TARRANT COUNTY

HOSPITAL DISTRICT d/b/a

JPS HEALTH NETWORK

REQUEST FOR PROPOSAL #2021978309  
BONE MATRIX TISSUE IMPLANTS AND SUPPLIES

The Tarrant County Hospital District d/b/a JPS Health Network (the “District”) is seeking proposals for the provision of Bone Matrix Tissue Implants and Supplies.

**The District will reject any proposal that fails to comply in all respects with the instructions set forth herein for responding to this Solicitation. NO EXCEPTIONS WILL BE MADE, even if you are a current or prior vendor for the District. The contract awarded, if any, under and pursuant to this Solicitation shall supersede any previous contract, bid, or GPO agreement for the products or services described herein.**

Release Date: 12-20- 2021

Response Deadline: 01-17-2022, 2:00 p.m. CST

1. **OVERVIEW**
   1. INTRODUCTION AND OVERVIEW

The District desires to award a contract or contracts based upon vendor proposals (“Solicitation Response(s)”) to this Solicitation (“Solicitation”). The District is soliciting vendor proposals from vendors capable of supplying the District with Bone Matrix Tissue Implants and Supplies (the “Product(s)”), as set forth and specified herein (See Section II below, Business Requirements, attached hereto and incorporated herein for all purposes). All Solicitation Responses must be delivered to the District by the date and time, and in the manner specified in Section I.B hereof to be considered an Solicitation Response by the District. It is the sole responsibility of the vendor submitting a Solicitation Response (“Respondent”) to ensure that its Solicitation Response is delivered to the proper location on time and in the manner set forth herein.

A Solicitation Response does not commit the District to accept such Solicitation Response or to award a contract based on any Solicitation Response (“Contract Award”) merely because a Solicitation Response may propose the lowest price for the Products. The District expressly reserves the right to base any Contract Award hereunder upon its evaluation of all relevant factors regarding the vendor, including, but not limited to, Product pricing and terms, management experience and expertise, industry reputation and profile, performance history, support services, location and accessibility, and any other information relevant to its evaluation. This Solicitation is not an order and does not commit the District to pay for any costs incurred by the prospective vendor in the preparation or submission of the Solicitation or in the procurement of the Products. Product quantity estimates used herein may or may not reflect actual quantities needed or used by the District in the future, and do not commit the District to order specific Product quantities. Any Solicitation Response accompanied by terms and conditions that conflict with this Solicitation may be rejected by the District.

The District reserves the right to reject any or all Solicitation Responses and to issue a Contract Award or not to issue a Contract Award based solely on the Solicitation Responses received by the District in response to this Solicitation. However, prior to making any award hereunder, the District also reserves the right to engage in additional discussions with one or more of the vendors responding to this Solicitation.

Any prospective Respondent may request an explanation or interpretation of any portion of this Solicitation by complying with the request procedure described in Section I.C.2 below. The responses, if any, of the District to such requests are subject to and will be in the form of amendment to the Solicitation and will comply with the provisions of Section I.C.2 below. The District may elect not to respond to any or all such requests received from prospective Respondents.

**DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

The District maintains a policy of encouraging and engaging in business transactions with vendors who qualify and are certified under applicable law as Historically Underutilized Businesses (“HUBs”), Small Minority and Women Owned Business Enterprises (“SMWBEs”), and Individuals with Disabilities and Service-Disabled Veterans Owned Business Enterprises (“DOBEs”). HUBs, SMWBEs, and DOBEs are referred to herein as Disadvantaged Business Enterprises (“DBEs”). The District establishes a **25%** good faith target goal. The District also encourages its vendors to utilize subcontractors and vendors who qualify and are certified under applicable law as DBEs. Prior to the District’s consideration of a Respondent’s Solicitation Response each Respondent is required to and shall register as a vendor in the District’s online “JPS Procurement System” (located on the District’s Website at: <https://jpshealth.gob2g.com>). Prior to the Contract Award a Respondent’s good faith efforts to utilize DBE subcontractors and vendors in its business transactions shall be part of the criteria under which the vendor proposals will be considered. Each Respondent will be required to show in its Solicitation Response its historical efforts to utilize DBE subcontractors and vendors in its business transactions (See Section I.B.1.b below).

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTION 2252.908**

Texas Government Code Section 2252.908 (“Section 2252.908”) states that a governmental entity or state agency ***may not*** enter into certain contracts with a business entity unless the business entity submits Form 1295, a disclosure of interested parties, to the governmental entity or state agency ***at the time the business entity submits the signed contract to the governmental entity or state agency***.  Section 2252.908 applies to all contracts entered into from and after January 1, 2016 between business entities and Texas governmental entities and state agencies which meet either one of the following criteria:

1. the contract requires a vote of the governing body of the Texas governmental entity, or

2. the contract has a contractual value of at least $1 Million.

The Texas Ethics Commission has adopted a Certificate of Interested Parties form (“Form 1295”) and has made it available on the TEC website.

In 2017 Section 2252.908 was amended to provide that the requirements of Section 2252.908 do not apply to the following contracts entered into or amended after January 1, 2018:

1. a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;

2. a contract with an electric utility, as that term is defined by Section 31.002, Texas Utilities Code; or

3. a contract with a gas utility, as that term is defined by Section 121.001, Texas Utilities Code.

In the event a Contract Award is issued pursuant to this Solicitation, the Respondent receiving the Contract Award shall be required to comply with the provisions of Section 2252.908, Texas Government Code, and the Chapter 46 Rules of the TEC, prior to entry into a contract with the District. The TEC has posted a video tutorial to its website for business entity filings of Form 1295. The TEC video provides step-by-step tutorials for creating login accounts for the business entity for completing and filing Form 1295. The TEC video tutorials can be viewed on its website at:

<https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm>

The TEC’s FAQs are posted on its website at:

<https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php>

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2271 (Boycott of Israel Prohibited)**

In 2017 Texas Government Code Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm) *et seq.* was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not boycott Israel, and (ii) the company will not boycott Israel during the term of the contract. The requirement was modified in 2019 to apply only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The term “boycott Israel” is defined in Section [808.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm) of the Texas Government Code and means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relationships specifically with Israel, or with a person or entity doing business in Israel or in an Israel-controlled territory, but does not include an action made for ordinary business purposes. Respondents are hereby notified that respect to any Contract Award the vendor shall comply with the Texas Government Code Section 2271.001 *et seq*. verification requirements, the failure or refusal of which shall result in the withdrawal of the Contract Award. **Respondents should ensure they and their affiliates do not appear on the Texas Comptroller’s** [**List of Companies that Boycott Israel**](https://comptroller.texas.gov/purchasing/docs/anti-bds.pdf)**.**

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTIONS 2252.151 et seq. (Scrutinized Business Operations in Sudan, Iran, or with Designated Foreign Terrorist Organizations Prohibited)**

In 2017 Texas Government Code Chapter 2252 was amended by adding Sections [2252.151](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.151) *et seq.* to provide that a Texas governmental entity is prohibited from entering into a contract with a company that engages in certain scrutinized business operations in Sudan, Iran, or with foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section [2270.0052](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0052) of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section [2270.0102](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0102) of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section [2270.0152](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0152) of the Texas Government Code. **Respondents should ensure that they and their affiliates do not appear on the Texas Comptroller’s** [**Scrutinized Companies Lists**](https://comptroller.texas.gov/purchasing/publications/divestment.php)**. The District is** [**prohibited by law**](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.152) **from entering into a contract with a company on such a list (including a company with any affiliate on the list).**

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2274 (Boycott of Certain Energy Companies Prohibited)**

In 2021, Texas Government Code Chapter [2274](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) (added by 87th Legislature, S.B. 13) was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not boycott energy companies, and (ii) the company will not boycott energy companies during the term of the contract. The requirement applies only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The term “boycott energy company” is defined in Section [809.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.809.htm#809.001) of the Texas Government Code and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or  manufacturing of  fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A). Respondents are hereby notified that respect to any Contract Award the vendor shall comply with the Texas Government Code Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) (added by 87th Legislature, S.B. 13) *et seq.* verification requirements, the failure or refusal of which shall result in the withdrawal of the Contract Award.

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2274** (**Discrimination Against Firearm Entities or Firearm Trade Associations Prohibited)**

In 2021, Texas Government Code Chapter [2274](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19) was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (ii) the company will not discriminate against a firearm entity or firearm trade association during the term of the contract. The requirement applies only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The requirement does not apply to sole source contracts or competitive solicitations-related contracts where no respondent can provide the verification required. (See Sec. [2274.002(c)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm)). The term “discriminate against a firearm entity or firearm trade association” is defined in Texas Government Code Section [2274.001(3)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association. Respondents are hereby notified that respect to any Contract Award the vendor shall comply with the Texas Government Code Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19) *et seq*. verification requirements, the failure or refusal of which shall result in the withdrawal of the Contract Award.

**TEXAS PUBLIC INFORMATION ACT**

Each Respondent acknowledges that the District is a governmental body operating under and subject to the provisions of the Texas Public Information Act (“TPIA”) (Chapter 552 of the Texas Government Code) and thereby acknowledges that information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid TPIA request. Respondent retains full responsibility and all costs for challenging any requests for information it considers confidential under the TPIA. **Respondents should consult the Attorney General’s website (**[**www.texasattorneygeneral.gov**](https://www.texasattorneygeneral.gov/)**) for information concerning the application of the provisions of the TPIA to proposals and proprietary vendor information.**

* 1. **SOLICITATION** **RESPONSE REQUIREMENTS, CONDITIONS AND RELATED INFORMATION**
     1. **Preparation of Solicitation Response.**

#### Each Respondent should carefullyexamine and familiarize itself with this Solicitation and all exhibits, drawings, specifications, and instructions regarding the Products included in this Solicitation. Each Respondent, by submitting a Solicitation Proposal, represents that Respondent has read and understands this Solicitation and the drawings, exhibits attached to this Solicitation.

#### Each Solicitation Response shall be fully completed, shall contain all the information required from the Respondent by this Solicitation, including the Vendor Certification Form attached hereto as **Exhibit D** (“Required Information”), and shall be signed and executed, on the Signature Form attached hereto as **Exhibit B** by an officer or other authorized representative of the Respondent. Each page of a Solicitation Response shall contain the company name of the Respondent. A Respondent’s failure to provide any of the Required Information in its Solicitation Response, or the failure of the Solicitation Response to contain the signature of Respondent’s officer or other duly authorized representative, may result in the District’s disqualification of such Solicitation Response. The Required Information shall include detailed information regarding the Respondent’s historical efforts (for the last year) to utilize DBE subcontractors and vendors in its prior business transactions and shall include such detailed information in its Solicitation Response.

#### Each Respondent shall be responsible for and shall bear all costs for the preparation and presentation of its Solicitation Response. Unless otherwise designated by Respondent and agreed by the District, the Solicitation Response and all drawings, materials, supporting documentation, manuals, etc. submitted with any Solicitation Response (“Submitted Materials”) will, immediately upon submission, become the property of the District. After the date upon which the final vendor is selected (See Section I.C.1 below) Respondents may request the return of the Submitted Materials. However, all costs associated with returning the Submitted Materials to a Respondent shall be born and paid in advance by the Respondent.

#### The District does not guarantee the confidentiality of any Submitted Materials. Each Respondent, by submitting a Solicitation Response, acknowledges and agrees that any Submitted Materials will be distributed or made available to appropriate District personnel and consultants involved in this Solicitation process, and further understand that the Submitted Materials may be subject to disclosure pursuant to the TPIA. Information considered proprietary by a Respondent should be clearly marked “Proprietary” when submitted with a Solicitation Response.

#### The District reserves the right to modify and/or supplement this Solicitation by amendment issued by the District prior to the date and time of the Response Deadline (defined herein). Any such amendments will be posted on-line prior to the Response Deadline at the same District internet site where this Solicitation is kept available for solicitation of Solicitation Responses. It is the responsibility of each Respondent to check that internet site frequently to determine if any amendments have been issued.

#### The District reserves the right to withdraw this Solicitation, at its sole discretion, from any or all prospective vendors and Respondents at any time, before or after the Response Deadline. The withdrawal, if ever, of this Solicitation shall be effective upon the District’s issuance of written notice posted on-line at the same District internet site where this Solicitation is kept available for solicitation of Solicitation Responses, which notice may also be sent by the District to the prospective Respondents in any manner deemed reasonable by the District.

* + 1. **Form of Contract.**

### Any Respondent awarded a contract with the District for the purchase and sale of the products and/or services pursuant to this Solicitation shall be required to execute an agreement between the Respondent and the District which shall in all material respects contain the terms and conditions set forth in **Exhibit C** (Contract Terms), which is attached hereto and incorporated herein for all purposes. The District will not agree to change the Contract Terms except under unusual circumstances approved in the sole discretion of the District and its legal counsel. The District will entertain changes to the Contract Terms to the limited extent required to conform the unique terms of the Solicitation Response to the Contract Terms (e.g., unique payment provisions, terms and conditions). The District reserves the right to approve or reject any proposed changes to the Contract Terms submitted by Respondents.

### **IF ANY RESPONDENT PROPOSES CHANGES TO THE CONTRACT TERMS THE RESPONDENT MUST DO SO BY PROVIDING A REDLINE IN RESPONSE TO EXHIBIT F, THE *VENDOR’S PROPOSED REVISIONS* SHOWING ALL PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS TO THE REQUIRED CONTRACT TERMS. A RESPONDENT’S ATTEMPT TO PROVIDE ITS PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS IN ANY MANNER OTHER THAN AS INSTRUCTED MAY RESULT IN THE DISTRICT’S REJECTION OF THE RESPONSE WITHOUT FURTHER EXAMINATION.**

Respondents may not request additional changes to the Contract Terms after the Solicitation Response has been submitted to the District, nor will the District agree to negotiate any requested changes to the Contract Terms which are not included with the Solicitation Response in the manner and form set forth above in this section I.B.2 and in Exhibit F.

* + 1. **Submission of Solicitation Responses.**

#### All Solicitation Responses shall be submitted to the District as follows:

#### **All Solicitation submissions must be sent electronically to** [**Bid\_submissions@jpshealth.org**](mailto:Bid_submissions@jpshealth.org). The proposal (except for any redline of the Contract Terms) must be submitted in a format that preserves graphic appearance, such as portable document format (PDF) or other digital image format that is platform-independent and easily readable without purchased software. If you submit a redline in response to Exhibit F, you must provide an editable, unlocked/unsecured version of the redline with your Solicitation Response (preferably in track changes).

* + - * 1. An attempted award will be deemed invalid if the Respondent, upon award of a contract (if ever), is not registered with **JPS Vendor Portal** (<https://jpshealth.gob2g.com/>) or is not in compliance with the District’s requirements for vendor credentialing.
        2. Respondents must submit the Solicitation Response as follows: the body of the email containing the Solicitation Response must state the following: (i) the name and address of the Respondent, (ii) the Response Deadline, and (iii) the Solicitation number. **Please put the Solicitation number and description in your email subject line.**
        3. Unless otherwise expressly provided in this Solicitation or in any amendment to this Solicitation, no Respondent shall modify or cancel the Solicitation Response or any part thereof for thirty (30) days after the Response Deadline. Respondents may withdraw Solicitation Proposals at any time before the Solicitation Proposals are opened by the District, but may not resubmit them. No Solicitation Proposal may be withdrawn or modified after the Solicitation Proposal deadline
        4. Solicitation Proposals will not be considered if they show any omissions, alterations of required forms, additions or conditions not requested or irregularities of any kind. However, the District reserves the right to waive any irregularities and to make the award in the best interest of the District.
        5. The Respondent acknowledges the right of the District to reject any or all Solicitation Responses and to waive any informality or irregularity in any Solicitation Response received. In addition, the District reserves the right to reject any Solicitation Response if the Respondent failed to submit the data, information or documents required by this Solicitation, or if the Solicitation Proposal is any way incomplete or irregular.
        6. Failure to follow the instructions regarding the submission of Solicitation Responses may result in the District’s disqualification of such Solicitation Responses.

#### Solicitation Responses are due on or before **01-17-2022, 2:00 p.m. CST (“Response Deadline”).** The Response Deadline may be extended by the District upon amendment to this Solicitation issued prior to the then-existing Response Deadline. Solicitation Responses are not scheduled for public opening. No telephone, telephonic, or FAX Solicitation Responses will be accepted. The District will not be responsible for missing, lost, or late deliveries. **Solicitation** **Proposals delivered after the Response Deadline will not be accepted or considered under any circumstances**.

#### Each Solicitation Response shall contain the completed form entitled, “Vendor Certification Form” set forth on **Exhibit D** which is attached hereto and incorporated herein for all purposes.

#### Each Solicitation Response shall contain the completed form entitled “Conflict of Interest Questionnaire” set forth on **Exhibit E** which is attached hereto and incorporated herein for all purposes, and shall return the Conflict of Interest Questionnaire with its Solicitation Response.

* 1. SOLICITATION SCHEDULE AND RELATED INFORMATION
     1. **Estimated Schedule**

|  |  |
| --- | --- |
| Milestone | Date |
| Solicitation Issued | **12- 20-2021** |
| Deadline for Questions Submitted by Respondents | **12-29-2021, 2:00 p.m. CST** |
| Pre-Proposal Conference | **No Pre-proposal Conference** |
| Response Deadline | **01-17-2022, 2:00 p.m. CST** |
| Solicitation Evaluation Period | **TBD** |

#### **Pre-Proposal Conference**. No Pre-Proposal Conference will be conducted.

#### **Milestone Dates.** Milestone Dates are estimated for planning purposes only and are subject to change.

* + 1. **District Solicitation Contact**

Respondents may, in the manner prescribed herein, present requests (“Submission Questions”) for an explanation, clarification or interpretation of the Business Requirements in this Solicitation and/or other requirements for submission of Solicitation Responses to the Solicitation Contact identified below during the proposal submission period. All Submission Questions must be submitted in writing and emailed tothe Solicitation Contact, at the email address set forth below, and must reference the appropriate pages and sections number of this Solicitation that are the subject of such Submission Questions. The final date and time to submit Submission Questions **is 12-29-2021, 2:00 p.m. Central Time. NO PHONE CALLS PLEASE.** Confirmation of the delivery of Submission Questions to the District is the sole responsibility of the Respondent. The District may, in its sole discretion, elect not to answer or respond to any or all Submission Questions it receives, and the failure of refusal of the District to answer or respond to any Submission Question will not affect, in any way, this Solicitation. Submission Questions may be informally addressed during the Pre-Proposal Conference; provided, however, that no answer or response to any Submission Question by any representative of the District shall be effective unless and until it is issued by the District in writing in the form of one or more addenda to the Solicitation, and has been posted to the District’s Solicitation website link prior to the Response Deadline. It is the responsibility of each Respondent to check the website for all addenda to the Solicitation up to the Response Deadline. Prospective vendors are advised that no District employee other than the Solicitation Contact is empowered to make binding statements regarding this Solicitation, and no statements, clarifications, or corrections regarding this Solicitation are valid or binding on the District except those issued in writing by the Solicitation Contact as addenda to the Solicitation.

**Contact between Respondents and the District, other than in the manner described and set forth in this Section I.C.2, during the Solicitation Response submission period or evaluation period is prohibited. Any attempt by a Respondent to engage in prohibited contact with the District or the Solicitation Contact may result in disqualification of its Solicitation Response.**

The Solicitation Contact is:

Lizzie Harris Johnson, Contracts Administrator

Contract Management Department

JPS Health Network

JPS Professional Office Complex

1350 S. Main St., Ste. 1350 (1st floor)

Fort Worth, TX 76104

Email: [Bid\_Submissions@jpshealth.org](mailto:Bid_Submissions@jpshealth.org)

District’s Solicitation website link: <https://www.jpshealthnet.org/vendors/open-rfpsrfbsrfqs>

1. **BUSINESS REQUIREMENTS**
   1. INTRODUCTION

The District is requesting proposals from qualified vendors to provide quotes for bone matrix tissue implants and related items that are American Association of Tissue Banks (AATB) approved and FDA approved tissues. Would prefer consignment of tissues.

* 1. BACKGROUND

Tarrant County Hospital District d/b/a JPS Health Network, Tarrant County’s public healthcare provider, is a tax-supported entity and includes John Peter Smith Hospital, JPS Surgical Center, a network of community and school-based health centers, and psychiatric services. A Level I Trauma Center, the District is licensed for 578 beds with over 1 million patient encounters per year. That has the only Psychiatric Emergency Center in Tarrant County and an inpatient psychiatric hospital for adolescents and adults. With more than 25 primary and specialty health centers, the District serves patients throughout the community. The District has a Level III NICU where more than 4,300 babies are born each year. As a Comprehensive Level I Stroke Center and an AMI Certified facility by The Joint Commission, the District provides the best possible care for heart attack and stroke patients. An academic medical center, the District has 17 residency and fellowship programs, including one of the nation’s largest Family Medicine residency programs. The District takes pride in teaching the best and brightest from around the world and offers programs in several different specialties.

* 1. PROJECT SCOPE

The District seeks a pricing agreement for bone matrix tissue implants and related items for bone matrix tissue procedures. The Bone Matrix Implants and Supplies service line has a historical annual spend of approximately $150,000. The objective of the RFP process is to reduce current expenditures for this service line, for implants, billable supplies, non-billable supplies. The District seeks to reduce operational cost to the departments while maintaining the quality of supplies, implants, and services to the physicians, staff, and patients the District serves. The District will consider consignment options for instrument sets.

The primary objectives of the District for launching this RFP are:

* + Reduce the Total Cost of Ownership for the implants and supplies compared to the existing costs
  + An improvement in cost transparency by understanding the breakup of billed costs
  + Improvement in service quality
  + Consignment of tissues
  1. PRODUCT MINIMUM REQUIREMENTS

The District seeks a pricing agreement for Bone Matrix Tissue Implants and Supplies. The District seeks products that are functionally comparable to the products listed the Product Pricing spreadsheet referenced in Exhibit A and attached to this RFP. Respondents should provide manufacturer’s catalog number crosswalks in the event that the products are being marketed from another vendor / distributor. If catalog number changes during the term of the contract, Respondent will be expected to provide a new list of catalog numbers, item descriptions, quantity per each, GTIN numbers, list pricing and discounted pricing reflecting the contracted price file as an addendum to the contract.

Respondents should also provide correct price list encompassing all products available for the Product category, not just the items on the bid list. This will include catalog numbers or crosswalks if the Respondent has its own catalog numbers pertaining to marketed products other than its own.

The successful Respondent(s) will be expected to offer support for new technology, supplies, and equipment. Respondent(s) may not bill for loaner, consignment, or rental instrument sets. The Respondent(s) will be expected to provide additional warranty information.

The successful Respondent(s) must provide and contract for semi-annual or annual business reviews. The successful Respondent(s) must provide in servicing and continuing education credits (CEU’s) if available. The successful Respondent(s) shall offer vendor support for new technology supplies, implants, as needed and comply with all materials policies and procedures. The successful respondent will provide quarterly usage and spend data to the facility.

The successful Respondent(s) must use the Implant Management System (IPM) for Bill Only items. Invoices shall be submitted immediately post-procedure or at the latest 24 to 48 hours post procedure. The successful Respondent(s) will not bill for loaner, rental or specialty instrument sets. The successful Respondent(s) may not include delivery charges associated with bringing in instrument sets for procedures.

* 1. REQUIRED INFORMATION

This section contains questions that the District considers important to understand the Total Cost of choosing a supplier and understanding service offering beyond the basics. Answers should be short and concise. Answers need to be specific to the questions and to the needs of the District.

**Service Quality, Management Reporting and Innovation Sharing**

1. Please explain the process for addressing customer complaints. What is your turnaround time for responding to complaints/concerns reported by customer?
2. Outline your escalation process for any issues found in the deliverable.
3. The District would like quarterly reports detailing the usage for the quarter. The report will be provided according to the Reporting Template provided in Exhibit H. Do you agree to provide this report with all the requested details?
4. In case, in future, if the District buys a product that is currently not listed in the catalogue of your products provided in this and as a part of your RFP response, are you willing provide that product at the same rate of discount as other products mentioned in the pricing sheet and product catalogue?
5. How do you intend to inform and train the District about product innovations occurring at your company?
6. Please provide an example of when you have provided customer insight that has led to a change resulting in cost savings or efficiency improvement for the client.
7. Provide the latest document developed by your company detailing your Business Continuity Plan & Disaster Recovery Plan.
8. The District reserves the right to audit shipping charges invoiced to the District. Do you agree to this?
9. The District requests that all invoices have the UCM contract number on the invoices submitted by the supplier. Do you agree to this?

**Commercials**

1. The District is moving to consolidated invoices in order to reduce the time and effort required to process invoices. Suppliers will now be required to send invoices every 15 days instead of “invoice as per use.” Do you agree to the invoicing frequency?
2. The Shipping / incoterm that should be used is DDP (delivery duty paid). The transfer of title & risk of loss and customer acceptance will occur upon delivery at specified District location. Do you agree to this?
3. Will you offer an additional discount / rebate if the District increases its spend for Bone Matrix-related products with your company? How will you define/breakdown (of) this discount? Please provide details in your response to Exhibit A, Section 3, “[Discounts & Rebates](#Discounts).”
   1. PRICE QUOTES

Price quotes shall remain firm during Solicitation evaluation and for an additional 120 days after recommendation for award. Pricing must remain fixed for the initial term of the agreement. Respondents must include all costs associated with use of the items. Any costs not included in the Solicitation response cannot be charged to the District. Respondents may propose pricing increases for the optional renewal terms with set caps (e.g., no more than 1% to 3% annually). Use the spreadsheet attached to Exhibit A to this Solicitation to provide line-item pricing in your Response.

Respondents are asked to bid on all Products they are able to provide. The District anticipates awarding contracts to multiple vendors in order to obtain pricing for all needed products. Respondents do not need to be able to provide all requested Products in order to bid.

There will be no guarantee of market share, however all potential offers will be considered. Respondents should consider existing GPO agreements (if any) as a minimum bid. Items will be benchmarked against the national benchmarks.

Respondents are also asked to bid on, or include a set price (e.g., percentage discount off list price) for, all products in the Respondent’s catalog for this product category. See additional information in the Contract Terms (Exhibit C), Exhibit 3, Product Support Services. **We strongly encourage all Respondents to bid their entire catalog for this category of products so that items not specifically listed in the Solicitation can be added later if appropriate, without the need to issue another Solicitation.**

* 1. EQUIVALENT OR APPROVED EQUAL

Whenever a product is defined by describing a proprietary product, or by using the name/model of a manufacturer or vendor, the term “or other units considered to be equivalent”, if not inserted, shall be implied. The specific product described shall be understood as indicating the type, function, and minimum standard of design, efficiency, and quality desired and shall not be construed in such a manner as to exclude products of comparable quality, design, and efficiency.

The references to brand names and/or numbers are intended to be descriptive, and not restrictive, unless otherwise specified. If the specific product cannot be supplied, equivalent items meeting the standards of quality specified shall be considered. The determination of equivalent or approved equal is at the sole discretion of the District.

* 1. CONTRACT TERM

The proposed term of the contract is **three (3) years with two (2) additional one-year renewal options**. The District may exercise the renewal options by providing vendor with written notice (email notice will be acceptable) of renewal no less than thirty (30) days prior to the expiration of the then-current term. The contract will be subject to cancellation by the District for any reason, at any time, and without penalty of any kind upon furnishing thirty (30) days’ advance written notification to vendor. At the end of the term, the District reserves the right to extend the contract for up to 180 days to provide an opportunity to bring a new contract into place with another vendor.

* 1. SELECTION AND EVALUATION PROCESS

**Selection Process**The Solicitation Contact shall designate an evaluation committee (“Evaluation Committee”) which will be composed of employees from the District. The District reserves the right to add, delete or substitute members of the Evaluation Committee as it deems necessary. The Evaluation Committee will narrow the field of submitted Solicitation responses to those which best meet the requirements of this Solicitation and which best meet the complete needs of the District. Each such Solicitation Response will then be evaluated according to the criteria set forth herein.

**Evaluation Criteria Specific to This Solicitation**The Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of all proposals received in response to this Solicitation. The evaluation of Solicitation Responses will involve scoring each Solicitation Response in the areas listed and set forth below in Section I (Evaluation Factors). The District’s evaluation of the Solicitation Responses will be based upon each Respondent’s response to the evaluation factors stated in this Solicitation. Any Respondent’s failure to provide complete and full responses to the requested information may lead to disqualification of such Solicitation Response.

* 1. EVALUATION FACTORS

In determining how to award a contract or contracts in conjunction with the Solicitation, the District may consider the following:

1. Price
2. The reputation of the Respondent and of the Respondent’s goods and/or services.
3. The extent to which the goods and/or services meet the District’s needs.
4. Quality of Respondent’s goods and/or services.
5. Diversity Enterprise Participation - the utilization of historically under-utilized businesses.
   1. SOLICITATION RESPONSE CONTENT

The overall Solicitation Response should not exceed 25 pages total, excluding exhibits.

1. **Executive Summary**

Provide a synopsis of the highlights of the proposal and overall benefits of the proposal to the District. This synopsis should not exceed two pages in length and should be easily understood.

1. **Company Background**
2. **How the Proposed Solution Meets the District’s Needs**

Provide specification sheets for each product bid. Include service and warranty information. Indicate how the products meet the minimum requirements in Section D above. Provide the information requested in Section E above.

1. **Pricing**

Provide the information requested in Exhibit A.

1. **References**

Provide a minimum of three references. Include name, telephone number, and email address. *The District will contact the references provided to determine Respondent’s performance record for products/services similar to that described in this request.*

1. **Diversity Enterprise Participation**

Provide a discussion on how the Respondent intends to meet the District’s goal of 25% HUB participation for the scope/specifications of this Solicitation. Discuss any HUB management partners the Respondent plans to team with to provide the scope/specifications. (Maximum 1 page)

The District strongly encourages the utilization of historically under-utilized businesses. If the Respondent is a Certified HUB/SMWVBE, skip B and C; if not, complete B and C.

A. Certified HUB/SMWVBE **(please do not submit an expired certificate).**

**OR**

B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and /or organizations notified regarding the interest in HUB/SMWVBE participation in this contract; *and*

C. Plan of Action – List the subcontractors selected for participation, their certification, and approximate dollar value of the work to be subcontracted and the expected percentage of the total contract amount.

1. **Required Forms**

a. Exhibit B: Signature Form

b. Exhibit D: Vendor Certification Form

c. Exhibit E: Conflict of Interest Questionnaire

d. Exhibit F: Vendor Proposed Revisions (include an **editable** **unlocked/unsecured redline** in track changes if proposing changes to Exhibit C, Contract Terms)

e. Exhibit G: JPS Supplier Diversity: Good Faith Form

f. Exhibit H: Reporting Template

* 1. EVALUATION CRITERIA SCORE SHEET

| **EVALUATION CRITERIA** | **Max Points** | **Vendor**  **Score** |
| --- | --- | --- |
| * + 1. Price – Best Value   Pricing will be scored according to the pricing formula. | **35** |  |
| **THIS SECTION WILL BE SCORED BY THE EVALUATION COMMITTEE** | | |
| * + 1. The extent to which the goods and/or services meet the District’s needs. | **15** |  |
| * + 1. Quality of Respondent’s goods and/or services. | **20** |  |
| * + 1. The reputation of the Respondent and the Respondent’s goods and/or services. | **15** |  |
| **THIS SECTION WILL BE SCORED BY DIVERSITY & INCLUSION DEPARTMENT** | | |
| * + 1. Disadvantaged Business Enterprise Participation. This will be applied to your HUB/SMWVBE Participation and is worth **15 points**.  **If the Respondent is a Certified HUB/SMWVBE,** skip B and C; **if not,** complete B and C**.** The breakdown is as follows: | | |
| A. Certified HUB/SMWVBE | **15** |  |
| **OR** | | |
| B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and /or organizations notified regarding the interest in HUB/SMWVBE participation in this contract; AND | **5** |  |
| C. Plan of Action – List the subcontractors selected for participation, their certification, and approximate dollar value of the work to be subcontracted and the expected percentage of the total contract amount. | **10** |  |
| **MAXIMUM TOTAL POSSIBLE POINTS** | **100** |  |
| **Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |
| **Evaluator ID: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |
| **RFP #2021978309 Bone Matrix Tissue Implants and Supplies** | | |

**Exhibit A**

**Price Sheet**

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

1. **Product Pricing**

Fill out the Product Pricing Sheet, which is attached as a separate document. You must use this format to submit pricing. Do not change the format. Include the entire list of products / items in your catalogue relevant to Bone Matrix service line.

1. **Discounts & Rebates**

Please provide volume / spend based discounts in addition to the discounts included in your price sheet. Rebates related to volume share or volume targets need to be backed by competitive pricing. If there are any discounts / rebates that the District qualifies for as part of a different agreement / contract and are tied to the overall spend the District has with the supplier, please mentions those here as well.

1. **Other Charges**

Provide any additional charges that have not been captured in the price sheet or in the shipping charges below. Please provide the UOM and frequency of charges along with an example for better understanding of how the charge will be applicable. You MUST include all possible applicable charges in your response. The District will not pay any charges not included in your response.

1. **Shipping**

Provide shipment charges on the spreadsheet below. Provide details of any and all charges that may be invoiced, including the UOM for the charges and description. The District will not pay any shipment-related charges not included in this spreadsheet.

|  |  |  |
| --- | --- | --- |
| *Note: JPS Health Network expects the supplier to not add any profit margin / additional overheads to the shipping charges. These charges should be passed on at cost to the District. If a mentioned charge is not applicable, please note “Not Applicable” against the respective charge type* | | |
|  |  |  |
| **Name of Carrier** |  |  |
| **Name of Service for normal delivery** |  |  |
| **Name of Service for urgent delivery** |  |  |
|  |  |  |
| **Charge Type** | **Discounted Price** | **Comments / Terms & condition** |
| Flat Shipping Charge - Normal Delivery |  |  |
| Flat Shipping Charge - Urgent Delivery |  |  |
| Additional Handling Surcharge |  |  |
| Address Correction |  |  |
| Declared Value Charge |  |  |
| Delivery Area Surcharge |  |  |
| Delivery Signature Surcharge |  |  |
| Hazardous/Dangerous Material Surcharge |  |  |
| Missing or Invalid Account Number Surcharge |  |  |
| Oversize Surcharge |  |  |
| Residential Delivery Surcharge |  |  |
| Saturday Pickup/Delivery Surcharge |  |  |
| Weekly Pickup Fee |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |
| *<add any other surcharge>* |  |  |

|  |  |  |
| --- | --- | --- |
| Examples of Shipment Service Types | |  |
|  |  |  |
| **Service Provider** | **Service Type** | **Service Type Description** |
| FedEx | Priority Overnight | Next Day by 8.30 am |
| FedEx | Standard Overnight | Next Day by 3 pm |
| FedEx | Two Days Morning | Second day by 10.30 am |
| FedEx | Two Days Afternoon | Second Day by 4.30 pm |
| FedEx | Express Saver | Third Day by 4.30 pm |
| FedEx | Ground | Ground |
| UPS | Next Day Early | Next Day by 8.30 am |
| UPS | Next Day Air | Next Day by 10.30 am |
| UPS | Next Day Saver | Next Day by 3 pm |
| UPS | Two Days Morning | Next Day by 10.30 am |
| UPS | Three Day Select | Three Business Day EOD |
| UPS | Two Days Afternoon | Second Day by EOD |
| UPS | Ground Commercial | Ground |

**Exhibit B**

**Signature Form**

Respondent shall signify Respondent’s acceptance of and compliance with the requirements, terms, and conditions of this RFP #2021978309 Bone Matrix Tissue Implants and Supplies by signing in the signature space set forth below.

Respondent warrants that Respondent has examined and is familiar with this Solicitation and its terms and conditions. Respondent warrants that Respondent does not engage in scrutinized business operations in Sudan, Iran or with foreign terrorist organizations, and that Respondent does not appear (nor does any affiliate appear) on any [Texas Comptroller Scrutinized Companies List](https://comptroller.texas.gov/purchasing/publications/divestment.php).

Respondent warrants that it has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily finance and complete the products and services in its Solicitation Response.

Respondent certifies that the individual signing this Solicitation Response is authorized to sign such documents on behalf of the Respondent entity and to bind Respondent and is authorized to bind the Respondent in this Solicitation Response.

RESPONDENT AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE DISTRICT AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF CONNECTED WITH, OR RESULTING FROM ANY ACTS OF OMISSIONS OF RESPONDENT OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF RESPONDENT IN THE EXECUTION OR PERFORMANCE OF ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS WHICH MAY RESULT FROM THE SUBMISSION OF THE Solicitation RESPONSE AND/OR THE AWARD OF A CONTRACT THEREON BY THE DISTRICT.

|  |  |
| --- | --- |
| **RFP #2021978309 Bone Matrix Tissue Implants and Supplies** | |
| Respondent (Company) Name: | |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: |
| Printed Name: Title: | |
| Telephone: Email: | |

**Exhibit C**

**Contract Terms**

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

**Purchase Agreement**

This agreement (“Agreement”) is entered into (“Effective Date”) by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Vendor”) and Tarrant County Hospital District d/b/a JPS Health Network (“Customer”) according to the following terms and conditions. Vendor agrees to sell and deliver to Customer and Customer agrees to purchase the Products (defined below) for the purchase price and according to the terms and conditions set forth in this Agreement. In this Agreement, each of Vendor and Customer are a “party” and both of them collectively are the “parties”.

RECITALS

A. Vendor has offered to provide Customer with the equipment and related products which are particularly described on [**Exhibit 1]** which is attached hereto and incorporated herein for all purposes.

B. Customer desires to purchase from Vendor and Vendor desires to sell Customer the Products and services according to the terms of this Agreement.

1. Product and Purchase Price.
   1. The word “Products” as used in this Agreement means and refers to all of the equipment (“Equipment”) and other goods and services (“Goods and Services”) that are described in the Quotation which is attached hereto as [**Exhibit 1]** and incorporated herein for all purposes (the “Quotation”). Vendor shall additionally provide the services described on [**Exhibit 3**], *Product Support Services*.
   2. The purchase price (“Price”) for Products shall be as shown and set forth on the Quotation. Such Price assumes that Vendor delivers the Products to Customer timely and according to the provisions of the Quotation and this Agreement. Vendor shall deliver all the Products (including perform all services included in the Products and in this Agreement) free and clear of all liens, security interests, encumbrances and other claims and in good condition and working order as specified by the provisions of this Agreement and the Product specifications promulgated by the manufacturer or provider of the Products and in compliance with all laws and regulations applicable to such Products for the use intended by this Agreement. All Products shall be delivered to Customer with all licenses and other rights required to use and to operate the Products for their intended use. Unless otherwise indicated on the Quotation, the Price also includes transportation of the Equipment and other Goods and Services from Vendor to such location.
   3. The Customer may purchase the Products at any time and from time to time from Vendor under this Agreement in a series of purchases over the Term hereof (defined below) in and by the use of multiple Purchase Orders (defined herein), each of which Purchase Orders shall be a separate and distinct “Transaction”. In this Agreement, “Purchase Order” means a purchase order issued by Customer in accordance with its normal practices, signed by Customer identifying the Products to be purchased by Customer at the Price pursuant to such Purchase Order. Upon the receipt by Vendor of a Purchase Order in accordance with such requirements, the Transaction shall be governed by the Price and other provisions and conditions of this Agreement.
2. Term and Termination. The parties agree that this Agreement shall be for a period of three (3) years, commencing on the Effective Date (“Initial Term”). Thereafter, the Customer may renew the Agreement for up to two (2) additional one-year terms by providing Vendor with written notice (email notice will be acceptable) of renewal no less than thirty (30) days prior to the expiration of the then-current term (any such renewal, a “Renewal Term” and together with the Initial Term, the “Term”). At the end of the Term of the Agreement, Customer reserves the right to extend the Agreement for up to 180 days to provide an opportunity to bring a new contract into place with another vendor. Either party may terminate this Agreement for cause upon a material breach by the other party of its obligations hereunder, which breach is not cured within fifteen (15) days after the breaching party is given a Notice of Material Breach (defined below). A “Notice of Material Breach” means written notice that includes in all capital letters “NOTICE OF MATERIAL BREACH” and also includes: (i) specific details identifying the material breach; and, (ii) the notifying party’s specific recommendations of actions to be (or if appropriate, not to be) taken by the other party in order for it to cure the breach. Customer shall have the right to terminate this Agreement without cause at any time prior to such end of the Term of the Agreement by giving Vendor thirty (30) days prior written notice of such termination (hereinafter referred to as “Early Termination”). In the event of Early Termination, Customer agrees that it will pay all amounts due and owing Vendor for all Products provided by Vendor up to and including the date of termination. Customer also shall reimburse Vendor for all expenses incurred by Vendor in the performance of its obligations hereunder and which are or would be due to Vendor if Early Termination had not occurred. Customer acknowledges and agrees that in the event of such Early Termination, Vendor will not provide or otherwise perform any unnecessary part of the Products nor will it incur any unreasonable expenses, but it will perform only those obligations and incur only those expenses necessary to fulfill its obligations under this Agreement. Nothing set forth herein shall limit the Customer’s rights or remedies.
3. Shipping and Delivery Terms. Vendor will provide all Products delivery duty paid (DDP). All maintenance and service to be provided by Vendor under this Agreement shall be rendered on site at the location of the Products on Customer’s property, except as otherwise expressly provided in the Quotation. Title and risk of loss will pass to Customer upon delivery to the destination on Customer’s property. All Products will be shipped to the address indicated on the Quotation. Vendor will exercise best efforts to cause the Products to be delivered on the shipping dates indicated on the Quotation, but such shipping dates are subject to revision by Vendor to adjust for production and delivery requirements beyond the reasonable control of Vendor. Delivery of Products for the purposes of this Agreement is deemed to have occurred on the date received by Customer at the point of delivery.
4. Payment Terms. Invoices for Products are due and payable no later than thirty (30) days after the Products have been delivered and/or performed in accordance with the provisions of this Agreement.
5. Patent Indemnity.
   1. VENDOR AGREES TO, AND SHALL, INDEMNIFY AND HOLD CUSTOMER HARMLESS AGAINST ANY CLAIMS, DAMAGES, AND EXPENSES TO THE EXTENT THE SAME ARISE OUT OF OR ARE ASSERTED AGAINST CUSTOMER ALLEGING THAT THE PRODUCT INFRINGES ANY UNITED STATES PATENT, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD-PARTY, PROVIDED THAT (1) CUSTOMER GIVES VENDOR WRITTEN NOTICE WITHIN FIFTEEN (15) DAYS AFTER CUSTOMER’S ACTUAL KNOWLEDGE OF THE EXISTENCE THEREOF, OF ANY SUCH CLAIMS, DAMAGES, OR EXPENSES, (2) CUSTOMER AGREES TO COOPERATE REASONABLY WITH VENDOR AS REASONABLY NECESSARY TO DEFEND, SETTLE, REIMBURSE, OR AVOID ANY SUCH CLAIMS, DAMAGES AND EXPENSES, AND (3) THE PRODUCT AS OF THE ALLEGED DATE OF INFRINGEMENT WAS IN THE SAME FORM AND CONFIGURATION AS ORIGINALLY SUPPLIED BY VENDOR AND HAD NOT BEEN MODIFIED IN ANY WAY WITHOUT THE PRIOR WRITTEN CONSENT OF THE PRESIDENT OR ANY VICE PRESIDENT OF VENDOR.
   2. Upon timely receipt of Customer’s written notice, Vendor will assume the defense of any claims against Customer. Customer agrees to cooperate with Vendor in the defense or settlement of all such claims.
   3. Vendor shall not be bound by the terms of any compromise or settlement agreement negotiated or concluded by Customer without the prior written consent of Vendor.
   4. The terms of this Section 5 will not apply in the event of any sale or other transfer of the Products by Customer or to the extent of any use of the Products in combination with products or devices not furnished by Vendor.
   5. Vendor has not authorized any employee or agent to offer any patent indemnity terms other than those appearing above.
6. General Indemnity.
   1. EXCEPT TO THE EXTENT OF ANY OTHER INDEMNITIES EXPRESSLY PROVIDED ELSEWHERE IN THIS AGREEMENT WHICH SHALL TAKE PRECEDENCE AND CONTROL OVER THIS INDEMNITY TO THE EXTENT OF THE MATTERS COVERED BY SUCH OTHER EXPRESSLY PROVIDED INDEMNITY(IES), VENDOR SHALL INDEMNIFY AND HOLD HARMLESS THE CUSTOMER, CUSTOMER’S MANAGERS, OFFICERS, AGENTS, EMPLOYEES, STAFF, REPRESENTATIVES, AND DIRECTORS (COLLECTIVELY, THE “CUSTOMER INDEMNITEES”) FROM ALL LOSSES (DEFINED BELOW) AND SHALL DEFEND THE CUSTOMER AND CUSTOMER INDEMNITEES AGAINST ALL CLAIMS AND CAUSES OF ACTION OF THIRD PARTIES ARISING OUT OF OR RELATED TO ANY OF THE FOLLOWING, EXCEPT TO THE EXTENT CAUSED BY THE INTENTIONAL MISCONDUCT OF OR MISUSE OF THE PRODUCTS BY CUSTOMER OR ANY OF CUSTOMER INDEMNITEES OR A BREACH OF THIS AGREEMENT BY THE CUSTOMER: (1) A VIOLATION OF ANY FEDERAL, STATE, LOCAL OR FOREIGN LAW, RULE, REGULATION OR ORDER APPLICABLE TO VENDOR AND/OR ITS EMPLOYEES OR REPRESENTATIVES; (2) ANY VIOLATION OR BREACH BY VENDOR OF ITS REPRESENTATIONS AND WARRANTIES TO THE CUSTOMER IN THE AGREEMENT; OR, THE FACT THAT ANY OF SUCH REPRESENTATIONS AND WARRANTIES CEASES TO BE TRUE DURING THE TERM; (3) THE FAILURE OF VENDOR TO OBTAIN, OR CAUSE TO BE OBTAINED, ANY REQUIRED LICENSES, PERMITS OR CONSENTS FOR THE CUSTOMER TO RECEIVE AND USE THE PRODUCTS, OR ANY COMPONENT THEREOF, TO THE FULL EXTENT PROVIDED IN THIS AGREEMENT, EXCLUDING ANY REQUIRED CONSENT THAT IS NOT OBTAINED DUE TO THE CUSTOMER’S FAILURE TO PAY FOR SAME; AND (4) PERSONAL INJURIES, DEATH OR DAMAGE TO TANGIBLE PERSONAL OR REAL PROPERTY TO THE EXTENT CAUSED BY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF VENDOR OR ANY VENDOR EMPLOYEE OR VENDOR REPRESENTATIVE. FOR PURPOSES OF THIS SECTION 6, THE WORD “LOSSES” MEANS ALL ASSESSMENTS, LOSSES, DAMAGES, COSTS, EXPENSES, LIABILITIES, JUDGMENTS, AWARDS, FINES, SANCTIONS, PENALTIES, CHARGES, AND AMOUNTS RESULTING FROM, OR AGREED TO BE PAID IN SETTLEMENT OF, ANY THIRD-PARTY CLAIM OR ALLEGATION INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY AND OTHER LEGAL FEES AND COSTS AND EXPENSES OF INVESTIGATING OR DEFENDING AGAINST SUCH CLAIM OR ALLEGATION.
   2. Upon timely receipt of Customer’s written notice, Vendor will assume the defense of any claims against Customer. Customer agrees to cooperate with Vendor in the defense or settlement of all such claims.
   3. Vendor shall not be bound by the terms of any compromise or settlement agreement negotiated or concluded by Customer without the prior written consent of Vendor.
   4. The terms of this Section 6 will not apply in the event of any sale or other transfer of the Products by Customer or to the extent of any use of the Products in combination with products or devices not furnished by Vendor.
   5. Vendor has not authorized any employee or agent to offer any general indemnity terms other than those appearing in this Agreement.
7. Intellectual Property Rights. The Vendor grants Customer a perpetual, nontransferable and nonexclusive license to install and use all software provided by the Vendor as a part of, with, or for use in connection with a Product (collectively, “Product Software”), if any, including firmware and Product Software documentation included in or with the Products, in machine readable executable object code on the product for which it was designated by the Vendor in accord with the Product Software’s documentation. This grant includes a license to use such documentation. Customer shall not take any action in violation of the Vendor’s or third-party author’s copyright or other intellectual property rights in the Products; provided, however, that nothing in this sentence shall limit Customer’s right to use, or Vendor’s obligation to deliver, the Products for their intended purposes as contemplated by this Agreement.
8. Customer Reporting. Customer agrees to properly report and disclose any discounts or other price reductions (collectively referred to herein as “discounts”) granted by the Vendor to Customer on the purchase of Products, to the extent required by applicable state or federal law. When applicable, any discounts granted by Vendor to Customer are intended to reflect discounts or other reductions in price within the meaning set forth in the Social Security Act of 1935, as amended, (42 U.S.C. § 1320a-7b(b)(3)(A)) and the regulations promulgated thereunder, and may reflect a bundled discount pricing arrangement. With regard to any bundled discount pricing arrangement, Vendor will, where appropriate, timely provide Customer (either herein or by separate statement) further detail pertaining to such discounts and the allocation of total net purchase dollars for equipment, service and products, as applicable. Customer may have an obligation to report such discounts to any state or federal program that provides reimbursement to the Customer for the items to which the discount applies, and, if so, Customer will fully and accurately report such discounts. Further, Customer will retain invoices and other price documentation and will make them available to federal or state officials when requested in accordance with applicable law.
9. Confidentiality. Subject to the requirements of the limitations stated in Section 17 below, each party agrees to keep the other party’s proprietary information, including all information relating to any Product Software, confidential and not to use such proprietary information except as necessary to perform under this Agreement. Upon cancellation of this Agreement or return of the Products, each party will return to the other party all such proprietary information. All information relating to patients and employees of Customer is confidential.
10. Liability. NEITHER PARTY, NOR ANY THIRD-PARTY AUTHOR OF PRODUCT SOFTWARE, SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE USE OF THE PRODUCTS.
11. Warranties. Except as to extended warranties expressly reflected on the Quotation and purchased by Customer, Vendor provides no specific express warranties with respect to the Products. The only express warranties applicable to the Products are those expressly set forth in [**Exhibit 2]** attached hereto and incorporated herein and the extended warranties expressly reflected on the Quotation and purchased by Customer. No other express warranties are offered by Vendor with respect to the Products, and Vendor has not authorized any employee or agent to offer any warranties except those referenced above. SUCH WARRANTIES REFERENCED IN THIS SECTION ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND IN LIEU OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF VENDOR. VENDOR NEITHER ASSUMES (NOR HAS AUTHORIZED ANY PERSON TO ASSUME FOR IT) ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE PRODUCTS.
12. Return Goods and Restocking Charges. Except for return of defective or incorrectly shipped Products and other products purchased by Customer from Vendor, return of Products will be in accordance with the policies of Vendor applicable to similar Products sold to its other customers in general or otherwise must be approved in writing by the Vendor prior to return and must take place within twelve months of shipment. Return of defective or incorrectly shipped Products and other products purchased by Customer may be returned by Customer and replaced immediately by Vendor at no charge to Customer.
13. Recalls. Vendor shall reimburse Customer for any reasonable costs associated with any Product corrective action, withdrawal, or recall requested by Vendor or required by any governmental entity including all reasonable costs in excess of the prices listed in [**Exhibit 1**]. In the event a Product recall or a court action impacting supply occurs, Vendor shall notify Customer in writing within 24 hours of any such recall or action. Vendor shall be responsible for carrying out and complying with all requirements under any such corrective action, withdrawal, or recall with respect to any Products in Customer’s possession. Vendor shall coordinate with Customer the retrieval, destruction, and/or other required action with respect to such Products, and Customer will reasonably cooperate with Vendor to allow Vendor appropriate access to carry out such required actions. Vendor’s obligations under this paragraph shall survive the expiration or earlier termination of this Agreement.
14. Export Controls. Products and Product Software reflected in this Agreement are sold or licensed to Customer subject to the U.S. export control laws and regulations (the “Export Control Laws”). Customer shall not export Products or Product Software in contravention of such Export Control Laws.
15. Budgetary and Other Limitations.
    1. Vendor acknowledges and agrees that Customer is a governmental entity and, as such, is subject to an annual budgetary process and the limitation and restrictions of fiscal funding. Notwithstanding any other provision herein, if and to the extent the obligations of this Agreement, either in its initial Term or in any automatically or otherwise renewed Term, should continue over into the Customer’s subsequent fiscal years following that fiscal year when this Agreement was executed and funds are not appropriated or budgeted for this Agreement and completion of the Term in question, the Customer may terminate this Agreement without penalty and shall have no further obligation or liabilities hereunder. However, if the Agreement is terminated pursuant to the terms above, Customer agrees to pay for fees and charges incurred as of the termination date.
    2. Vendor further acknowledges and agrees that there exist constitutional and statutory limitations (“Limitations”) on Customer as a governmental entity respecting certain terms and conditions that may be part of this Agreement, including, but not limited to, (i) terms and conditions relating to liens on Customer’s property, (ii) disclaimers and limitations of warranties, (iii) disclaimers and limitations of liability for damages, (iv) waivers, disclaimers and limitations of legal rights, remedies, requirements and processes, (v) limitations of periods to bring legal action, (vi) granting control of litigation or settlement to another party, (vii) liability for acts or omissions of third parties, (viii) payment of attorneys’ fees, (ix) dispute resolution, (x) indemnities, and (xi) confidentiality, and any such terms and conditions related to the Limitations shall not be binding on Customer except to the extent authorized by the laws and constitution of the state of Texas.
16. Tax Exemption. Vendor recognizes that Customer qualifies as a tax-exempt governmental agency pursuant to the provisions of Section 151.309 of the Texas Sales, Excise, and Use Tax Code, and is not responsible for payment of any amounts accountable or equal to any federal, state or local sales, use, excise, personal property, or other taxes levied on any transaction or article provided for by this Agreement.
17. Texas Public Information Act. Vendor acknowledges that Customer is a governmental body under Chapter 552 of the Texas Government Code and thereby acknowledges that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act (“TPIA”) request and hereby assumes full responsibility for challenging any requests for information it considers confidential under Chapter 552. Vendor’s confidential information, which may include, but is not limited to, any trade secrets, financial information, and related proprietary information (“Confidential Information”) that is provided by Vendor to Customer under the terms of this Agreement may be subject to the exception to disclosure applicable to Customer under Chapter 552 of the Texas Government Code, Subchapter C. If a TPIA request for public information is made on Customer to disclose documents or information which contain what Vendor has identified to Customer to be, or is otherwise believed by Customer to be Confidential Information, Customer agrees to (i) promptly notify Vendor of such request for disclosure, and (ii) decline any such request for disclosure of such Confidential Information and file a written request with the Texas Attorney General’s office seeking a determination as to whether such disclosure may be withheld; provided, however, failure to notify by Customer shall not be deemed a material breach of the Agreement. Customer is not required to take any further action with respect to any request made for determination by the Attorney General, and after any such request is made, all responsibility for briefing, supplementing and challenging the results of any requests to the Attorney General shall be Vendor’s sole responsibility.
18. Chapters 2271, 2252, and 2274 Texas Government Code Verification.  
    1. *Boycott of Israel Prohibited*. In compliance with Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm) et seq. of the Texas Government Code, Vendor verifies that neither it nor any of its affiliates currently boycott Israel and neither it nor any of its affiliates will boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section [808.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm) of the Texas Government Code.
    2. *Scrutinized Business Operations Prohibited*. In compliance with Section [2252.151](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.151) et seq. of the Texas Government Code, Vendor warrants and represents that: (1) neither Vendor nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Vendor nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Vendor nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section [2270.0052](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0052) of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section [2270.0102](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0102) of the Texas Government Code.  “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section [2270.0152](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0152) of the Texas Government Code. Vendor further represents and warrants that neither Vendor nor any of its affiliates appears on any of the Texas Comptroller’s [Scrutinized Companies Lists](https://comptroller.texas.gov/purchasing/publications/divestment.php).
    3. *Boycott of Certain Energy Companies Prohibited*. In compliance with Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) of the Texas Government Code (added by 87th Legislature, S.B. 13), Vendor verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. “Boycott energy company” is defined in Section [809.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.809.htm#809.001) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or  manufacturing of  fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).
    4. *Discrimination against Firearm Entities or Firearm Trade Associations Prohibited*. In compliance with Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm#2274.002) of the Texas Government Code (added by 87th Legislature, S.B. 19), Vendor verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section [2274.001(3)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm#2274.001) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.
19. General Product Requirements. In general, Vendor will provide Customer with all necessary network cabling and network components (hubs, wall plates, connecters) for the installation and operation of the Products Customer will be responsible for pulling cable, mounting wall mounts and providing adequate electrical power.
20. Exclusion and Ethics.
    1. Vendor agrees that it will immediately report in writing to the Customer in the event, if ever, Vendor, including any of its officers, directors, employees, contractors or agents, becomes a target of any criminal investigation or any investigation that could result in debarment or exclusion Vendor or such other person from federally or state funded healthcare programs.
    2. Vendor warrants and represents to Customer that Vendor has never been:
       1. convicted of a criminal offense;
       2. listed by a federal agency as debarred, excluded or otherwise ineligible for federal plan participation;
       3. sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,
       4. excluded from any state or federal healthcare program.
    3. Vendor further warrants and represents to the Customer that neither Vendor, nor any of Vendor’s officers, directors, members, partners, shareholders (excluding shareholders, members and limited partners that own less than 5% of the combined voting power of Vendor), employees, contractors or agents:
       1. is currently under criminal investigation or any investigation that could result in debarment or exclusion from federally or state funded healthcare programs; or
       2. has ever been:
          1. convicted of a criminal offense that is a felony or a misdemeanor of moral turpitude;
          2. listed by a federal agency as debarred, excluded or otherwise ineligible for Federal plan participation;
          3. sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,
          4. excluded from any state or federal healthcare program.
    4. In the event that any of the foregoing representations in this Section 20(b) or (c) ceases to be true, Vendor will immediately report same in writing to the Customer.
    5. Upon receipt of any report required by Vendor hereunder or in the event of a failure to report by Vendor, the Customer may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the Customer shall have no further obligations or liabilities hereunder.
21. HIPAA. The parties do not anticipate that Vendor will (i) create, maintain, transmit or receive protected health information for, on behalf of, or from Customer in connection with this Agreement or (ii) otherwise be considered a Business Associate of Customer, as that term is defined by federal regulation. Should the situation change, Vendor agrees that it will negotiate in good faith an amendment to this Agreement, including a business associate agreement, if appropriate, in each case if and to the extent required by the provisions of the Health Insurance Portability and Accountability Act, the Health Information Technology for Economic and Clinical Health Act of 2009, and/or the regulations promulgated thereunder.
22. Prohibition on Use of Name and Logo*.* Vendor agrees that it will not, without the prior written consent of Customer, use the names, logos, symbols, trademarks or service marks of the Customer, including but not limited to those associated with JPS Health Network, for any purposes or uses (expressly including but not limited to for Vendor’s advertising, promotion or other marketing) other than those reasonably related to performing and completing the obligations under this Agreement. This section titled “Prohibition on Use of Name and Logo” shall survive the termination or expiration of this Agreement.
23. Insurance*.* During the term of this Agreement, Vendor will maintain commercial general liability, property, and products liability insurance for the Products provided and the obligations performed under the Agreement in the minimum amount of $1,000,000.00 per person/$3,000,000.00 per occurrence. Furthermore, upon the execution of this Agreement and upon request any time thereafter, Vendor will furnish a then current certified certificate(s) of insurance.
24. Termination Right*.* In the event of a change-in-control (defined below), Customer may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the Customer shall have no further obligations or liabilities hereunder. A “change-in-control” means that (a) there occurs a reorganization, merger, consolidation or other corporate transaction involving Vendor (a “Corporate Transaction”), in each case with respect to which the owners of Vendor immediately prior to such Corporate Transaction do not, immediately after the Corporate Transaction, own more than 50% of the combined voting power of Vendor or any other entity resulting from such Corporate Transaction; or, (b) all or substantially all of the assets of Vendor are sold, liquidated or distributed.
25. Change in Product Identification/Catalog Numbers/Lawson Numbers. In the event of a Products catalog renumbering, changes in Products description or name, changes in Lawson numbers, or other Products identification changes (collectively, “Products ID Changes”), Vendor shall provide Customer with at least sixty (60) days prior written notice of any such Products ID Changes (“Products Notice”). The Products Notice shall, at a minimum, include itemized cross-referencing of Products ID Changes to the current Products ID in sufficient detail to allow Customer to make all appropriate system adjustments for inventory tracking and use of the Products.
26. Compliance with Laws*.* In providing the services required by this Agreement, Vendor must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Vendor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.
27. Conflicting Provisions. To the extent there is any conflict between the terms of the Agreement and the terms of the Quotation and any other documents either attached to this Agreement as exhibits or any other identified in writing by Vendor and Customer as a part of the Agreement documents, the terms of this Agreement are controlling.
28. Governing Law; Jurisdiction. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, USA, WITHOUT REFERENCE TO ITS LAWS RELATING TO CONFLICTS OF LAW. Any legal action arising out of or relating to the Agreement shall be brought only in the state or federal courts located in Tarrant County, Texas, and the parties irrevocably consent to the jurisdiction and venue of such courts.
29. Binding Agreement. The parties hereto warrant and represent that upon execution hereof, this Agreement shall be a legal, valid and binding obligation on them and shall be enforceable against them in accordance with its terms. The individuals signing this Agreement warrant and represent that they are duly authorized to sign this Agreement on behalf of the parties hereto.
30. Waiver. The failure to comply with or to enforce any term, provision, or condition of this Agreement, whether by conduct or otherwise, shall not constitute or be deemed a waiver of any other provision hereof; nor shall such failure to comply with or to enforce any term, provision, or condition hereof constitute or be deemed a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
31. Parties Affected. Nothing in this Agreement, whether express or implied, is intended to confer upon any individual or entity, other than the parties hereto (and their respective heirs, representatives, successors, and permitted assigns), any rights or remedies hereunder or otherwise. Nothing in this Agreement is intended to relieve or discharge any liability of any party hereto or any third party. No provision in this Agreement shall give any individual or entity any right of subrogation against any party hereto.
32. Notices.  All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) when received by the party to whom directed; (b) when sent by fax transmission to the following fax numbers or by email to the following email addresses; or (c) when deposited in the United States mail when sent by certified or registered mail, return receipt requested, postage prepaid to the following addresses (or at such other addresses or fax numbers as shall be given in writing by either party to the other):

If to Customer: Tarrant County Hospital District

Attn: President and CEO

1500 S Main St.

Fort Worth, TX 76104

Telephone: (817) 927-1234

Fax: (817) 924-1207

If to Vendor: [Vendor]

Attn:

[address]

[address]

Telephone:

Fax:

Email:

1. Severability. Should any part, term, or provision of this Agreement be declared to be invalid, void, or unenforceable, all remaining parts, terms, and provisions hereof shall remain in full force and effect, and shall in no way be invalidated, impaired, or affected thereby.
2. Assignment. No party to this Agreement may assign this Agreement without the prior written consent of the other party.
3. Subject Headings. The subject headings of the sections, paragraphs, and subparagraphs of this Agreement are included herein solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify, or aid in the meaning, construction, or interpretation of any of the provisions of this Agreement.
4. Attorney’s Fees and Court Costs. If either party brings an action against the other to enforce any condition or covenant of this Agreement, each party shall be individually responsible for its own court costs and attorney’s fees.
5. Relationship of the Parties. None of the provisions of this Agreement are intended to create, and none shall be deemed or construed to create, any relationship between the parties, other than that of independent contractors. This Agreement shall not create the relationship of employer-employee, agency, partnership, or joint venture. Neither party shall have the right or power in any manner to unilaterally obligate the other to any third party, whether or not related to the purpose of this Agreement.
6. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed, and supersedes all prior written or oral agreements or communications between the parties. No supplement, modification, purchase order or amendment of any term, provision, or condition of this Agreement shall be binding or enforceable on either party hereto unless in writing signed by both parties.
7. Force Majeure. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, labor disputes, shortages of suitable parts, or any similar cause beyond the reasonable control of the parties.
8. Electronic Signatures; Facsimile and Scanned Copies; Duplicate Originals; Counterparts; Admissibility of Copies. Each party agrees that: (i) any electronic signature (if any), whether digital or encrypted, to this Agreement made by any party is intended to authenticate this Agreement and shall have the same force and effect as an original manual signature; and (ii) any signature to this Agreement by any party transmitted by facsimile or by electronic mail shall be valid and effective to bind that party so signing with the same force and effect as an original manual signature. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile or electronic transmission, will have the same effect as physical delivery of the paper document bearing an original or electronic signature. This Agreement may be executed in multiple duplicate originals and all such duplicate originals shall be deemed to constitute one and the same instrument. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall be deemed to constitute a single instrument. The parties agree that a true and correct copy of the original of this Agreement shall be admissible in a court of law in lieu of the original Agreement for all purposes of enforcement hereof.

VENDOR: CUSTOMER:

[full legal name] Tarrant County Hospital District

d/b/a JPS Health Network

By: By:

Name: Name:

Title: Title:

Date: Date:

Purchase Agreement - Products (Multi-Year Agreement no software or PHI) ) 120121.docx

**[EXHIBIT 1]**

**Products and Pricing**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Product ID** | **Description** | **Manufacturer** | **UOM** | **QTY** | **Price** | **Discount** |
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**[EXHIBIT 2]**

**PRODUCT WARRANTY**

***[or insert manufacturer’s warranty]***

Vendor warrants to its Customer that Products will be free from defects in material and workmanship and will meet the technical and performance specifications contained in applicable product data sheets and operation manuals published by Vendor specifically related to the Product as of the date of shipment.

**[EXHIBIT 3]**

**PRODUCT SUPPORT SERVICES**

Products

The list of Products in [Exhibit 1] contains the generally anticipated items needed by Customer and the Parties’ agreed-upon pricing. However, upon execution of this Agreement, Vendor will complete the Lawson add form for Customer that will consist of catalog/manufacturer number, item descriptions, Global Trade Identification numbers, list price, and discounted pricing.

Additional Products or Product Lines

To the extent Customer needs additional items not listed in [Exhibit 1], which Vendor is willing and able to provide, then Vendor will provide such items at the same percentage discount that Vendor is applying to the list of Products in [Exhibit 1]. If Vendor has alternate or new products or product lines than those listed in [Exhibit 1] which Vendor desires to provide to Customer, then such items must be approved in advance by Customer’s Surgical Services Leadership prior to Vendor providing them to Customer, and such items will be at the same percentage discount that Vendor applies to the list of Products in [Exhibit 1].

Support Services

Vendor will ensure instrument sets are provided to Customer’s Sterile Processing Department at least 24 hours prior to the procedure time designated by Customer, and Vendor shall provide count sheets for terminal sterilization. Vendor will provide clinical support for Customer’s operative cases and provide for the care and handling of Vendor instrument sets both prior to, and after procedures, in order to ensure appropriate instrument sets are available to Customer’s operating rooms and to provide clinical support for Customer’s scrub team in selecting items. Vendor shall bear the costs for missing, broken, or otherwise unusable instruments or instrumentation sets.

Vendor shall ensure its representative(s) are at Customer’s designated location in ample time prior to a procedure to assist with instrument setup and confirmation that all instrumentation is available for procedures (preferably prior to the patient entering the operating room).

Vendor’s representative(s) must check into the vendor management system prior to a procedure and out of the vendor management system after the procedure, and they will use the Implant Management System (IMP) for any implants. Vendor’s representative(s) shall adhere to all of Customer’s policies when on-site at Customer’s facilities.

Immediately following a procedure, Vendor shall submit hard copies of all implants, billable, and/or non-billable to Customer’s surgery billing personnel or enter implants into the IPM system no later than 24 hours following a procedure.

**Exhibit D**

**Vendor Certification Form**

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

|  |  |  |
| --- | --- | --- |
| **Instructions:**  Vendors doing business with the District are requested to complete this form in its entirety. If you are a Disadvantaged Business Enterprise, the requested information pertains to the owner(s) of the company. This form must be signed and dated by an authorized representative of your company. | | |
| Respondent’s Name:  Years in business under same name: Previous Name:  General E-mail Address:  Current Address:  Sales Rep/Customer Service Name:  E-mail Address:  Sales Rep/Customer Service Phone#:  Fax#:  Accounts Receivable Contact Name:  Phone # TCHD Account # | | |
| **List your major commodities:** | | |
| **Check all that apply with respect to major commodity:**  ☐Supply  Equipment  Service  (List type of service, i.e., temp. agency, surveyor, etc.: \_\_\_\_\_\_\_  Consultant Distributor  Manufacturer Contractor Subcontractor  Approximate dollar volume of business with the District in past twelve (12) months: **$\_\_\_\_\_\_\_\_\_\_\_\_** | | |
| **ETHNICITY OF company’S American OWNERSHIP** (Please place an X in the appropriate box**:** | | |
| Asian Pacific  African American  Caucasian  Hispanic  Native American | Other  \_\_\_\_\_\_\_\_\_\_\_\_  (SPECIFY) | Public OWN STOCK:  ☐ yES   nO |
|  |  | MAJORITY OWNER:  mALE   fEMALE |

**INCLUDE THE FOLLOWING:**

Copy of certificate(s) (State of Texas, North Central Texas Regional Certification Agency (NCTRCA), Historically Underutilized Businesses (HUB), or any agency confirming your business as being a women/minority-owned or small business enterprise.

***signature*:** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***Title:*** \_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Print Name:*** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***Date:*** *\_\_\_\_\_\_\_\_\_\_\_\_*

**Exhibit E**

**Conflict of Interest Questionnaire**

Chapter 176 to the Texas Local Government Code (“Chapter 176”) contains provisions mandating the public disclosure of certain information concerning persons doing business or seeking to do business with the District (“Disclosure Information”). The Disclosure Information relates to affiliations, and business and financial relationships such persons may have with members of the District’s governing body, its officers and certain other high-level District employees. Each Respondent is charged with the responsibility of becoming familiar with the requirements of Chapter 176 and for complying with the applicable provisions thereof.

Each Respondent shall complete the Conflict of Interest Questionnaire set forth below and shall return the completed Conflict of Interest Questionnaire with its Response. A complete copy of Chapter 176 of the Local Government Code may be found at: <https://statutes.capitol.texas.gov/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity; (B) a transaction conducted at a price and subject to terms available to the public; or (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):** (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if: . . . . . (2) the vendor: (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that (i) a contract between the local governmental entity and vendor has been executed; or (ii) the local governmental entity is considering entering into a contract with the vendor; or (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that: (i) a contract between the local governmental entity and vendor has been executed; or (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and: (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A); (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of: (1) the date that the vendor: (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or (2) the date the vendor becomes aware: (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a); (B) that the vendor has given one or more gifts described by Subsection (a); or (C) of a family relationship with a local government officer.

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

|  |  |  |  |
| --- | --- | --- | --- |
| **CONFLICT OF INTEREST QUESTIONNAIRE FORM CIQ**  **For vendor doing business with local governmental entity** | | | |
| **This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**  This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).  By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.  A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor. | | | **OFFICE USE ONLY** |
| Date Received |
| **1** | Name of vendor who has a business relationship with local governmental entity. | |
|  |
| **2** |  | Check this box if you are filing an update to a previously filed questionnaire**.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.) | |
|  |
| **3** | Name of local government officer about whom the information is being disclosed.    Name of Officer | | |
|  |
| **4** | Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.   1. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?   Yes  No   1. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?   Yes  No | | |
|  |
| **5** | Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more. | | |
|  |
| **6** |  | Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1). | |
|  |
| **7** | Signature of vendor doing business with the governmental entity Date | | |
|  |

**Exhibit F**

**Vendor’s Proposed Revisions**

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

In submitting a response to this Solicitation, the Respondent agrees to accept the terms and conditions set forth in this Solicitation or incorporated herein by reference. **The successful Respondent will be expected to enter into a contract which contains substantially the same terms and conditions as are included in Exhibit C to this Solicitation.**

If you are proposing any revisions to Exhibit C, the Contract Terms, you MUST indicate this below and **provide a redline of your proposed revisions**. The District will only consider those exceptions, additions, deletions or revisions as are set forth by Respondent specifically in response to this Exhibit F. The District may accept or reject your proposed revisions at its sole discretion. No proposed revisions will become effective unless accepted by the District and agreed to in writing and signed by both parties.

The District considers the Respondent to agree to all terms and conditions of the Contract Terms (including Exhibits), unless otherwise indicated herein. Absence of a redline will constitute agreement, and there will be no further negotiations regarding the same. **Respondents submitting redlines must provide an editable unlocked/unsecured version of the redline with their Solicitation Response (preferably in track changes).**

***Please note***: The District will not agree to indemnify the vendor, limit the vendor’s liability, shorten the statute of limitations for any claim, submit to binding arbitration, waive its right to a jury trial, or waive its existing governmental immunity. DO NOT include any such provisions in your response, as they will not be accepted.

**Respondent *MUST* check the appropriate response below:**

Respondent accepts Contract Terms without exception.

OR

Respondent proposes exceptions/modifications to the Contract Terms.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signature

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Printed Name

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Title

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Date

**EXHIBIT G**

**JPS Supplier Diversity: Good Faith Form**

|  |  |
| --- | --- |
| Solicitation # and Name: | **RFP #2021978309 Bone Matrix Tissue Implants and Supplies** |
| Prime Vendor Name: |  |
| Prime Vendor address: |  |
| Prime Vendor UCM ID: | TBD |

1. Are you a Historically Underutilized, Small, Minority, Woman or Veteran owned business (HUB / SMWVBE)?

If yes, please attach your updated certification form ***(Stop Here)***

☐ If no, please continue to **#2 below**

1. List all participating HUB/SMWVBE certified agencies/organizations contacted regarding subcontracting and/or partnership opportunities for this contract. *(Insert additional rows as needed.)*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Subcontractor Company Name | Email / Phone | Certification Type and Number | Total Contract Value | HUB/SMWVBE Subcontract Value | % of Total Contract |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

1. If no HUB/SMWVBE participation is listed above, have you checked the JPS Vendor portal at <https://jpshealth.gob2g.com/>? The vendor portal is a directory of certified HUB/SMWVBE businesses  
   *Ex: Support services to participate under the contract*

If you searched the vendor portal, list HUB/SMWVBE company name(s) and contact information below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Subcontractor Company Name | Email / Phone | Certification Type and Number | Total Contract Value | HUB/SMWVBE Subcontract Value | % of Total Contract |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

1. If you are not a HUB/SMWVBE and do not have a HUB/SMWVBE subcontractor, please provide a statement regarding steps that your company has taken to demonstrate your commitment to Supplier Diversity: (*Insert additional rows as needed)*
2. Please provide an explanation as to how you plan to identify HUB/SMWVBE participation on this contract: *(Insert additional rows as needed)*

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **Name of Vendor (Print)** |  | **Vendor Signature** |
|  |  |  |
| **Date** |  | **Vendor Phone** |
|  |  |  |
| **Diversity Administration Reviewer (Print)** |

**EXHIBIT H**

**Reporting Template**

**RFP #2021978309 Bone Matrix Tissue Implants and Supplies**

