TARRANT COUNTY

HOSPITAL DISTRICT d/b/a

JPS HEALTH NETWORK

REQUEST FOR PROPOSAL #2022913379   
Durable Medical Equipment and Services

The Tarrant County Hospital District d/b/a JPS Health Network (the “District”) is seeking proposals for the provision of Durable Medical Equipment and Services.

**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: 07-20-2022

Response Deadline: 08-16-2022, 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 Durable Medical Equipment and Services (the “Product(s) and Service(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 a 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 and Services. 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 and Service 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. Qualifications and omissions will be considered when evaluating vendor solicitation responses. A Solicitation Response that does not meet the minimum requirements set forth in Section II below, *Business Requirements*, will be disqualified.

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 Product and Service. Product and Service 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 and Service 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.

Prior to the District’s consideration of a Respondent’s Solicitation Response each Respondent is required to register as a vendor in the District’s online “JPS Procurement System” (located on the District’s Website at: <https://jpshealth.gob2g.com>).

**MINORITY, WOMAN, AND VETERAN OWNED 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 Minority, Woman, and Veteran Owned Business Enterprises (“MWVBEs”). 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 MWVBEs. MWVBE Respondents are also strongly encouraged to subcontract to other MWVBEs to expand MWVBE participation beyond Respondent’s own self-performance. MWVBE Respondents should identify and list MWVBE subcontractors and other relevant information under the appropriate Solicitation Response section(s) and on the Good Faith Form ([Exhibit G](#ExG)). Prior to the Contract Award, a Respondent’s good faith efforts to utilize MWVBE 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 efforts to utilize MWVBE subcontractors and vendors in its business transactions.

**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. Any awarded contract must comply with the verification requirements in Texas Government Code Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm), and a Respondent’s failure or refusal to comply will 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). Any awarded contract must comply with the verification requirements in 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), and a Respondent’s failure or refusal to comply will 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. Any awarded contract must comply with the verification requirements in 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), and a Respondent’s failure or refusal to comply will 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 and Services 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**](#ExC) (“Required Information”), and shall be signed and executed, on the Signature Form attached hereto as [**Exhibit B**](#ExB) 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**](#ExC) (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**](#ExF)**, 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](#ExF).

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

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

* + - * 1. **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).
        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 **08-16-2022, 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**](#ExD) 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**](#ExE) 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 | **07-20-2022** |
| Deadline for Questions Submitted by Respondents | **07-29-2022, 2:00 p.m. CST** |
| Pre-Proposal Conference | **No Pre-proposal Conference** |
| Response Deadline | **08-16-2022, 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 07-29-2022, 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 comprehensive durable medical equipment (DME) goods and services for District patients for whom the District is responsible for providing healthcare (“JPS Connections Patients”).

* 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. The District 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**

As part of its statutory duty to provide healthcare to indigent residents of Tarrant County, the District seeks a DME vendor that can deliver the services and equipment requested throughout Tarrant County in a timely, professional, efficient, and cost-effective manner while ensuring the highest standards of performance, integrity, customer service, and fiscal accountability. The District wishes to contract with a DME vendor that understands the importance of the goods and services they provide, and the impact that they have on our patients. JPS Connections Patients include any patient identified by the District through its enrollment or registration procedures as enrolled in JPS Connection or identified as qualifying for the provision of health care benefits and services to financially indigent residents of Tarrant County.

Required DME may include, but is not limited to, the following:

* [Air-fluidized beds and other support surfaces](https://www.medicare.gov/coverage/air-fluidized-beds-and-other-support-surfaces.html)
* Asthma spacers
* Boots
* Braces
* Blood pressure monitors
* [Canes](https://www.medicare.gov/coverage/canes.html)
* [Commode chairs](https://www.medicare.gov/coverage/commode-chairs.html) – Regular and Extra Large (XL)
* Compressors
* Crutches
* Diabetic supplies
* Hospital beds
* Infant scales
* [Manual wheelchairs – Regular](https://www.medicare.gov/coverage/manual-wheelchairs-and-power-mobility-devices.html) and XL
* Nebulizers
* Ostomy supplies
* [Patient lifts](https://www.medicare.gov/coverage/patient-lifts.html)
* [Suction pumps](https://www.medicare.gov/coverage/suction-pumps.html)
* Tracheotomy supplies including inner cannulas
* Trapeze bar
* Urinary catheter supplies
* Walkers – Regular and XL
* Wound dressings and supplies

For historical usage, please see Exhibit A-3 of the attached spreadsheet, Connections DME, which lists DME by HCPCS Code and annual estimated quantities.

* 1. **MINIMUM REQUIREMENTS**

DME includes medical supplies that are used for outpatient medical purposes. DME generally has a useful life of at least three years and is covered by Medicare. Specialized items may be required from time to time, as requested by the District.

The selected Respondent must be able to provide DME as needed for all JPS Connections Patients. These patients lack health insurance and do not qualify for government-sponsored healthcare. The District provides DME equipment and supplies to these patients at no cost to the patient. The District may award contracts to multiple vendors.

The District also requests the Respondent provide a stock of commonly-needed DME at the main campus hospital and certain outpatient clinics (to be determined, based on patient need). Estimated usage for select items is included in Exhibit A-4 of the attached spreadsheet, ED DME. Usage estimates for many items are not available. The stock is primarily for JPS Connections Patients; however, stock may be offered to other District patients (including those with commercial health insurance or those enrolled in government-sponsored healthcare such as Medicare, Medicaid, or CHIPS) who select the Respondent’s products. This stock is solely for patient convenience and should not be considered an offer to refer patients to Respondent. Potential referrals should not be considered in quoting pricing for JPS Connections Patients. Respondent may be one of several vendors providing DME on a consignment basis. Exclusivity for stock closets is not guaranteed. PLEASE NOTE: The District cannot guarantee any minimum number of patients requiring DME. The District is the payor for JPS Connections/self-pay/uninsured patients only. Any quantity estimates provided should not be construed as an offer to refer other patients to Respondent or a request for payment or anything of value from Respondent in return for other patient referrals. Respondent’s DME stock may be distributed to other District patients solely for patient convenience.

The Respondent’s responsibilities will include:

* Providing DME to fill a patient’s prescription at time of discharge or during presentation in the emergency department or at any of the District’s offsite ancillary clinics or facilities.
* Shipping and delivering supplies on a one time and/or reoccurring basis to fill a patient’s prescription.
* Stocking hospital and requested outpatient clinics with commonly-needed DME.
* Advising the District on the square footage and/or space requirements to stock DME at the outpatient clinics and hospital.
* Providing written process flows and staff training materials.
  + 1. **Patient education**

Respondent shall provide use instruction and training to each patient for whom DME dispensed and/or ordered, at no additional cost to District. Education must include a "return demonstration" by the patient/ caregiver to ensure they are able to safely and appropriately use the equipment. Respondent will provide patients/ caregivers with any manufacturer-supplied information that explains proper functioning and maintenance of the equipment.

* + 1. **Billing** 
       1. Respondent shall be solely responsible for the accounting and billing of products provided and dispensed. The fair market value for the storage space occupied at District locations must be included in Respondent’s overall cost consideration for the scope of this project, in compliance with state and federal fraud and abuse laws and regulations.
       2. Respondent will be responsible for all costs of operations, including electronic interfaces with District systems, if any, inventories, personnel, claims, receivables, and payables.
    2. **Stocking and PAR levels**
       1. Respondent will provide and maintain adequate levels of DME at all designated and agreed District hospital and clinic locations. Initially, the District anticipates stocking the main hospital and possibly one orthopedic with DME. The Respondent must ensure a minimum of ninety-eight percent (98%) of DME stock availability in all locations at all times to accommodate the demand by patients presenting qualified orders and/or prescriptions from authorized physicians. If the Respondent fails to meet 98% of demand, payment penalties will apply.
       2. Respondent will determine and establish Periodic Automatic Replenishment (PAR) and safety stock levels, as applicable, for each item dispensed upon award of District. PAR levels may be initially based on usage information provided by the District. Respondent will be responsible for adjusting PAR based on observed usage. Respondent will develop a re-stock schedule to maintain a guaranteed fill rate for patient needs at each facility. Respondent must adjust delivery schedules to optimize space available for on-site storage of DME.
       3. Locations for stocking will be determined based on patient need. For a full list of District hospital and clinic locations, see the District’s website: <https://www.jpshealthnet.org/locations>
    3. **Delivery**

For items not routinely stocked, Respondent will be expected to deliver ordered DME to the District’s main campus and outpatient clinics seven (7) days a week, as needed. See the list of District locations linked in Section D.3.c above. Respondent must also be able to deliver DME to patients’ homes located throughout Tarrant County. Respondent will deliver or ship prescribed reoccurring supplies to patients. Additionally, the Respondent must provide certified staff that can measure and/or fit for items including specialty wheelchairs and respiratory devices. For routine items, Respondent will deliver ninety-five percent (95%) of District’s main campus or outpatient clinic orders same-day when ordered before 8:00 p.m. For specialty items, Respondent will deliver ninety-five percent (95%) of District’s main campus or outpatient clinic orders within twenty-four (24) hours. Respondent will maintain a ninety-seven percent (97%) weekly fill rate. For each violation, Respondent will rebate five percent (5%) of that month’s gross invoice amount to the District.

* + 1. **Accreditation**

Respondent shall provide and maintain (1) a valid DME license with The State of Texas and (2) accreditation from a Centers for Medicare and Medicaid Services (CMS)-approved organization, in each case throughout the term of the agreement. Respondent shall provide and maintain qualification as a DME provider for all major third-party insurance plans, Medicare, Medicaid, and the Texas Children’s Health Insurance Program (CHIP).

* + 1. **Claims and payment**

Respondent must submit claims for each DME item provided to District covered patients within ninety-five (95) days of the date of service. **Claims must be in electronic file 837 format with applicable Healthcare Common Procedure Coding (HCPC) units of services indicated. Please review Chapter 26 of the Medicare Claims Processing Manual to ensure compliance with this requirement. Claims or invoices not submitted in accordance with these terms will be denied payment.**

Although the program is intended to cover only non-insured patients, some District patients may be Medicare-pending or otherwise later identified as covered by an applicable insurance plan or government-sponsored healthcare. For such patients, as identified by the parties, the Respondent will bill the third-party payors directly for products provided at the rates agreed between the Respondent and the payor. The District will not be responsible for billing or payment for patients with another payor source. Respondent shall accept Medicare, Medicaid, and third-party insurance allowable as payment in full.

* + 1. **Reports and business relationship**

Respondent shall provide weekly reports to the District via email with the following data:

* Products dispensed to specific District hospital and outpatient locations
* List DME cost with appropriate Current Procedural Terminology (CPT)/HCPCS code
* Stock out conditions (number by item, location, and date of stock out and replenishment)

Respondent must be available for quarterly business reviews and ad hoc meetings at District's request. Respondent must be available to meet in-person or video conference at District's discretion. Respondent must notify District of any changes to key personnel who provide service on the District’s account, at least two (2) weeks prior to a change occurring.

* + 1. **Implementation project plan**

Respondent will be responsible for creation of an implementation plan with timeline. This should include but not be limited to estimated cost, resources needed by Respondent, resources needed from the District, Respondent project manager along day-to-day plan with any other pertinent information necessary to complete implementation.

* 1. **PERFORMANCE STANDARDS**

In addition to the general requirements set forth in this RFP, Respondent will be required to comply with the following District performance standards.

* + 1. Provide a toll free number, with live voice response, for customer service.
    2. Receive routine orders for specified DME via toll free facsimile or electronic submission.
    3. Respondent must be able to supply the District with a copy of their emergency management plan to ensure support for patients during times of emergency (e.g., power outages, weather related conditions affecting the Respondent’s ability to deliver DME to our patients).
    4. Customer service representatives must be able to answer questions pertaining to specified DME, including but not limited to:
       1. Covered services
       2. Services requiring authorization
       3. Order processing
       4. Delivery
       5. Repairs and warranties
       6. Emergency services
    5. Ensure that qualified staff deliver, set up and pick up equipment and supplies.
    6. Establish a process that provides written verification from the patient/ caregiver of receipt/ delivery of DME goods and supplies.
    7. Initially assess product use and routinely monitor the member’s use of durable supplies to ensure quantities used are consistent with his or her prescribing physician’s orders and do not exceed the amount being delivered.
    8. Clean, maintain, repair or otherwise service equipment/ supplies.
    9. Properly identify equipment with company’s name, telephone number and emergency contact information.
    10. Document all delays in service delivery.
    11. Maintain a repair and replacement process that includes the following:
        1. Repair and/ or replace specified DME equipment upon notification of defect or malfunction;
        2. Provide replacement DME equipment with the equivalent or better quality than the equipment originally issued;
        3. Provide replacement (loaner) equipment to patient free of charge while the repairs are being undertaken;
        4. Honor all warranties for DME provided through the contract.

**The District will not be responsible for equipment not available for pick-up or damaged at the end of the rental.**

* 1. **REQUIRED INFORMATION**
     1. **Questionnaire**

Please provide responses to the questions in Exhibit A-2, Questionnaire. **Do not alter the format of the spreadsheet or questions.**

* + 1. **Background Information**
       1. Provide a brief overview of the history, structure and ownership of your organization. Describe any significant past (within the past three years) or expected (within the upcoming year) changes in your organizational structure/ business approach that have affected or may affect delivery of services to the District.
       2. Provide a brief description of Respondent's overall capabilities to provide DME services.
       3. Describe all relevant credentialing and accreditation statuses, including but not limited to license or certification as required by the State of Texas.
       4. Describe policies and procedures for detection, notification and resolution of issues related to fraud and abuse.
       5. Describe policies and procedures for addressing patient complaints.
    2. **Customer Service**
       1. For patients receiving home delivery, will Respondent notify patients of product shipment(s)? If yes, please list how they are notified (assuming all relevant information has been provided to you): Phone, email, phone & email, other.
       2. Respondent will be able to deliver inpatient and outpatient products seven (7) days a week
       3. If Respondent encounters problems delivering products in a timely manner per the service agreement, will Respondent notify the District via phone and email as soon as is reasonably possible?
       4. Will Respondent assign a dedicated account representative to the District’s account?
       5. List the Texas counties where Respondent’s company/organization currently operates.
       6. List the address(es)/location(s) of Respondent’s office(s) in Texas.
    3. **Quality**
       1. Identify any DME goods or services that Respondent cannot currently deliver within twenty-four hours to any requested location in Tarrant County.
       2. Describe the steps that Respondent will take to overcome the obstacles identified in the previous question and meet this standard.
    4. **Innovation**
       1. Will Respondent be providing an internet-accessible dashboard that the District can access ad hoc?
       2. If yes, please list the metrics, key performance indicators, etc. that the District is able to view on the dashboard. How often is the dashboard updated?
       3. Do you utilize telematics for vehicles (whether company or employee-owned) operating in the field?
       4. How does Respondent track shipments and delivery of products by company employees?
       5. How does Respondent track shipments and delivery of products by logistics services, e.g., FedEx, courier, etc.?
    5. **Regulatory Compliance**
       1. Has Respondent ever been suspended, terminated, debarred or otherwise prohibited from participating in or entered into a settlement for voluntary withdrawal from any Federal Medicare program?
  1. **PRICE QUOTES**

Reimbursement for all equipment and supplies for Connection Patients will be consistent with the Medicare Fee Schedule at the time of contract execution, less a discount to be agreed upon between the District and Respondent based on corresponding CPT and/or HCPCS codes. Pricing must remain fixed for the initial term of the agreement. Please provide any additional quoted prices and/ or fees for providing equipment to clinic locations. 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. Use the spreadsheet attached as [Exhibit A](#ExA)-1 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 may award contracts to multiple vendors in order to obtain the volume of products needed for District patients. 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. **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 K (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 minority, woman, and veteran-owned 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**

Describe how the Respondent’s proposal meets the Minimum Requirements ([Section D](#SecD)) and Performance Standards ([Section E](#SecE)) above. Provide the information requested in [Section F](#SecF) above. Provide specification sheets for each product bid. Include service and warranty information.

1. **Pricing**

Provide the shipping and other charges information requested in Exhibit A. Use the product pricing spreadsheet attached as Exhibit A-1 to list line item pricing for all products and services you can provide. Add lines as needed for additional products or services not already included.

1. **References**

Provide a minimum of three references that represent the Respondent’s past performance providing DME to customers of similar size and scope to District. Please include:

* + 1. Name and location of client
    2. Reference’s name, title, and contact information (phone number and email address)
    3. Scope of services for contract
    4. Description of the Respondent’s role in providing services
    5. Initial contract amount
    6. Final contract amount
    7. Contract start date and end date
    8. List of any subcontractors used
    9. List or provide any client or customer concerns or dissatisfaction.

*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% MWVBE participation for the scope/specifications of this Solicitation. Discuss any MWVBE management partners the Respondent plans to team with to provide the scope/specifications. (Maximum 1 page)

The District strongly encourages the utilization of minority, woman, and veteran-owned businesses.

A. Submit certificate if Respondent is a certified MWVBE **(do not submit an expired certificate).**

B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and /or organizations notified regarding the interest in MWVBE 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](#Check8): Signature Form

b. [Exhibit D](#ExD): Vendor Certification Form

c. [Exhibit E](#ExE): Conflict of Interest Questionnaire

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

e. [Exhibit G](#ExG): JPS Supplier Diversity: Good Faith Form

* 1. **EVALUATION CRITERIA SCORE SHEET**

| **EVALUATION CRITERIA** | **Possible Points** | **Vendor**  **Score** |
| --- | --- | --- |
| * + 1. Price – Best Value   Pricing will be scored according to the pricing formula: (Lowest Responsive Price / Price of Respondent Being Evaluated) x Possible Points = Vendor Score | **\_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. | **\_20\_** |  |
| * + 1. Quality of Respondent’s goods and/or services. | **15** |  |
| * + 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. Minority, Woman, and Veteran-Owned Business Enterprise Participation. This is worth **15 points**. **If the Respondent is a Certified MWVBE,** skip B and C; **if not,** complete B and C**.** The breakdown is as follows: | | |
| A. Respondent is a certified MWVBE. | **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 MWVBE 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 #2022913379 Durable Medical Equipment and Services** | | |

**Exhibit A**

**Price Sheet**

**RFP #2022913379 Durable Medical Equipment** **and Services**

1. **Product Pricing**

Fill out Exhibit A-1, 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 catalog relevant to DME.**

1. **Shipping and Other Charges**

Provide any shipment charges on the spreadsheet below. Provide any additional charges that have not been captured in the price sheet. 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.

|  |  |  |  |
| --- | --- | --- | --- |
| **Line Item** | **Description** | **Cost per Each (if applicable)** | **Total Cost (if applicable)** |
| *Shipping* | *3 day ground* | *$ 6.00* | *n/a* |
| *Software* | *Inventory management system* | *$ 5,000.00* | *$ 5,000.00* |
|  |  |  |  |
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|  |  |  |  |

**Exhibit B**

**Signature Form**

Respondent shall signify Respondent’s acceptance of and compliance with the requirements, terms, and conditions of this Solicitation 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, does not engage in any prohibited boycott, and that Respondent does not appear (nor does any affiliate appear) on any [Texas Comptroller Divestment Statute Lists](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 #2022913379 Durable Medical Equipment** **and Services** | |
| Respondent (Company) Name: | |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: |
| Printed Name: Title: | |
| Telephone: Email: | |

**Exhibit C**

**Contract Terms**

**RFP #2022913379 Durable Medical Equipment and Services**

***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.

**Purchase and Rental 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 or rent and deliver to Customer and Customer agrees to purchase or rent the Products (defined below) for the prices 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 A** which is attached hereto and incorporated herein for all purposes.

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

1. Products and Pricing.
   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 A** and incorporated herein for all purposes (the “Quotation”).
   2. The 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. Prices do not include any: (i) taxes, shipping or insurance, or (ii) handling, rigging, uncrating, storage or other services incidental to shipping, all of which are the responsibility of Customer. 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.
   3. Vendor shall make available and furnish the Products described on Exhibit A to Customer patients on an as-needed/as-requested basis. This Agreement will apply to Customer Connection Sponsored Patients, Self-Pay patients and other approved uninsured patients (collectively, “Covered Patients”) as deemed appropriate at the sole discretion of Customer. Vendor shall use only qualified personnel to provide the Products in a diligent, professional and workmanlike manner, in accordance with all industry standards which are applicable to the Products, if any.
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. Delivery Terms. Oxygen vendor will be expected to deliver oxygen equipment, tanks, and supplies the same day when ordered before 8:00 p.m.
4. Authorization for Products. All Products to be provided by Vendor under this Agreement must be approved by Customer prior to the provision of Products pursuant to the order of a patient’s attending physician(s), and all Products provided by Vendor are under the supervision and direction of the patient’s attending physician(s). Vendor shall be entitled to rely on written authorization for Products from Customer provided by Customer’s Outside Medical Services Department. Customer agrees to provide Vendor with applicable signed physician’s orders in a timely fashion.
5. Compliance with Laws. Vendor and its employees shall perform their duties under this Agreement in accordance with all applicable federal, state and local laws, rules and regulations, all applicable rules and regulations set by the State of Texas. At all times during this Agreement, Vendor will maintain (i) its license to distribute medical devices from the state of Texas and (ii) its accreditation by the Centers for Medicare and Medicaid Services.
6. Quality Standards. In providing the Products, Vendor shall comply with applicable guidelines, policies and procedures of Customer. Vendor shall comply with Centers for Medicare and Medicaid Services (“CMS”) guidelines that apply to the provision of any Products hereunder. Additionally, Vendor shall:
   * 1. Receive routine orders for oxygen equipment and supplies via toll free facsimile or electronic submission.
     2. Supply Customer with a copy of their emergency management plan to ensure support for patients during times of emergency (e.g., power outages, weather related conditions affecting the Respondent’s ability to deliver DME to our patients).
     3. Provide a toll free number, with live voice response, for customer service.
     4. Customer service representatives must be able to answer questions pertaining to specified DME, including but not limited to:
        1. Covered services
        2. Services requiring authorization
        3. Order processing
        4. Delivery
        5. Repairs and warranties
        6. Emergency services
     5. Ensure that qualified staff deliver, set up and pick up equipment and supplies. At minimum documentation of:
        1. Ten (10) panel drug screen
        2. Criminal background investigation going back at least 7 years
        3. Office of Inspector General (OIG) check
        4. General Services Administration (GSA) check
        5. Negative Tuberculosis test
        6. Immunizations / titers
           1. Titers for Rubella, Rubeola, Mumps and Varicella
           2. Titers for Hepatitis B
           3. Tdap vaccine every 5 years
           4. Influenza vaccine annually by end of October (during flu season)
     6. Ensure that service is provided within a time frame consistent with the prescriber orders.
     7. Provide education and training to patients and their caregivers regarding the use of oxygen equipment and supplies upon initial delivery of the equipment and supplies. Education shall be in accordance with the prescription and in the language understood by the patient.
     8. Education must be provided in a format and language readily understood by the patient and their caregivers. Supplemental written instructions should be provided as necessary. As necessary, Customer’s translation services may be utilized.
     9. Education should include the demonstration by the patient/ caregiver of the safe and appropriate use and understanding of the equipment.
     10. Provide patients and their caregivers with any manufacturer-supplied information that explains proper functioning and maintenance of the equipment.
     11. Establish a process that provides written verification from the patient/caregiver of receipt/delivery of equipment and supplies.
     12. Initially assess product use and routinely monitor the member’s use of supplies to ensure quantities used are consistent with his or her prescribing physician’s orders and do not exceed the amount being delivered.
     13. Clean, maintain, repair or otherwise service equipment/supplies.
     14. Properly identify equipment with company’s name, telephone number and emergency contact information.
     15. Document all delays in service delivery.
     16. Maintain a repair and replacement process that includes the following:
         1. Repair and/or replace specified oxygen equipment upon notification of defect or malfunction;
         2. Provide replacement of the oxygen equipment with the equivalent or better quality than the equipment originally issued;
         3. Provide replacement (loaner) equipment to patient free of charge while the repairs are being undertaken;
         4. Honor all warranties for the oxygen equipment and supplies provided through the contract.
7. Payment Procedure for Products.
   1. Claims for Products provided to Customer Covered Patients must be submitted within ninety-five (95) days of the date of delivery to the patient. Claims not submitted in accordance with the terms of this Agreement will be denied for payment (with no appeal) and Vendor may not seek reimbursement from the Covered Patient.
   2. If Customer requires additional information from Vendor, it will notify Vendor of the specific additional information needed within thirty (30) days of receipt of the claim from Vendor. Failure of Vendor to timely respond to a request for additional information may result in denial of the claim. Customer shall pay clean claims (as defined by the Centers for Medicare and Medicaid Services) for covered Products furnished pursuant to this Agreement in accordance with the then-applicable Medicare payment methodology, guidelines and requirements within forty-five (45) days of receipt of a clean claim. Customer shall notify Vendor in writing of any denied claims within forty-five (45) days of receipt. Vendor shall have sixty (60) days from receipt of the notice of denial to appeal, in writing, any denial, in accordance with Customer’s Outside Medical Services Department claims appeal policies (the “Policies”). Customer’s disposition, in accordance with such Policies, with regard to all appeals of claims shall be final. In the event that Vendor determines that Customer has neither paid nor denied claims timely filed by Vendor, Vendor may provide notice of such fact to Customer at any time after the forty-five (45) day claims payment period. Vendor must provide sufficient information to identify the claims along with evidence of the date on which the claim was filed with Customer. Customer will pay or dispute those claims (such as by requesting Vendor to re-file a claim Customer finds was not received) within thirty (30) days after receipt of Vendor’s notice. Customer may recoup overpayments made by Customer on claims submitted by Vendor within twelve (12) months from the date of final payment. Customer may, in the timeframe permitted by the law, recoup or offset an overpayment (without interest) from future payments. Customer and Vendor agree to cooperate in the event of periodic failures of equipment or acts of God.
   3. Unless otherwise directed by Customer, Vendor shall submit claims using standard 837 or HCFA 1500 claim forms, with applicable coding including, but not limited to ICD-10 (or current coding guidelines), CPT, HCPCS coding, and clinical notes. Vendor shall include in each claim Customer Patient Medical Record, Usual & Customary charges for the Products provided to a patient during the authorized time frame, Vendor’s Federal Tax I.D. number and/or other identifiers requested by Customer.
   4. Customer shall have the right to make, and Vendor shall have the right to request corrective adjustments to a previous payment; provided however, that Customer shall have no obligation to pay additional amounts after twelve (12) months from the date the initial claim was paid. Claims are to be submitted to Customer’s Outside Medical Services Department either electronically or by mail addressed to Customer at **1400 S. Main Street, Suite 302, Fort Worth, TX 76104, Attention: Outside Medical Services. All claims must list applicable CPT or HCPCS codes and units of products / services provided.**
   5. **Customer will not be responsible for equipment not available for pick-up or damaged at the end of the rental.**
8. **Medicaid Pending**.
   1. Products for Medicaid pending patients will be paid after 120 days from date of discharge from Customer if the patient’s account has not converted to a Medicaid covered Service. Vendor shall bill Customer within 30 days after the completion of the 120 day Medicaid wait period.
   2. Upon notice that a Customer Covered patient has converted to Medicaid status, Vendor is responsible for obtaining Medicaid authorization and filing for Medicaid payment for Products provided. Vendor must notify Customer within ten (10) business days of receiving Medicaid authorization with the number of visits Medicaid has authorized. If there is a difference between the initially authorized Products and those that Medicaid authorized and Products have been rendered then Customer will pay the difference at the established rate set forth in **Exhibit A**. Vendor shall reimburse Customer for Products already paid by Customer to Vendor that are later reimbursable by Medicaid.
9. 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.
10. 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 10 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.
11. 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.
12. 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.
13. Confidentiality. Subject to the requirements of the limitations stated in Section 21 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.
14. 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.
15. 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.
16. 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.
17. 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 A**. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. Health Care Fraud and Abuse. The Parties are aware of and have structured this Agreement in accordance with applicable federal and state laws and regulations prohibiting fraud and abuse in health care. In particular and without limitation;
    1. *Anti-Kickback Statute*. The Parties intend to comply with the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b) and the safe harbor regulations promulgated thereunder, including without limitation the safe harbor for Personal Services and Management Contracts set forth at 42 C.F.R. 1001.952(d), and with the Texas statutes regulating the solicitation of patients. It is not a purpose of this Agreement to induce the referral of patients, The Parties acknowledge that there is no obligation or compensation under this Agreement, or any agreement or understanding between them, that requires a Party or any of its affiliates to refer, recommend or arrange for any items or services paid for by Medicare, Medicaid or any other healthcare program. To the extent that a Party makes referrals for health care business, it shall make such referrals in a manner consistent with sound professional medical judgment, the wishes of the patient and/or the patient’s health care plan or other payor.
    2. *Physician Self-Referrals*. The Parties intend to comply with the federal prohibition on physician self-referrals commonly referred to as the “Stark” law (42 U.S.C. § 1395nn). The Parties further intend that this Agreement comply with applicable statutory and regulatory exceptions to Stark, including without limitation the exception for Personal Services Agreements set forth at 42 C.F.R. 411.357(d).
25. Fair Market Value. Customer and Vendor acknowledge and agree as follows; (a) they have bargained at arms’-length to determine Vendor’s compensation under this Agreement; (b) the compensation is fair market value for the services to be performed and the products provided by Vendor under this Agreement; and (c) the compensation is consistent with fair market value for similar products and services in Customer’s community. In determining the charges for products and services, the Parties agree that the amounts to be paid by the Customer represent the fair market value of the products and services to be provided, without, in any way, taking into account or being predicated upon the volume or value of any referrals or business otherwise generated between the Parties. Vendor’s compensation of physicians, if any, shall at all times be consistent with fair market value for the services provided.
26. No Compensation for Referrals. Nothing contained herein requires the referral of any patients between the Parties and no compensation or consideration of any kind shall be paid or given for any such referrals. Notwithstanding any provision contained herein to the contrary, each party retains the right, in its sole discretion, to refer patients to any person or entity deemed appropriate for their care and treatment. The compensation for products or services provided to Customer patients does not take into account the Customer referring any other patient to Vendor or any physician and does not vary with the volume or value of referrals to (or business generated for) Vendor or any physician. Customer cannot guarantee any minimum number of patients will require products or services, and payment for products and services provided to Customer’s patients will not change depending on number of patients referred. Vendor may provide products or services to other Customer patients solely for purposes of patient convenience. Vendor will not compensate any physician, at any time, in a manner that takes into account or varies with the volume or value of referrals to (or business generated for) Vendor or Customer by such physician.
27. HIPAA. The parties acknowledge that each is considered a covered entity under 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.
28. 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.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. 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.
37. 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.
38. 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**

Consisting of the following pages \_\_ through \_\_

[Attach the Quotation or, if no Quotation, pages describing the Equipment and Goods and Services,

including installation and specific warranties, if any, included]

[Quality and service requirements from body of RFP will be inserted here]

**EXHIBIT 2**

# **WARRANTY**

***[Or insert manufacturer’s warranty, if applicable]***

Vendor warrants to its Customer that Equipment 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 Equipment as of the date of shipment.

# Equipment Warranty Terms: Except as otherwise provided below, the warranty for the Equipment will be for a period of twelve (12) months. All warranty terms described in this warranty will commence either (a) on the earlier of (1) the date installation of the Equipment is completed or (2) the date Customer first uses the Equipment (when the Equipment is installed by Vendor) or (b) on the date of delivery of the Equipment (when the Equipment is not installed by Vendor), but in no event later than fifteen (15) months from the date of shipment from Vendor. Single patient use, disposable or consumable Products and Product supplies or accessories will be free from defects in material and workmanship at the time of delivery.

**Battery Warranty Terms:** Batteries, if any, supplied by Vendor are warranted for a period of Twelve (12) months from the earlier of completion of installation or date of Customer’s first use. If a battery supplied by Vendor does not meet warranty during the warranty period, it will be replaced at no cost to Customer.

**Warranty Terms for Product Software and Software Updates:** The software provided with the Equipment will be the latest version of the standard software available as of the 90th day prior to the date the Equipment is delivered to Customer. Updates to standard software for the Equipment which do not require additional hardware or Equipment modifications will be performed as a part of normal warranty service during the term of Customer’s warranty. Any software upgrades requiring supplemental, additional, exchange, or replacement hardware will be installed by Vendor at no charge to Customer if Customer purchases such required hardware. All software upgrades designated by Vendor in its product data sheets or other published materials as optional software are available to Customer on terms and conditions to be quoted by Vendor. Any optional software upgrades to the Equipment purchased from Vendor will be warranted for 90 days from date such upgrade is installed by Vendor (or from the date of delivery if such upgrade is not installed by Vendor).

The purchase of the Equipment includes a license only to Customer to use the software provided with the Equipment exclusively for the purpose of operating the Equipment and does not include any right or license to use any software or related documentation required to perform maintenance or service of the Equipment.

**Warranty Terms for Systems Hardware Upgrades.** Any supplemental, additional, exchange or replacement hardware purchased from Vendor for the Equipment will be warranted for a period of 90 days from the date such hardware upgrade is installed by Vendor (or from the date of delivery if such upgrade is not installed by Vendor).

# CONDITIONS

This warranty is subject to the following conditions: the Equipment (a) is to be installed by authorized Vendor representatives (or is to be installed in accordance with all Vendor installation instructions by personnel trained by Vendor). (b) Is to be operated only by personnel duly trained in the proper operation of the Equipment. (c) is to be operated according to all instructions provided with the Equipment, (d) is to be maintained in strict compliance with all recommended and scheduled maintenance instructions provided with the Equipment, (e) the Customer is to notify Vendor immediately in the event the Equipment at any time fails to meet performance specifications.

# WARRANTY SERVICE

Warranty service includes all requested service calls to repair or replace the Equipment as provided by this warranty. Warranty service will be performed during the normal working hours of Vendor, Monday through Friday, except for recognized national legal holidays. In the event it is not possible to accomplish warranty service within normal working hours, or in the event Customer specifically requests that warranty service be performed outside of the normal working hours of Vendor, Customer agrees to pay for such services at the standard Vendor demand service rates in effect.

When warranty service is scheduled or requested, Customer will give to Vendor service personnel full, free, and immediate access to the Equipment and to Customer’s operation, performance, and maintenance records for the Equipment. Customer waives warranty service if it does not provide such access to the Equipment and Customer records. Customer agrees to compensate Vendor at prevailing demand service rates in effect as of the date any such warranty service is to be performed for all time spent by Vendor service personnel waiting for access to the Equipment and records prior to beginning work on the warranty service call.

# EXCLUSIONS

Except as expressly provided otherwise in the Quotation (Exhibit A to this Agreement), this Agreement, Warranty coverage does not include any defect or performance deficiency which is the direct or indirect result, in whole or in part, of (1) accident, (2) abuse, (3) misuse, (4) operation of the Equipment outside of its environmental, electrical, or performance specifications, conditions, capabilities, or standards, (5) power fluctuation or failure, (6) vandalism or any other damage or alteration of the Equipment by persons other than Vendor employees, (7) combining incompatible products, (8) fires, floods, and other similar or dissimilar natural causes, (9) failure or lack of humidity or temperature control, or (10) damage, neglect, alteration, or any impairment of the Equipment resulting from (a) causes or conditions not associated with ordinary storage, handling, installation, maintenance, service, or use, or (b) maintenance or service by any party other than Vendor or a designated representative of Vendor, or (c) any acts, omissions, causes, or events beyond the control of Vendor.

This warranty does not include items which are consumed through normal daily use, including without limitation, any cushions, knee supports, pads, magnetic tape, flexible magnetic diskettes, or any accessory or supply items, and does not include any liability or responsibility for such losses or expenses as removal or reconstruction of walls, partitions, ceilings, floors, or other parts of any facility occasioned by any warranty services performed hereunder or any other losses or expenses incurred in providing any other building alterations, scaffolding, platforms, lifting equipment, rigging, climate controls, power supplies, electrical circuits, safety switches, power outlets, conduits, wiring, structural support, utilities, plumbing, carpentry, or other work required in connection with providing warranty services.

# REMEDIES

If Vendor determines that the Equipment does not meet any warranty, Vendor will replace the Equipment or repair any defects in material or workmanship reported during the warranty period, all without charge for labor or materials (unless otherwise provided), Vendor retains the option of furnishing either new or exchange replacement parts or assemblies when providing warranty services.

# TRANSFER OF THE EQUIPMENT

In the event the Customer transfers or relocates the Equipment, all obligations under this warranty will terminate unless Customer receives the prior written consent of Vendor for the transfer or relocation. Upon any transfer or relocation, the Equipment must be inspected and certified by Vendor as being free from all defects in material, software and workmanship, and as being in compliance with all technical and performance specifications. Customer will compensate Vendor for these services at the prevailing demand service rates in effect as of the date the inspection is performed.

# FORCE MAJEURE

Notwithstanding any other provision, and in addition to all conditions and exclusions set forth, Vendor will not be liable for any delay or default in performing any warranty obligations caused by events beyond its control, including (by way of example and not by way of limitation) any acts of God, acts of third parties, acts of Customer (or any of Customer’s employees, agents, or representatives), acts of civil or military authorities, fires, floods, and other similar or dissimilar natural causes, riots, wars, sabotage, vandalism, embargoes, labor disputes, strikes, lockouts, lack or shortage of transportation, labor, materials, supplies, fuel, power, or water, delays in receiving any permits or licenses, delays caused by any laws, regulations, proclamations, ordinances, or any government action or inaction, delays caused by contractors and subcontractors, and any other cause or condition beyond Vendor’s control. In the event of any such delay or default, the time for performance of the warranty obligations of Vendor will be extended for a commercially reasonable period of time.

# DISCLAIMERS AND LIMITATIONS ON LIABILITY

**THE WARRANTIES SET FORTH ABOVE 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 EQUIPMENT.**

**CUSTOMER’S SOLE REMEDIES FOR BREACH OF SUCH WARRANTIES ARE SET FORTH IN THIS WARRANTY, VENDOR WILL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES BY REASON OF ANY ACT OR OMISSION OR ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, OR WITH THE SALE, DELIVERY, INSTALLATION, MAINTENANCE, OPERATION, PERFORMANCE, OR USE OF THE EQUIPMENT, INCLUDING (BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION) DAMAGES, EXPENSES, OR LOSSES INCURRED BY REASON OF LOSS OF USE, LOST REVENUES, LOST PROFITS, DAMAGE TO ASSOCIATED EQUIPMENT OR TO FACILITIES, COSTS OF CAPITAL, COSTS OF SUBSTITUTE PRODUCTS, FACILITIES, OR SERVICES, COSTS OF REPLACEMENT POWER, COSTS ASSOCIATED WITH DOWN TIME, AND ANY SIMILAR OR DISSIMILAR DAMAGES, EXPENSES, OR LOSSES.**

**APPLICABLE LAW**

The terms of this warranty will be interpreted under the law of the State of Texas, without regard to principles of choice of law.

**Exhibit D**

**Vendor Certification Form**

**RFP #2022913379 Durable Medical Equipment and Services**

|  |  |  |
| --- | --- | --- |
| **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 #2022913379 Durable Medical Equipment and Services**

|  |  |  |  |
| --- | --- | --- | --- |
| **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 #2022913379 Durable Medical Equipment and Services**

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**](#ExC) **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 #2022913379 Durable Medical Equipment and Services** |
| Prime Vendor Name: |  |
| Prime Vendor address: |  |
| Prime Vendor UCM ID: |  |
| Prime Vendor MWVBE Contact Name, Phone and Email: |  |

1. Is the prime vendor a certified Minority, Woman, or Veteran-owned business enterprise (MWVBE)?

If yes, please attach your current certification or letter.

No.

1. **List all participating MWVBE-certified subcontractors and vendors that you commit to use for this contract.** All Respondents, including MWVBE-certified Respondents, are strongly encouraged to subcontract portions of the project to MWVBE-certified subcontractors. Please attach a current certificate or letter for each certified MWVBE subcontractor or vendor. If you are awarded this contract, you **must** use the subcontractors/vendors listed below unless the Supplier Diversity Office approves a change. *(Insert additional rows as needed.)*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| MWVBE  Subcontractor Company Name | Email / Phone | Work Scope Description | Total Contract Value | MWVBE Subcontract Value | MWVBE% of Total Contract |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

1. If no MWVBE participation is listed above, have you contacted MWVBEs regarding participation in this opportunity? Certified MWVBE lists are available on the JPS Vendor portal at <https://jpshealth.gob2g.com/> as well as from other sources. (*You must register on the JPS vendor portal to obtain a user name and password that will allow you to search for certified MWVBE businesses. The JPS vendor portal is a directory of businesses interested in doing business with JPS.*)  
   *Ex: Support services to participate under the contract*

If you contacted MWVBEs regarding subcontracting for this opportunity, list MWVBE company name(s) and contact information below and attach copies of your correspondence:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| MWVBE  Subcontractor Company Name | Email / Phone | Work Scope Description | Total Contract Value | MWVBE Subcontract Value | MWVBE% of Total Contract |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

1. If you are not a MWVBE and do not have a MWVBE 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 explain how you plan to identify MWVBE participation on this contract: *(Insert additional rows as needed)*

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

Did you complete, sign and submit all required forms?

If not, your Proposal will be rejected!