failure on the part of the vendor to determine the full extent of the exposure.

2.29 Equal Employment Opportunity (EEO) Disclosures: Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the state in which Vendor's primary place of business is located. In accordance with such laws, regulations, and executive orders, Vendor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status, disability, or genetic information, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Vendor under the Contract. Upon request, Vendor will furnish information regarding its nondiscriminatory hiring and promotion policies.

2.30 Evaluation: A proposal submitted in accordance with this RFP will be evaluated for award. A Proposal may be disqualified at any time during the evaluation process for failure to meet any terms or conditions contained anywhere in this RFP. Failure to include all required information may result in a Proposal being disqualified.

The County will award the contract to the responsible offeror whose proposal is the lowest and best, and determined to be the most advantageous to the County. Proposal evaluations will be based upon the following criteria:

1. 30% - Demonstrated ability to meet the technical requirements, based upon RFP responses and information provided by other facilities using vendor's system
2. 30% - Vendor experience, technology offering, account support team, maintenance, current customer references
3. 15% - Financial offering, including commission rate based on gross revenue
4. 15% - Rates charged to the users (inmates and those with whom they communicate)
5. 10% - Proposed project plan, scheduling, and implementation; proposed length and severity of interruption to service

The County may or may not request Best and Final Offers, therefore, vendors are encouraged to provide their best pricing at the time of proposal submission outlined in this RFP.

The award of this contract shall be made to the vendor offering the response which best meets the needs of Waller County. The County may conduct investigations, as it deems necessary, to determine the capabilities of the vendor to comply with the terms of the RFP. The vendor shall furnish such data to the County if requested for this purpose. The County reserves the right to reject any offer if the evidence submitted by the vendor or the investigation of the vendor fails to satisfy the County that the vendor is properly qualified to provide the services and/or goods contemplated, required, or offered in its proposal, or if the overall proposal response is deemed non-compliant. Waller County may request representation and other information sufficient to determine vendor's ability to meet standards of adequate financial resources, ability to comply with delivery schedules, and the provision of records of performance.

Waller County will evaluate all proposals to ensure all mandatory requirements are met.

In the event it is deemed necessary to have the Proposer further explain or demonstrate relevant information from the Proposal, upon request, the Proposer shall submit additional information or make oral and/or written presentations and/or demonstrations to comply with the requirement. All expenses

associated with any demonstration will be borne by the Proposer, except travel, meals, and lodging for Waller County personnel should Waller County personnel choose to travel to the Proposer's location.

All proposals are subject to negotiations by Waller County and other appropriate departments, with recommendations to Commissioners' Court. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded except for trade secrets or confidential information contained in the proposals and identified as such.

In regards to Vendor's past performance, among other factors, the County may consider a Vendor's breach of contractual obligation on any other County Contract awarded to Vendor, including, but not limited to, nonpayment of service fees by Vendor, its parent company or affiliates and/or Vendor's failure to generate any minimum amount specified in a prior-awarded County contract. County may also consider whether Vendor has successfully completed performance under a prior County contract in conformity with the contract price as originally agreed upon.

The County reserves the right to reject any and all submitted Proposals. In that event, a new RFP may or may not be extended.

Waller County reserves the right to negotiate optional items and/or services with the successful Proposer.

2.31 Exceptions: The Proposer shall state any exceptions desired to these Terms and Conditions and may suggest alternate wording that addresses the intent of the term or condition. The County may accept or reject any suggestions in accordance with law.

2.32 Force Majeure: To the extent either party of this agreement shall be wholly or partially prevented from the performance of the term specified, or of any obligation or duty placed on such party by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, or other specific cause reasonably beyond the parties' control and not attributable to its malfeasance, neglect, or nonfeasance. In such event, the time for performance of such obligation or duty shall be suspended until such disability to perform is removed. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

2.33 Funding: Texas law prohibits the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Anticipated orders or other obligations that may arise past the end of the current Waller County fiscal year shall be subject to budget approval.

A multi-year lease, or lease/purchase arrangement, or any contract continuing as a result of an extension option, is contingent on the appropriation of funds from the relevant budget and fiscal year. If for any reason funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease and/or contract, any equipment belonging to the Vendor shall be removed by the Vendor from the using Department without penalty of any kind or form to Waller County. All expenses and physical activity related to removal, uninstallation, pickup, and redelivery shall be the responsibility of the Vendor.

2.34 General Bonding Requirements: Vendor must provide any applicable performance and payment bonds as required by law, including Chapter 2253 of the Texas Government Code, or as requested by the County. Vendor must maintain appropriate and sufficient insurance, including without limitation such workers' compensation insurance as may be required by state or local law or policy, necessary to protect Vendor and the County from all claims for bodily injury, death, or property damage that might arise from the performance by Vendor or its employees or agents of any service under the Contract; however, the existence of such insurance does not relieve Vendor of full responsibility and liability for damages, injury, death, or loss as described or as otherwise provided by law. Within 30 days after signing of a contract and prior to beginning the actual work (whichever comes first) the vendor shall

provide the County with a performance bond and a payment bond in the amount of the contract. A surety company authorized to do business in this state shall execute these bonds. Bonds shall be delivered to the Waller County Auditor at 836 Austin Street, Suite 221, Hempstead, Texas 77445.

2.35 General Obligations and Reliance: The Vendor shall perform all services and/or provide all goods, as well as those reasonably inferable and necessary for completion and provision of services and/or goods required hereunder. The Vendor shall keep the County informed of the progress and quality of the services. The Vendor agrees and acknowledges that the County is relying on the Vendor's represented expertise and ability to provide the goods and/or services described herein. The Vendor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations in accordance with the highest standards used in the profession and to further the interests of the County in accordance with the County's requirements and procedures. The Vendor's duties, as set forth herein, shall at no time be in any way diminished by reason of any approval by the County, now shall the Vendor be released from an liability by reason of such approval by the County. It is understood that the County at all times is ultimately relying upon the Vendor's skill and knowledge in performing the services and providing any goods required hereunder.

2.36 Governing Forms: In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Waller County's interpretation shall govern.

2.37 Governing Law: This RFP is governed by the competitive bidding requirements of the County Purchasing Act of the Texas Local Government Code. Vendors shall comply with all applicable federal, state, and local laws and regulations. The vendor is further advised that these requirements shall be fully governed by the laws of the State of Texas and that Waller County may request and rely on advice, decisions, and opinions of the Attorney General of Texas and the Waller County Criminal District Attorney concerning any portion of these requirements.

2.38 Governmental Immunity: The County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas or under the laws of the United States.

2.39 Grant Funding: Any contract entered into by the County that is to be paid from grant funds shall be limited to payment from the grant funding, and the Proposer understands that the County has not set aside any County funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid by the grant, and further funding cannot be obtained for the contract, then the sole recourse of the Vendor shall be to terminate any further services under the Contract and the Contract shall be null and void.

2.40 Guarantees and Warranties: Vendor must not limit or exclude any implied warranties and shall extend such warranties on the awarded products(s) or service(s), as well as the installation thereof if such installation is provided by Vendor, as are normally provided to other customers of Vendor. All services shall be performed in a good and workmanlike manner consistent with industry standards. Unless otherwise specified by this RFP, a minimum of a ninety (90)-day product or service guarantee or the manufacturer's standard commercial warranty, whichever is greater, will apply to all awarded products and services. At a minimum, all product warranties must provide for replacement of defective merchandise, parts, and labor, and include pick-up of the defective merchandise from the location specified by the County and delivery of the replacement(s) to the same location. Such warranty shall include curing any defects in connection with any Vendor installation of the product at no additional cost to the County. The warranty period is effective from the date the County accepts the product, or the date service is completed and accepted by the County.

Vendor warrants that products sold to the County shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, the County may return the product for correction or replacement

at the Vendor's expense. If the Vendor fails to make the appropriate correction within a reasonable time, the County may correct at the Vendor's expense.

Vendor shall respond to any reasonable requests for information from the County or its representatives in regards to concerns regarding public health and safety regarding awarded products and/or services, including such documentation as may be reasonably requested. In the event of any product recalls affecting awarded products, as soon as practicable, Vendor shall notify in writing the County for such recalled products and proposed action. At a minimum and without waiving any other requirements under law or this RFP or Contract, Vendor shall be required with respect to the County to take all action required by law or any greater remedy as may be offered by Vendor to other customers with respect to recalled products, including but not limited to, prompt replacement and/or refunds.

Proposer may not limit or exclude any implied warranties. Any attempt to do so shall render the Contract voidable at the option of the County.

2.41 HIPAA Compliance: Offeror agrees to comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, 45 CFR Parts 160-164, as amended, and the Texas Medical Records Privacy Act, Texas Health and Safety Code Chapter 181, as amended, collectively referred to as "HIPAA", to the extent that the Proposer uses, discloses, or has access to protected health information as defined by HIPAA. Proposer may be required to enter a Business Associate Agreement pursuant to HIPAA.

2.42 Hold Harmless Agreement: Successful vendor shall defend, indemnify, and save harmless Waller County and all its officers, agents, and employees from all suits, actions, or other claims of any character, name, and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful vendor, or of any agent, employee, subcontractor, or supplier in the execution of, or performance under, any contract which may result from proposal award. Successful vendor shall pay any judgment with cost which may be obtained against Waller County growing out of such injury or damages.

2.43 Indemnification: Vendor agrees to defend, indemnify, and hold harmless the County, its officials, officers, agents, employees, and representatives from and against all third-party claims, actions, suits, liability, liens, loss, and damage of any character, type, or description, including without limitation all expenses of litigation, court costs and attorney's fees, arising out of or related to (1) injury or death to any person or damage to any property related to the acts of Vendor or its agents, subcontractors, employees, or representatives in the execution of or performance under the Contract; and (2) Vendor's negligence, misconduct, breach of contract, or other failure to comply with its obligations in the execution or performance under the Contract. The Vendor's duty to defend, indemnify, and hold the County harmless shall be absolute. It shall not abate or end on the expiration or termination of the Contract unless otherwise agreed to by the County in writing. The provisions of this section shall survive the termination of the Contract and shall remain in full force and effect with respect to all such matters concerning the performance of the Vendor arising under or related to the Contract, no matter when they arise.

The Vendor shall indemnify the County in the event the County is found to have been negligent for having selected the Vendor to perform the work described in this RFP. The Vendor's provision of insurance shall not limit the liability of the Vendor under the Contract.

2.44 Information Acquired Through Work: Vendor expressly agrees that it will not use any direct or incidental confidential information that may be obtained while working in a governmental setting for its own benefit, and agrees that it will not access unauthorized areas or confidential information. Vendor agrees it will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

2.45 Inspections and Testing: Waller County reserves the right to inspect any item(s) or service location for compliance with specifications, requirements, and/or needs of the County. If a vendor cannot

furnish a sample of a proposed item, where applicable, for review, or fails to satisfactorily show an ability to perform, the County may reject the offer as inadequate.

Goods purchased are subject to inspection and approval by the buyer. The County reserves the right to reject or refuse acceptance of goods which are not in accordance with the County's instructions, specifications, drawings, and data, or vendor's warranties (expressed or implied). Goods not accepted will be returned to the vendor at the vendor's risk and expense. Payment for any goods shall not be deemed an acceptance thereof.

2.46 Insurance: Any vendor that conducts business with Waller County, whether it is for goods and/or services, shall secure and maintain, throughout the duration of the Contract, insurance of such types and in such amounts as may be necessary to protect the Vendor and the County against all hazards or risks of loss associated with the Vendor's performance of the Contract. The form and limits of such insurance, together with the insurer, shall be acceptable to the County. It shall be the responsibility of the Vendor to maintain adequate insurance coverage at all times. Failure of the Vendor to maintain adequate coverage shall not relieve the Vendor of any contractual responsibility or obligation; however, such failure shall be grounds for the County to terminate the Contract in its discretion.

2.47 Intellectual Property Infringement: Without limiting the scope of the Indemnification section of these Terms and Conditions, if any claim is asserted, or action or proceeding brought against the County that alleges that all or any part of the products or services supplied by Vendor, in the form supplied or modified by Vendor, or its subcontractors pursuant to Vendor's sole directions, infringes or misappropriates any United States intellectual property, intangible asset, or other proprietary right, title, or interest (including, without limitation, any copyright or patent or any trade secret right, title, or interest), or violates any other contract, license, grant, or other proprietary right of any third party, the County, upon its awareness, shall give Vendor prompt written notice thereof. Vendor shall, at its own expense, defend and hold the County harmless against any such claim or action where the County is made a defendant, and shall indemnify the County against any liability, damages, and costs resulting from such claim, including attorney's fees, whether the infringement or misappropriation is actual or alleged. Vendor further agrees to pay and discharge any and all judgments or decrees which may be rendered in any such suit, action, or proceeding.

If any such suit arises from such a claim, the continued use of the product for the purpose intended is enjoined by any court of competent jurisdiction, Vendor shall, at its expense and option, either (1) procure for the County the right to continue using the product, (2) modify the product so that it becomes non-infringing, (3) replace the product or portions thereof so that it becomes non-infringing, or (4) allow the County to return the product or cancel the service and refund the purchase price.

2.48 Interpretation: This writing is intended by the parties as a final expression of their agreement and a complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties and no usage of the trade is relevant to supplement or explain any terms used in the Contract. Acceptance or acquiescence in a course of performance rendered under the Contract is not relevant to and does not determine the meaning of the Contract even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.

2.49 Invoices and Payment: Vendors shall, at the appropriate times, submit an original invoice for each delivery and/or negotiated project milestone that requires payment. Invoices must include (1) the Vendor's name and address, (2) the County's name and address or delivery location, (3) the contract number, (4) the name of the project, and (5) be itemized. Itemization for product(s) must include at a minimum a detailed description of the product(s), the quantity delivered, item number, product code, item description, and total number of containers. Itemizations for milestone(s) associated with the invoice must include a detailed description of the service(s), and a written certification that all aspects of that particular milestone have been successfully completed, delivered, and approved by the County's Project Manager or approved agent in accordance with contract requirements. Invoices must separately itemize any transportation and/or delivery charges, and include associated documentation,

include a properly signed copy of the delivery receipt, and be mailed directly to the County.

Prior to any and all payments made for goods and/or services provided under this Contract to the Vendor shall provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the Waller County Auditor's Office. Failure to provide this information may result in a delay in payment and/or back up withholding as required by the Internal Revenue Service.

Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the vendor for correction.

Payment to Vendor is due after the County's receipt and acceptance of ordered product(s) or service(s) and the documentation identified above, including a complete and correct invoice, in accordance with the Prompt Payment Act, Chapter 2251 of the Texas Government Code. The County is not responsible for product(s) delivered or invoiced without a valid purchase order.

The County's obligation to Vendor is payable only and solely from funds available for the purpose of the purchase. The laws of the State of Texas prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Anticipated orders or other obligations that may arise past the end of the current Waller County fiscal year shall be subject to budget approval.

This RFP or Contract may be terminated by the County without notice and without penalty or liability in the event that (1) the County lacks sufficient funds for this agreement; (2) funds for this agreement are not appropriated by Waller County Commissioners' Court; and (3) funds for this agreement that are or were to be provided by grant or through an outside service are withheld, denied, or are otherwise not available to the County.

All payments made by Waller County shall be paid within thirty (30) days of the County's receipt of an invoice for work that has been performed.

2.50 Labor and Materials: Unless otherwise provided in the Contract Documents, the vendor shall provide and pay for labor, materials, equipment, tools, vehicles, construction equipment and machinery, water, heat, and other facilities and services necessary for proper execution of the Work.

Packaging, Transportation, and Delivery: Unless otherwise provided for in this RFP, all tangible goods included in this RFP must be packaged in containers that are new, appropriately designed for the product, and sturdy enough to protect the product during loading, transit, unloading, and storage, and be suitably packed to secure the lowest transportation costs. If pallets are used, they shall be standard 48" 4-way pallets in good, serviceable condition.

Vendor is responsible for paying all freight, delivery, handling, and other charges incurred transporting and delivering products to the County, and for risk of loss until the product is delivered to and accepted by the County. Costs related to freight, deliver, handling, and other charges incurred transporting and delivering products must be prepaid by the Vendor. Vendor may collect the actual amount of such charges after delivery to and acceptance by the County, provided that the charges were (1) disclosed to the County prior to shipment, (2) are itemized and shown separately on the County's invoice, and (3) are supported by appropriate documentation submitted with the invoice.

Vendor must deliver or provide the awarded goods or services according to the timeline established in this RFP and/or the Contract. In the event of a conflict, this RFP will control. Vendor must immediately notify the Department Contact of an anticipated or actual delay, and document the notice in writing. The County may extend the delivery or cancel the order if the delay is unacceptable to the County. If the County does not receive notice of delay as required by this section, the County, at its discretion, return to Vendor any items received after the due date, at Vendor's expense and without liability or penalty to the County.

The County may request emergency delivery of goods and/or services, and the Vendor must use its

best efforts to comply with the rush or emergency request. If Vendor cannot fulfill the emergency delivery requirement, the member may procure the goods and/or services from alternative sources without penalty. Time is of the essence in Vendor's performance of the Contract.

2.51 Late Proposals: Proposals received in the County Criminal District Attorney's Office after the submission deadline will not be accepted. It is the responsibility of the vendor to ensure their proposal is delivered to the Criminal District Attorney prior to the submission deadline. The time and date stamped by the Criminal District Attorney's Office shall be the official time of receipt.

2.52 Legal Liability Information: The Vendor shall disclose all legal liability information by listing any pending or anticipated litigation that it is involved in, including but not limited to, potential or actual legal matters with private parties and any local, state, federal, or international governmental entities. Proposer shall disclose if they are the target or subject of any investigation, accusation or charges by any federal, State or local law enforcement, licensing or certification body.

2.53 Made in the U.S.A.: As appropriate and to the extent consistent with law, when funding a procurement in whole or in part through Federal grant money, Waller County, to the greatest extent practicable, provides 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). Vendors agree to include this requirement in all contracts with any subcontractors or sub-subcontractors related to the Contract, whether they concern goods and/or services.

2.54 Material Safety Data Sheets: Under Texas Health and Safety Code § 502.006, the "Hazardous Communication Act", a Vendor must provide the County with material safety data sheets (MSDS) on the initial delivery of the hazardous substance, and on the first shipment after which an MSDS is updated that is applicable to the shipped hazardous substance. If the Vendor fails to furnish this documentation within the time frame allowed by law, the County may cancel the Contract without penalty of any kind.

2.55 No Reimbursement: Proposer understands and acknowledges that the County will not reimburse or pay Proposer or any expenses Proposer incurs in preparing its Proposal or providing additional information required in connection with the Proposal.

2.56 Non-Violation of Anti-Trust Laws: The Proposer certifies that they have not violated the antitrust laws of this state codified in Texas Business and Commerce Code, Chapter 15, as amended, or the federal antitrust laws, and has not communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business. Any or all proposals may be rejected if the County believes that collusion exists among the Proposer(s). Proposals in which the prices are obviously unbalanced may be rejected. If multiple proposals are submitted by an offeror and after the proposals are opened, one of the proposals is withdrawn, the result will be that all of the Proposals submitted by that Proposer will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple Proposals for different products or services.

2.57 Notices: Unless otherwise provided by this RFP, any written notice or other communication required by the Contract or by law will be conclusively deemed to have been given and received on the third business day after such written notice has been deposited in the U.S. Mail, property addressed, and with sufficient postage affixed thereto, provided that actual notice may also be given in any other manner used in commerce.

2.58 Permits and Approvals: All work done under this contract shall comply with all local and state codes having jurisdiction and with the requirements of the utility companies whose services may be used. Where code requirements are less than those shown in the contract documents, the contract documents shall control. The selected vendor shall obtain any and all permits, inspections, and approvals as required by all authorities having jurisdiction. All fees and costs for these items shall be paid for by the Vendor.

2.59 Point of Contact: The Waller County Criminal District Attorney's Office shall be the sole point of contact for any and all issues pertaining to this procurement and its process, except in instances that specifically instruct the Proposer to contact the Department Contact. The office may designate an alternate point of contact for specific purposes. Contacting any County employee or representative other than the County Criminal District Attorney's Office or their designated representative could result in disqualification. Do not rely on oral instructions or clarifications. Requests from interested Vendors for additional information or interpretation of the information included in the specifications should be directed in writing to the Waller County Criminal District Attorney's Office.

2.60 Pricing: Prices for all goods and/or services shall be firm for the duration of the Contract, and shall be stated in the Proposal. Prices shall be all inclusive: no price changes, additions, or subsequent qualifications will be honored during the term of the Contract unless agreed to in writing. If there are any additional charges of any kind, other than those mentioned previously, specified or unspecified, Proposer must indicate the items required and attendant costs or forfeit the right to payment for such items.

2.61 Product Inspection, Testing, and Defective Items: Products supplied under the Contract must be delivered in the best possible condition, be covered by the product warranties provided by Vendor and/or the product manufacturer to other customers, and are subject to inspection, testing, and approval by the County. Tests may be performed on samples taken from any regular shipment of the product. In the event that a tested product fails to meet or exceed all requirements of the item specifications or these Terms and Conditions, Vendor must pay the cost of the samples and/or testing. Upon receipt of notification that from the County, Vendor must replace and, for tangible goods, pick up the defective product within five (5) business days without charge for the replacement or delivery. The County may dispose of defective products that are not picked up and replaced by Vendor, without cost or penalty. Products damaged in shipping are considered defective for the purposes of the foregoing. Latent defects discovered after delivery and acceptance of any product(s) may result in revocation of the acceptance of such products. The County must have access to Vendor's place of business during normal business hours for the purpose of inspecting any awarded product(s).

2.62 Proposal Form: The vendor is to fill out and return to the County Criminal District Attorney's Office one original proposal form that is marked "Original." Proposal packaging must show the proposal number and be marked "sealed proposal." A company representative authorized to submit the proposal and bind the company in a contract with the County must sign the proposal cover sheet. Completion of this form is intended to verify that the vendor has submitted the proposal, is familiar with its contents, and has submitted the material in accordance with all requirements.

2.63 Proposal Signatures: Proposer must sign its Proposal in strict accordance with the County's instructions, including having a company representative duly authorized by Proposer to execute the Proposal. By signing, the signatory warrants that they have read and agree to the terms of the Proposal and are authorized to execute same as a legally binding act of Proposer. A facsimile or imaged signature will be deemed an original.

2.64 Protections of Persons and Property: The vendor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The vendor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

1. Employees on the work and other persons who may be affected thereby;
2. The work and any materials and/or equipment to be incorporated therein, whether storage on or off the site, under care, custody, or control of the vendor or the vendor's subcontractors or sub-subcontractors; and
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

2.65 Quality: Unless otherwise indicated in this RFP, all proposed items must be new and in first class condition, and in containers suitable for damage-free shipment and storage. The items must be warranted in the same manner and to the same extent as normally provided to other customers of Proposer. Unless otherwise specified, “factory seconds,” “refurbished,” or otherwise inferior items are not acceptable. All services must comply with applicable industry standards.

2.66 Remedies for Default and Termination of Contract: Except as otherwise provided for in these Terms and Conditions, either the County or Vendor may terminate the Contract in whole or in part in the event of the other party’s substantial failure to fulfill its obligations under the Contract through no fault of the terminating party; provided, however, that the defaulting party is given at least ten (10) business days prior written notice of the default and intent to terminate. Written notice shall be delivered by certified mail, return receipt requested, or other method that similarly documents receipt. To the extent that the default is capable of being cured, a ten (10) business day opportunity to remedy the default to the satisfaction of the terminating party.

At the County’s option, and in addition to any other remedies it may have available, the County may terminate the Contract if Vendor fails to adhere to or violates any of the provisions of these Terms and Conditions, including certifications. Without limiting the scope of the foregoing, one or more of the following constitutes grounds for termination:

1. Delivery of product(s) or service(s) that fail to meet the item specifications.
2. Delivery of product(s) or service(s) that are defective or substandard or fail to pass product inspection;
3. Delivery of a product substitution, except as specifically authorized;
4. Failure to meet required delivery schedules;
5. Failure to timely supply the awarded products or services at the contract price;
6. Failure to provide, within a reasonable time and where required by the Contract or this RFP, information reasonably requested by the County;
7. Providing architectural or engineering services under the Contract that must be procured pursuant to the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code);
8. Vendor refusal, inability or loss of ability, to offer or provide awarded goods or services to the County unless caused by a Force Majeure event.

Notwithstanding any other provision of this section, in the event of Vendor’s default under or breach of any provision of this Contract, the County reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of the County or necessary or appropriate to protect or provide best value to the County.

In the event that the County terminates the Contract, the County reserves the right to award the terminated Contract to the next Proposer the County determines to provide the best value.

The County may sue for breach of contract and specific performance and, in addition to contract damages, recover attorney’s fees and costs. Vendor shall be liable for any and all damages permitted by law, and any deviation submitted by Vendor in its Proposal seeking to limit Vendor’s liability to the County shall be deemed rejected.

The County will not be liable to Vendor for any damages, including but not limited to, loss of profits, loss of business, or any special, consequential, exemplary, or incidental damages resulting from termination based on Vendor’s default or breach of contract.

If any delay or failure of performance is caused by a Force Majeure event described in these Terms and Conditions, the County may, in its sole discretion, terminate the Contract, provided such termination complies with the procedures set out above. Any Contract termination resulting from any cause other than a Force Majeure event will be deemed a valid reason for the County to not consider any future proposals from the defaulting Vendor.

2.67 Remedies Cumulative: The remedies available to the County under this RFP or Contract are in addition to any other remedies that may be available under law or in equity.

2.68 Requirements of the Texas Public Information Act; Confidential Information: The requirements of Subchapter J, Chapter 552, Texas Government Code may apply to this RFP and any awarded Contract, and Vendor agrees that the Contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

Pursuant to Texas Government Code Sections 552.371 and 552.372, to the extent the Contract or any Purchase Order thereunder has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by a governmental body or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by a governmental body, Vendor shall:

- (a) preserve all contracting information, as defined in Texas Government Code Section 552.003(7) (“Contracting Information”), related to the Contract or any Cooperative member Purchase Order thereunder, as provided by the records retention requirements applicable to the governmental body for the duration of the Contract;
- (b) promptly provide to the County, as applicable, any Contracting Information related to the Contract that is in the custody or possession of Vendor on request of the County; and
- (c) on completion of the Contract, either:
 - i. provide at no cost to the County all Contracting Information related to the Contract that is in the custody or possession of the Vendor; or
 - ii. preserve the Contracting Information related to the Contract as provided by the record retention requirements applicable to the County.

The County shall not accept a Proposal or award a Contract to a Vendor that the County has determined has knowingly or intentionally failed to comply with Texas Government Code Chapter 552, Subchapter J, in a previous Proposal or Contract unless the County determines and documents that Vendor has taken adequate steps to ensure future compliance of said Subchapter. The determination of whether the Vendor has taken adequate steps to ensure future compliance of said Subchapter is in the sole discretion of the County.

Proposers are cautioned to limit or avoid if possible including proprietary trade secret information within the proposal. Privately held entities, whose financial information is not otherwise subject to public disclosure, may submit the required financial information in a separate, sealed envelope labeled with the Proposer’s name, RFP name and number, and a clear indication that the envelope contains CONFIDENTIAL INFORMATION.

Proposer must clearly identify information in the Proposal that Proposer considers proprietary or confidential. The County will treat such information as confidential only to the extent allowable under the Texas Public Information Act or similar applicable disclosure law.

Under no circumstance shall Proposer’s entire proposal, offers, or the majority of Proposer’s technical responses be labeled proprietary or confidential.

If Proposer deems it necessary to include proprietary trade secret information in order to adequately respond to technical requirements, Proposer shall note the section as such and provide the information in a separate sealed envelope.

In addition a proprietary and confidential matrix must be included that shows all items that are not in main response and indicated as proprietary and confidential.

If Proposer fails to properly identify the information, the County shall have no obligation to seek protection of such information from public disclosure. The County and its representatives and/or employees will not be responsible for Proposer’s failure to clearly identify information Proposer considers confidential or proprietary.

The County will, to the extent allowed by law, endeavor to protect from public disclosure the information that has been identified and marked as proprietary. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. It is understood that the County, its officers, and employees shall have the right to rely on the advice, decisions, and opinions of the Texas Attorney General, and that the County, its officers, and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to the County by a party hereto, in reliance on any advice, decision, or opinion of the Texas Attorney General.

2.69 Right to Assurance: Whenever the County in good faith has reason to question Vendor's intent to perform, the County may demand that the Vendor give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the County may treat the failure as an anticipatory repudiation of the Contract.

2.70 Right to Setoff: Any indebtedness or obligation owed by Vendor or Vendor's affiliates to the County may be appropriated and applied by the County at any time, and from time to time, on any indebtedness or other obligation owed by the County to Vendor or Vendor's affiliates, whether such indebtedness or other obligations are now existing or hereafter arise, and whether under the Contract or otherwise. It is further understood and agreed that this right of setoff is in addition to, and not in lieu of, any other right, remedy, or recourse which is available to the County either at law or in equity, and that failure to exercise such right of setoff in any instance shall not constitute a waiver of such right.

2.71 Sales Tax: Waller County is by statute exempt from the State Sales Tax and Federal Excise Tax; therefore, the proposal price shall not include sales taxes.

2.72 Samples: The County may request a product sample. Proposer must furnish the requested sample at no cost to the county, and, unless otherwise specified, the County must receive the sample within three (3) business days of the request. The submitted sample must be labeled with the RFP name and number, item number, product identification number, and the Proposer's name. Failure to submit a sample when requested may result in the product in question not being considered for award to Proposer.

The County will retain samples for a sufficient length of time for proper evaluation. If not destroyed or consumed during examination and/or testing, the County will return samples to Proposer at Proposer's expense, provided that Proposer has included a written return request with the submitted samples. If the Proposer does not request in writing that the samples be returned, the County may permanently retain the samples. The County is not liable for samples that are damaged, destroyed, or consumed during examination, testing, and/or transport.

2.73 Schedule: The successful vendor will be responsible for preparing, maintaining, and updating the official detailed project schedule from start to finish. The vendor, after being awarded the Contract, shall submit for the County's information a vendor's construction schedule for the work. The schedule shall not exceed time limits current under the Contract Documents and shall be updated at appropriate intervals as required by the conditions of the work.

2.74 Severability: If any section, subsection, paragraph, sentence, clause, phrase, or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications, and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion has been omitted.

2.75 Silence of Specification: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

2.76 Site Visit: Site visits shall be available to vendors upon request. Vendors are highly encouraged to

participate in a site visit prior to preparation of their proposals. To schedule a site visit, contact the Department Contact.

2.77 Sole Provider: The Vendor agrees and acknowledges that it shall not be considered a sole provider of the goods and/or service(s) described herein, and that the County may contract with other providers of such goods and/or service(s) if the County deems, in its sole discretion, that multiple providers of the same goods and/or service(s) will serve the best interest of the County.

2.78 Statement of Inclusion/Applicability: These Terms and Conditions apply to this RFP and the proposing company's response to this RFP, and are an integral part of any contract which is awarded in association with this RFP.

2.79 Supervision and Construction Procedures: The vendor shall supervise the work and shall be solely responsible for and have control over subcontractors, construction means, methods, techniques, sequences, and procedures; and for coordinating all portion of the work unless the Contract gives other specific instructions concerning these matters.

2.80 Substantial Completion: Substantial completion shall not be achieved prior to final acceptance by the County.

2.81 Substitutions: Vendor's Proposal must specify the products or services Vendor proposes to provide under each category of the RFP Specifications. Vendor shall only be permitted to provide those products or services specified for categories under which Vendor is awarded under the Contract. The County will not accept additions or substitutions to any of the product(s) or service(s) listed in the Proposal after a Contract has been awarded.

2.82 Time for Acceptance: The County's period for acceptance of any Proposals will be at least one hundred and twenty (120) calendar days from the Proposal Due Date.

2.83 Time Periods: If the conclusions of any time period provided for in these Terms and Conditions falls on a weekend or a federal, local, or state holiday, the conclusion of such time period shall be deemed to be extended until the next business day.

References to days in these Terms and Conditions shall mean calendar days unless business days are specifically designated.

2.84 Title and Risk of Loss: Title to and risk of loss for the deliverables shall pass to the County only when the County actually receives and accepts the deliverables.

2.85 Vendor: The County will have one Vendor contact person for overall contract management relative to the Contract, even if Vendor uses multiple distribution centers or designated dealers. Regardless of whether Vendor has designated dealers, Vendor specifically agrees and acknowledges that any such designations are for Vendor's convenience only and shall not relieve Vendor of any obligations under the Contract. Vendor shall remain responsible and liable for all of its obligations under the Contract, and the performance of both Vendor and any of Vendor's designated dealers under and in accordance with the Contract and remain subject to all remedies for default thereunder.

2.86 Venue: This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Waller County, Texas. Unless otherwise provided for by statute, any litigation arising from this Contract shall lie in Waller County, Texas.

2.87 Waiver: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. The County's failure to require strict performance of any provision of the Contract does not waive or diminish the County's right thereafter to demand strict compliance with that or any other provision.

2.88 Waiver of Subrogation: Vendor and Vendor's insurance carrier waive any and all rights whatsoever

with regard to subrogation against Waller County as an indirect party to any suit arising out of personal or property damages resulting from Vendor's, its employees', or subcontractors' performance under this Contract.

2.89 Withdrawal of Proposal: Proposer may withdraw a submitted Proposal prior to the Proposal Due Date and time specified in this RFP. A request for withdrawal must be made in writing, and signed by an individual authorized to enter into contracts on Proposer's behalf and indicate the individual's title. Proposals in the County's possession at the Proposal Due Date and time shall be deemed final, conclusive, and irrevocable. No Proposal will be subject to withdrawal, amendment, or correction after the Proposal Due Date and time specified in the Proposal Invitation.

3 SPECIFICATIONS

3.1 Overview: The following information is provided to acquaint Proposers with Waller County and its need for the requested services.

A. Introduction: Waller County ("County") has a jail that has a maximum capacity of 210 inmates. The average daily population is approximately 135 inmates.

B. Objectives: The County is seeking a qualified and competent vendor to provide phone and tablet equipment and services for use by inmates.

3.2 Scope of Work: Proposers should include the following hardware and software, as well as pricing for the minimum quantity of equipment and additional units if the County needs additional units during the term of the contract.

A. Phones: Proposers shall include at least sixty (60) phones. Phones will be placed in housing units and visitation areas.

B. Tablets: Proposers shall include at least fifty-six (56) tablets for use by inmates in their housing areas.

C. General Requirements

1. The system shall be an easy to use application.
2. The proposed system shall allow outgoing calls, only.
3. The proposed system shall not allow 3-way calls.
4. The proposed system shall allow inmate calls to be restricted to 20 minutes. Waller County representatives must be able to change this call duration limit throughout the entire site, by inmate Account / PIN, or group of telephones.
5. The users – inmate and called party – shall be notified of limit in advance of the system terminating the call.
6. Vendor shall supply at least one (1) TTY phone.
7. The proposed system must require active acceptance by the called party.
8. The proposed system shall include user prompts in English and Spanish.
9. The vendor will need to have a program that will proactively attempt to set-up an account for individuals who are not able to accept collect calls, enabling families to quickly communicate with incarcerated individuals. Please describe your program.
10. Vendor must notify end user when they have reached a \$20.00 balance of its site or personal credit limit and describe process.

D. Personal Identification Number (PIN)

1. The proposed system shall utilize Personal Identification Numbers (PIN) for the inmates. Describe your system's use of Inmate PINs.
2. The proposed system shall prevent duplicate PINs.
3. What is the minimum and maximum number of digits used in a PIN.

E. Fraud Management

1. The proposed system shall be able detect, notify and prevent three-way or conference calls,

except for those calls to attorney's or other approved numbers. We understand that there are industry patents in this area. Please provide a description of the process you have deployed on your platform and why you feel the technical approach provides the best 3-way detection solution.

2. The proposed system shall prevent the inmate from receiving a second dial tone, or "chain-dialing."
3. The proposed system shall prevent any extra digits dialed by the inmate after the party has accepted the call. Please describe process.
4. The proposed system shall have capability to remotely survey Inmate calls and be able to transfer specific calls in progress to investigators
5. The proposed system shall brand each call with the name of the facility and the inmate placing the call.
6. The proposed system shall have the ability to play the brand recording at random intervals.
7. The proposed system shall guard against "Hook-switch dialing," and other fraudulent activities. Please describe.
8. The inmate shall not communicate with the called party until the call has been accepted.
9. The system shall detect the difference between an accepted call, and an answering machine, busy signal, or other telephone activity. Please describe.
10. The proposed system shall allow call blocking of specific numbers by customer and site.
11. The proposed system shall also assign approved calling numbers according to inmate PIN.
12. The proposed system shall permit the called party to block all future calls from a correctional facility.
13. The system must have the capability to suspend an inmate privileges from placing a call and set a beginning and end date without the need to manually re-enable privileges.
14. The proposed system shall allow the inmate to record their name one time and store this recorded name for all future calls.
15. The proposed system should offer Inmate Biometric technology and associated reporting, that validates the inmates identity based on the inmate PIN, prior to connecting the call

F. Other investigative Tools

1. The system will need to be equipped with a remote conferencing feature and e-mail feature for those numbers that are under surveillance by the investigative unit. The feature will need to allow authorized personnel to monitor a call and receive e-mail notification from any designated remote location, while the call is in progress. The call will need to be automatically conferenced – after entry of unique pin - to a predetermined investigators telephone number in listen mode only once the call is accepted by the called party and in progress.
2. The proposed system must allow for all calls remotely conferenced to investigators to be accepted by the investigator with a unique PIN.
3. The system must have the capability to move an inmate or group of inmates from one facility to another without the need to re-enter information. Please provide any other additional investigative tool.

G. Kiosk And Commissary Software

1. The system will need to integrate with Kiosk and Commissary for deposit convenience for families.
2. Integration with the facility's Commissary System is required to automate the debit calling option. The County utilizes the Keefe system to track inmate trust account balances. The vendor is Keefe and they will not charge. Phone vendor will allow for commissary phone order entry through Keefe applications at no cost to County or Keefe.

H. Call Acceptance

1. The proposed system shall provide an option for the called party to request rate of the call prior to acceptance.
2. The called party must actively accept the call.

3. The inmate cannot communicate nor hear the called party until the call has been accepted.
4. Billing does not begin until the call is accepted.

I. System Security

1. The proposed system must be programmed for auto shut-off at times designated by the County.
2. The County personnel must be able to manually shut down the system in case of emergency.
3. The proposed system shall be password protected to permit only appropriate facility personnel access to the system.
4. The system must have the capability to enable and disable any phone at the facility from any secured internet enable computer.
5. For security purpose the system must be a centralized non-premise system that will keep all records secure and not require the need to maintain at the facility. Describe your system and how your system will meet this requirement.

J. Service & Maintenance

1. Vendor shall provide 24-hour, toll-free service number.
2. Vendor shall respond to all major service outages within four hours.
3. Vendor shall provide service policies and procedures as an attachment to this proposal.
4. Describe the maintenance and quality assurance programs for telephones to be installed.
5. Detail equipment installation charges, if any.
6. Describe the maintenance and quality assurance programs for telephones to be installed.
7. Detail the method of determining service interruptions and service call priorities. List response time for each priority and the level of expertise devoted to each priority.
8. Provide a contact person who will be responsible for ongoing account management and support.

K. Call Monitoring & Recording

1. The proposed system shall maintain all call recordings centrally on SAN storage technology and not use tape drives for storage of call recordings
2. All call recordings shall be stored online – for the life of the contract - and available through the online user interface.
3. Facility personnel must be able to search call recordings by dialed number, date, time, inmate account, or site name.
4. Facility personnel must be able to simultaneously live monitor conversations while the system is recording the conversations.

L. Training

1. Vendor shall provide training to the Waller County staff in system administration, operation, and reporting.
2. Describe training program; include description of course and any applicable documents.

M. Equipment

1. The proposed inmate telephone system shall be a turnkey telephone system and service.
2. The vendor shall provide non-coin, inmate telephones composed of durable equipment suitable for jail environments.
3. The proposed system must be able to utilize the current PCs that are available at the County without the need for additional PCs.
4. The proposed system shall have the ability, as authorized by the Sheriff's Office, to monitor live or listen to previously recorded calls at the Sheriff's Office without the need to interface directly with Sheriff's network.
5. The proposed system user interface shall be based on security level and password protected.
6. All vendor equipment shall comply with FCC regulations.
7. The proposed equipment and system shall be scalable to meet the County's growing needs.
8. Vendor equipment shall include backup power in the event of temporary loss of commercial power.

9. Disclose, with percentages clearly shown, what work is or will be subcontracted, and what work is or will be performed by the Vendor's employees.
10. Indicate your firm's ability to provide authorized users detailed reporting tools to include but not limited to the following information:
 - Phone Location Originating call
 - Time of call
 - Telephone number called
 - Most frequently called numbers
 - Length of call
 - Identify numbers called from a specific telephone
 - Identify telephone numbers called by a specific inmate
 - Alarm number status
 - Alarm a telephone number and allow automatic recording of the call
 - Multiple calls from different inmate phones to the same number

3.3 Proposal Format: Vendor shall provide straightforward, concise information that satisfies the requirements noted herein. Emphasis should be placed on conformity to the instructions and requirements of this RFP, and completeness and clarity of content.

This RFP is intended as a basis for selection of experienced and qualified Vendor(s) to provide products and/or services falling within the scope of this RFP. In that regard, Vendor shall be required to submit a proposal that provides all information requested and conforms to the requirements outlined herein.

In order to facilitate the analysis of responses to this Proposal, Vendors are required to prepare their proposals in accordance with the instructions outlined in this part. Proposals should be prepared as simply as possible and provide a straightforward, concise description of the Vendor's capabilities to satisfy the requirements of the Proposal. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures, and tables should be numbered and clearly labeled, and each section should be tabbed.

A. Required Outline: Vendors are required to follow the outline below when preparing their proposals:

- i. **Cover Page:** a cover page clearly displaying the title of the RFP;
- ii. **Introductory Letter:** an introductory letter which includes the name and primary point of contact at the responding firm. Said individual must be authorized to make representations on behalf of the firm;
- iii. **Company Profile:** the company profile must include a description of corporate qualifications and history of the firm. This includes but is not limited to the names of the proposed project team and their resumes;
- iv. **Cost Proposal:** a cost proposal for the services set forth in this RFP;
- v. **References:** Respondents shall provide a minimum of three (3) references, and a client list of counties or other local governments for which it has provided similar services for at least one (1) year in the last three (3) years.
- vi. **Work Plan:** provide a description and proposed timeline for the implementation of the required service(s) or provision of the required good(s). The work plan must include:
 - a. Identification of tasks to be performed;
 - b. Time frames to performed the identified tasks;
 - c. Project management methodology;
 - d. Project roles and responsibilities;
 - e. Project change control procedure;
 - f. A list of subcontractors, if any; and
 - g. Implementation strategy.

- vii. **Certifications and Required Forms:** Respondents must provide the certifications and forms outlined in section 1.4 of this RFP:
- viii. **Unethical Practices and Substandard Work:** Confirmation that the firm has not engaged in any unethical practices nor has a record of substandard work within the last five (5) years; and
- ix. **Additional Information:** Any additional information which the Respondent feels would demonstrate its work quality and support its understanding.

B. Exceptions: Any deviation from and/or exceptions to the Proposal requirements shall be identified on the Deviation and Compliance form, and in the applicable section of the Proposal.

3.4 Contract Term: The selected Respondent will be required to enter into an agreement for professional services with the County. The duration of this agreement shall be for an initial term of three (3) years with up to two (2) one-year extensions. The County reserves the right to negotiate with the selected Consultant to include further services not identified in this RFP.

3.5 Insurance and Bonding Requirements: If awarded the project, Vendor shall submit to County, Certificates of Insurance showing proof of coverages which shall be maintained by Vendor throughout the term of this agreement.

A. Coverage Requirements:

- i. **Workers Compensation:** As required by Texas law.
- ii. **Employer’s Liability:** \$500,000 for each occurrence
- iii. **Public Liability (Bodily Injury):** \$1,000,000 combined single limit
- iv. **Public Liability (Property Damage):** \$1,000,000 combined single limit
- v. **Automobile Liability (Bodily Injury):** \$200,000 for each person
- vi. **Automobile Liability (Property Damage):** \$50,000 for each occurrence

B. Certificate: The Vendor must provide a certificate of coverage to the County prior to being awarded the contract.

C. Coverage Period: The Vendor must maintain the required coverage throughout the term of the Contract. If the coverage period shown on the Vendor's current certificate of coverage ends during the duration of the contract term, the Vendor must, prior to the end of the coverage period, file a new certificate of coverage with the County showing that coverage has been extended.

D. Coverage Documentation: The Vendor shall obtain from each person providing services on a project, and provide to the County:

- i. a certificate of coverage, prior to that person beginning work on the project, so the County will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- ii. no later than seven days after receipt by the Vendor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

E. Certificate Retention: The Vendor shall retain all required certificates of coverage for the duration of the term of the contract and for one year thereafter.

F. Changes to Coverage: The Vendor shall notify the County in writing by certified mail or personal delivery, within 10 days after the Vendor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

- G. Required to Post Notice:** The Vendor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, Division of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- H. Requirements for Vendor's Contractors:** The Vendor shall contractually require each person with whom it contracts to provide services on a project, to:
- i. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - ii. provide to the Vendor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employee the person providing services on the project, for the duration of the project;
 - iii. provide the Vendor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - iv. obtain from each other person with whom it contracts, and provide to the Vendor:
 - a. a certificate of coverage, prior to the other person beginning work on the project; and
 - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - v. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - vi. notify the County in writing by certified mail or personal delivery, within 10 days after the person knew or should have known of any change that materially affects the provision of coverage of any person providing services on the project; and
 - vii. contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- I. Representation of Coverage:** By signing this contract or providing or causing to be provided a certificate of coverage, the Vendor is representing to the County that all employees of the Vendor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject the Vendor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- J. Failure to Comply:** The Vendor's failure to comply with any of these provisions is a breach of contract by the Vendor which entitles the County to declare the contract void if the Vendor does not remedy the breach within ten days after receipt of notice of breach from the County.
- K. County Endorsement:** County shall be included as an "Additional Insured" by endorsement to policies issued for coverages listed in 3.6(A)(i) and 3.6(A)(ii) above. A "Waiver of Subrogation Endorsement" in favor of County shall be a part of each policy for coverage listed in all sections of 3.6 above.

- L. Deductions or Exclusions:** Vendor shall be responsible for any deductions or exclusions stated in the policies.
- M. Third Party Coverage:** The insurance coverage must insure against claims of third parties who suffer any injury or property loss as a result of the Vendor's performance of the contract.