



**NORTH TEXAS TOLLWAY AUTHORITY**

Request for Bid (RFB)  
for

**DPS Drones**

Solicitation Number: 25029-NTT-00-GS-TM

Date Issued Date Revised	June 6, 2025
Pre-Bid Conference	None
Bid Question Deadline Submit Questions via <a href="https://www.nttamarketplace.org">www.nttamarketplace.org</a>	June 18, 2025 at 11:00 a.m. CT
Bid Due Date Submit Bids via <a href="https://www.nttamarketplace.org">www.nttamarketplace.org</a>	June 25, 2025 at 11:00 a.m. CT
Bid Opening Date <i>Microsoft Teams Virtual Meeting Details:</i>	June 25, 2025 at 2:00 p.m. CT Virtual Bid Opening <u><a href="#">Join the meeting now</a></u> Meeting ID: 213 073 499 536 7 Passcode: 8g8dm6T4 <hr/> Dial in by phone +1 469-214-9499,,672855111# Phone conference ID: 672 855 111#
Solicitation Contact Person	Kalie Coley <a href="mailto:Kcoley@ntta.org">Kcoley@ntta.org</a>
Contract Term	One (1) year

**Project Description:**

Drones used by DPS to take high resolution photos and scan a crash scene at a faster rate, reducing closure time of the roadway. This equipment integrates with computers and software DPS uses for crash investigations which are approved by State of TX

**NOTE:**

To be considered for this procurement, each Bidder MUST include with their Bid Sheet, **all REQUIRED documents**. Bidders are encouraged to upload their bids to NTTA's Marketplace (<https://www.nttamarketplace.org>), no later than the date and time identified above as the "Bid Due Date."

When responding, be certain to check the CONFIDENTIAL check box for each uploaded document. You must do so for each document that you would like to designate as confidential. If you fail to check this box, such document(s) will be viewable by the general public.

NIGP Code(s)

035-28	905-05	035-77	055-12
625-84	655-20	840-67	055-67

D/M/WBE Goal      GFE

## TABLE OF CONTENTS

I.	INTRODUCTION .....	4
A.	Background.....	4
B.	NTTA Mission Statement and Values .....	4
II.	GENERAL INFORMATION.....	4
A.	Contract Term.....	4
B.	Property of North Texas Tollway Authority.....	5
C.	Award Limitations .....	5
D.	Language, Words Used Interchangeably .....	5
III.	INSTRUCTIONS TO BIDDERS .....	5
A.	Confidentiality and Non-Disclosure Statement .....	5
B.	Pre-Bid Conference .....	5
C.	Registration, Acknowledgment, and Addendums .....	5
D.	Inquiries .....	6
IV.	SUBMITTAL OF BIDS .....	6
C.	Lowest Responsible Bidder .....	7
D.	Determination of Non-Responsible Bidder .....	8
E.	Determination of Non-Responsive Bidder .....	9
F.	Rejection of Bids .....	9
G.	Withdrawing a Bid.....	9
V.	BID AWARD .....	10
VI.	TERMS AND CONDITIONS.....	10
A.	Acceptance of Evaluation and Selection Procedures.....	10
B.	Procurement Policy, RFB, and Applicable Law .....	10
C.	Confidential Information and Texas Public Information Act.....	11
D.	Award Non-Exclusive .....	11
E.	Third-Party “Remit To” .....	12
F.	Tax Exempt Authority .....	12
G.	Incurring Costs .....	12
H.	Disclosure of Interested Parties .....	12
I.	Hold Harmless Agreement .....	13
J.	Equal Opportunity .....	13
K.	Disclaimer of Liability.....	13
L.	Licenses/Certificates.....	13
M.	Notice of Impropriety .....	13
N.	Force Majeure.....	13
O.	Procurement Protests .....	13
VII.	APPENDICIES.....	14
A.	Scope of Work .....	14
B.	Bid Sheet.....	14
C.	Required Forms .....	14
D.	Business Information Form .....	14
E.	Insurance Requirements.....	14
F.	Business Diversity Program .....	14
G.	Form of Contract .....	14

## **I. INTRODUCTION**

The North Texas Tollway Authority (NTTA) invites experienced and qualified companies to submit bids (each, a “Bid”) to provide the Drones used by DPS to take high resolution photos and scan a crash scene at a faster rate, reducing closure time of the roadway. This equipment integrates with computers and software DPS uses for crash investigations which are approved by State of TX (the “Project”) to NTTA in accordance with the terms of this RFB. A company that seeks to be awarded the contract (“Contract”) for the Project under this RFB will be referred to as a Bidder.

This RFB includes the Scope of Work and other requirements for the Project that NTTA has determined are pertinent to the preparation of a Bid. Regardless of whether deliverables under this procurement comprise goods, services, or both, all deliverables to be provided under the Contract will be referred to in this RFB as “goods and services.”

NTTA intends to award a Contract to the lowest responsible Bidder. The form of the Contract NTTA intends to utilize for this procurement is included with this RFB. However, NTTA reserves the right to modify the attached form of the Contract as NTTA deems necessary or advisable for particular requirements of the Project.

### **A. Background**

NTTA is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code authorized to acquire, construct, maintain, repair, and operate turnpike projects in the North Texas region. NTTA serves its member counties of Collin, Dallas, Denton, and Tarrant and is responsible for the NTTA System of toll roads in the region, including Dallas North Tollway, President George Bush Turnpike, Sam Rayburn Tollway, SH 360, Addison Airport Toll Tunnel, Lewisville Lake Toll Bridge, Chisholm Trail Parkway, and Mountain Creek Lake Bridge. NTTA is governed by a nine-member board of directors (Board) with two members appointed by each of the four NTTA member counties. A ninth member is appointed by the Governor of Texas. For more information, a list of the individuals that currently serve on the NTTA Board of Directors is provided on NTTA’s website at [www.ntta.org](http://www.ntta.org).

### **B. NTTA Mission Statement and Values**

To provide a safe and reliable toll road system, increase value and mobility options for our customers, operate the Authority in a businesslike manner, protect our bondholders, and partner to meet our region's growing need for transportation infrastructure.

## **II. GENERAL INFORMATION**

### **A. Contract Term**

The Contract will become effective upon its final execution by both parties and satisfaction of the requirements of Section 2252.908 of the Texas Government Code

and all other applicable legal requirements. The Term of the Contract is one (1) year Property of North Texas Tollway Authority

Subject to the provisions of this RFB concerning Confidential Information, all written and electronic correspondence, appendices, photographs, reports, printed material, tapes, disks, designs, and other graphic and visual aids submitted to NTTA during this procurement will become the property of NTTA upon delivery to NTTA and will not be returned to the submitting parties.

**B. Award Limitations**

None.

**C. Language, Words Used Interchangeably**

The words “shall,” “must,” and “will” are equivalent in this RFB and indicate a mandatory requirement or condition, the material deviation from which will not be waived by NTTA. A deviation is material if, at the sole discretion of NTTA, the deficient response is not in substantial accord with this RFB’s mandatory condition requirements. The words “should” and “may” are equivalent in the RFB and indicate very desirable conditions or requirements but are permissive in nature. Deviation from, or omission of, such a desirable condition or requirement will not in and of itself cause automatic rejection of a Bid but may result in the Bid being considered as not in the best interest of NTTA.

**III. INSTRUCTIONS TO BIDDERS**

**A. Confidentiality and Non-Disclosure Statement**

Each Bidder agrees that any information accessed or gained by it in the course of the procurement under this RFB or, if applicable, in performance of duties under the Contract will be maintained in confidence and will not be released, discussed, or made known to any party or parties for any reason whatsoever, except as required to perform the duties required or where disclosure is required by law or mandated by a court of law.

Each Bidder must execute a “Confidentiality and Non-Disclosure Statement” and return it to NTTA. The Confidentiality and Non-Disclosure Statement is located under the REQUIRED FORMS section of this RFB (Appendix C).

**B. Pre-Bid Conference**

None.

**C. Registration, Acknowledgment, and Addendums**

A Bidder must complete vendor registration and acknowledge this RFB through NTTA Marketplace ([www.nttamarketplace.org](http://www.nttamarketplace.org)) in order to participate in this solicitation. Acknowledgement ensures that the Bidder receives notifications regarding the solicitation. This includes, but is not limited to, notifications advising

Bidder of addendums, amendments, and clarifications to this RFB (each, an “Addendum”). Bidders should acknowledge each Addendum, if any, to this RFB.

If NTTA issues an Addendum to this RFB (whether a change to the solicitation specifications or any other modification) after a Bid has already been submitted, the Bidder, at its option, may access, modify, and resubmit its Bid to take such Addendum into account. Any submitted sealed Bid may be updated prior to the closing date/time for submission of Bids as set out in this RFB. A Bidder’s failure to update and resubmit a Bid following the issuance of an Addendum will signify the Bidder’s election to leave its Bid unmodified.

#### **D. Inquiries**

It is the Bidder’s responsibility to obtain clarification of any information contained herein. Questions regarding any aspect of this procurement are to be submitted via the solicitation’s Q&A section on NTTA Marketplace no later than the Bid Question Deadline shown on the cover page of this RFB. All clarifications and answers to questions will be addressed in writing and posted online as an addendum to this RFB. Statement(s) regarding the meaning or intent of the contents of this RFB by any person other than the Solicitation Contact Person listed on the cover page of this RFB are unauthorized, invalid, and cannot be relied upon.

The Solicitation Number must be referenced in all correspondence pertaining to this solicitation.

Except for any meeting(s) specifically authorized by the Solicitation Contact Person (or designee) as part of the Bid evaluation during the solicitation process, there must be no contact regarding this RFB between a Bidder’s owners, officers, directors, employees, agents, contractors, subcontractors, or other parties acting on a Bidder’s behalf and any NTTA Board member, employee, agent, or consultant, other than the Solicitation Contact Person.

Notwithstanding this prohibition on contact, Bidder may reach out to NTTA’s Senior Director of Procurement Services and Business Diversity regarding a solicitation or NTTA’s Business Diversity Department regarding questions and/or clarifications about business diversity requirements for a solicitation. A Bidder’s failure to comply with this provision will be grounds for NTTA’s disqualification of a Bidder and rejection of its Bid.

### **IV. SUBMITTAL OF BIDS**

To be considered for this procurement, each Bidder must include with their Bid Sheet all required documents and UPLOAD them on NTTA Marketplace ([www.nttamarketplace.org](http://www.nttamarketplace.org)), no later than the date and time identified on the cover page as the “Bid Due Date”.

#### **A. Important Submittal Requirements**

1. NTTA is not responsible for Bids received but not clearly marked. It will be the responsibility of each Bidder to upload its Bid Sheet to NTTA at the above listed website before or by Bid Due Date. Late Bids will not be accepted.
2. NTTA is not responsible for delays caused by any other means of delivery employed by the Bidder. Similarly, NTTA is not responsible for, and will not open, any Bids received later than the date and time indicated above.
3. NTTA reserves the right, in its sole discretion, to waive any technicality in a response to this RFB, provided such action is in the best interests of NTTA. Where NTTA waives minor technicalities in a Bid, such waiver does not modify the RFB requirements or excuse the Bidders from full compliance with the RFB. Notwithstanding the waiver of any minor technicalities, NTTA holds all Bidders to strict compliance with the RFB.
4. NTTA reserves the right, in its sole discretion, to interrupt, postpone, delay, or cancel this solicitation at any time.

**B. Important Electronic Marketplace Vendor Response Guide**

To be considered a responsive and responsible Bidder, it is important to read and follow instructions listed in the electronic “Marketplace Vendor Response Guide” located on NTTA Marketplace ([www.nttamarketplace.org](http://www.nttamarketplace.org)). The following is an important task to remember:

**NOTE:**

When responding, be certain to check the ***Confidential*** check box for each uploaded document. You must do so for each document that you would like to designate as confidential. If you fail to check this box, such document(s) will be viewable by the general public.

**C. Lowest Responsible Bidder**

Under NTTA’s Procurement Policy and this RFB, the “lowest responsible Bidder” is the Bidder who submits a Bid to provide the requested goods and services at a cost that is lower than all other Bids from responsible Bidders and which meets other requirements of the NTTA.

In determining the lowest responsible bidder, NTTA may consider: (a) the purchase price; (b) the reputation of the Bidder and of the Bidder’s goods or services; (c) the quality of the Bidder’s goods or services; (d) the extent to which the goods or services meet NTTA’s needs; (e) the Bidder’s past relationship with NTTA; (f) the Bidder’s compliance with NTTA’s Business Diversity Policy and with other goals and policies of, or binding on, NTTA, if any, regarding the participation by W/M/DBE; (g) the total long-term cost to NTTA to acquire the Bidder’s goods or services; and (h) any relevant criteria specifically listed in this RFB. Without limiting the foregoing, any

Bidder that NTTA determines is non-responsible or non-responsive will not be deemed the lowest responsible Bidder.

**D. Determination of Non-Responsible Bidder**

NTTA will not consider the Bid of a Bidder NTTA determines to be non-responsible. NTTA may deem a Bidder non-responsible if:

1. NTTA has reason to believe collusion exists among the Bidder and other Bidders.
2. The Bidder, any subcontractor, supplier, or the surety on any bond given, or to be given by the Bidder, is in litigation with NTTA or with Collin, Dallas, Denton, Tarrant, Ellis, or Johnson counties or any cities in those counties (collectively, "Service-Area Entities"), or such litigation is contemplated or imminent, in the sole opinion of NTTA.
3. The Bidder is in default on any existing contract with a Service-Area Entity or defaulted on a previous contract with a Service-Area Entity.
4. The Bidder or a proposed subcontractor thereof has failed to disclose a potential conflict of interest or is discovered to have a conflict of interest, by law or policy, as determined by NTTA.
5. The Bidder, a proposed subcontractor thereof, or an individual officer or owner of the Bidders or company comprising a partner, member, or affiliate of the Bidder or any proposed subcontractor of a Bidder is under criminal indictment or been convicted of a criminal offense.
6. The Bidder or any firm comprising a partner, member, or affiliate of the Bidder or any proposed subcontractor of a Bidder (collectively, with Bidder, the Bidder Team) has received compensation from NTTA to participate in the preparation of this RFB, including, but not limited to, any component of the Scope of Work.
7. Any employee, consultant, or agent of any member of the Bidder's Team participated in the preparation of this RFB, including, but not limited to, any component of the Scope of Work (any such person being referred to as a Screened Person).
  - a. However, if (i) no member of the Bidder's Team received compensation from NTTA to participate in the preparation of this RFB (refer to item 6 above), and (ii) NTTA is promptly informed of a Screened Person's employment with a member of a Bidder's Team, a Bidder will not be deemed non-responsible if the Bidder demonstrates to NTTA's satisfaction that a screening procedure exists to ensure that at all times before NTTA's execution of the Contract (a) the Screened Person has not participated in the preparation of the Bid and (b) no person participating in the preparation of the Bid has discussed with or received from the Screened Person information

about this RFB, including, but not limited to, any component of the Scope of Work.

- b. Bidder must inform NTTA in writing promptly after it receives this RFB, of any Screened Person's employment with a member of the Bidder's Team. If at a later date a Screened Person is employed by a member of the Bidder's Team, written notice of such employment must be given to NTTA promptly upon the Screened Person's employment. Failure to provide such written notice may result in Bidder being deemed Non-Responsible.
8. The Bidder is not eligible to be awarded the Contract under applicable law or NTTA's Procurement Policy, which may be found online at NTTA's website, [ntta.org](http://ntta.org) (currently under "Policies" in the "Who We Are" section).

**E. Determination of Non-Responsive Bidder**

NTTA may disqualify a Bid as non-responsive and it shall not be considered for reasons including but not limited to the following:

1. All elements of the Bid required under this RFB are not included or all requirements for submission described under "Submission of Bids" are not strictly followed.
2. The Bid was received after the time limit for receiving Bids.
3. The Bid is not signed.
4. Bidder does not register with NTTA Marketplace or fails to acknowledge this solicitation or any Addendums.

**F. Rejection of Bids**

Procurement Services will automatically reject any Bid that is submitted after the Bid Due Date listed on the cover page of this RFB, and return it unopened. Until a Contract is executed, NTTA reserves the right to reject any or all Bids, to waive technicalities, to re-advertise, to decline to proceed or to otherwise proceed with this procurement by other method(s) allowed by law and in the best interest of NTTA.

**G. Withdrawing a Bid**

Bidder, by submitting a Bid, warrants and guarantees that the Bid has been carefully reviewed and checked and that it is in all respects true, accurate, and free of mistakes. However, a Bidder has a right to withdraw a Bid prior to the Bid Due Date.

To withdraw its Bid, Bidder must submit a request to withdraw its Bid in writing via email to the Director of Procurement Services, Biko Taylor, at [btaylor@ntta.org](mailto:btaylor@ntta.org). The written request to withdraw a Bid must state the reason for the withdrawal request. A Bid for which withdrawal is properly requested prior to Bid Due Date will be returned to the Bidder unopened.

A Bidder may not withdraw its Bid after the Bid Due Date without NTTA's express written consent. Bidders acknowledge that for a Bid withdrawn after the Bid Due Date, (1) NTTA may pursue any security, such as a bid bond, given by the Bidder for such withdrawn Bid and (2) the withdrawn Bid will not be eligible to be reinstated for this RFB.

## **V. BID AWARD**

The Bidder that NTTA Procurement Services identifies as the lowest responsible Bidder will be the "apparent low bidder," and NTTA will submit the Contract to the apparent low bidder. When the apparent low bidder unconditionally agrees to execute, deliver, and perform the Contract and submits or has unconditionally agreed to submit (a) all required bonds, insurance, and other items required under this RFB and (b) the Contract, the Contract will then be approved and signed by appropriate parties.

The successful Bidder will assume total responsibility for all obligations under the Contract. Further, NTTA will consider the successful Bidder to be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. No subcontractor will be paid directly by NTTA. The Bidder will be solely responsible for the success of any portion of and the entire Project under this RFB.

Unless expressly stated otherwise, all Bids shall be considered valid and in effect until the Bid evaluation, award, and Contract execution process is completed (estimated 60 – 180 days).

## **VI. TERMS AND CONDITIONS**

### **A. Acceptance of Evaluation and Selection Procedures**

Each Bidder represents that it (1) has carefully examined this RFB, including all attachments hereto, and (2) does not object to the procedures and processes as described in this RFB, for evaluating and selecting the lowest responsible Bidder for this Procurement or for the award and execution of the Contract. No exceptions to the terms and conditions of the Contract will be accepted by NTTA. Any exceptions submitted by Bidder with its Bid will be disregarded, and NTTA will consider Bidder's Bid as submitted for use with the form Contract attached hereto without any changes.

### **B. Procurement Policy, RFB, and Applicable Law**

This RFB and the procurement requirements and procedures described in this RFB are subject to applicable law and NTTA's Policy Regarding the Procurement of Goods and Services and Disposition of Personal Property (Procurement Policy), which NTTA adopted under Section 366.033(j) of the Texas Transportation Code. A copy of the Procurement Policy is available on NTTA's website, [ntta.org](http://ntta.org) (currently under "Policies" in the "Who We Are" section).

Each Bidder agrees to be bound by the terms, conditions, agreements, and requirements of applicable law, the Procurement Policy and this RFB, including, but not limited to, NTTA's procurement protest procedures. A Bidder's submission of a Bid under this RFB will further signify such agreement.

**C. Confidential Information and Texas Public Information Act**

Information included in a Bid is subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code (TPIA). Information is not exempt as confidential under TPIA simply because the party submitting the information anticipates or requests that it be kept confidential. Accordingly, a Bidder whose Bid includes information that the Bidder believes in good faith to be confidential or proprietary information or to contain trade secrets of Bidder (Confidential Information) must mark such information accordingly. This marking must be explicit as to the designated information. The Bidder will hold NTTA harmless from any claims arising from the release of Confidential Information not clearly designated as such by the Respondent. Designation does not guarantee the non-release of Confidential Information under the TPIA or as otherwise required by law, but does provide NTTA with a means to review the issues thoroughly and, if justified, request an opinion by the Attorney General's office before releasing Confidential Information requested under the TPIA. If NTTA receives a request for Confidential Information, NTTA shall notify Bidder in writing in accordance with the requirements of the TPIA and will, if reasonably and timely requested by Bidder, ask for a decision from the Open Records Division of the Office of the Attorney General of the State of Texas regarding whether the information may be excepted from disclosure under the TPIA. In such event, Bidder authorizes NTTA to submit any information contained in the Bid, including information the Bidder has labeled as being Confidential Information, to the Office of the Attorney General. Bidder bears the burden of making the appropriate showing(s) to the satisfaction of the Attorney General's Office.

NTTA, its directors, officers, employees, agents, and attorneys are not liable for any disclosure of any information submitted in a response to this RFB. By submitting a Bid, the Bidder waives any claim against, and releases from liability, NTTA, its directors, officers, employees, agents, and attorneys with respect to disclosure of any information included in the Bid, including information labeled as Confidential Information.

**D. Award Non-Exclusive**

NTTA reserves the right to award a contract to more than one Bidder based on NTTA's consideration of its operational needs. There will be no minimum amount of services awarded any successful Bidder under this RFB. A successful Bidder will assume total responsibility for all deliverables awarded to it whether a subcontractor or other third party produces them in whole or in part. NTTA considers a successful Bidder to be the sole point of contact with regard to contractual matters including payment of all charges resulting from the Contract. A successful Bidder will be fully responsible for any default by a subcontract just as if the successful Bidder itself had defaulted. No subcontractor will be paid directly by NTTA. A successful Bidder will

be solely responsible for the performance of the portion of the entire Project awarded to it under this RFB.

**E. Third-Party “Remit To”**

If a Bidder has a third-party “remit-to” company for payment that information must appear on the Bidder’s Bid to this RFB. NTTA will not be liable for payments to Bidder sent to the third party designated on the Bidder’s Bid.

**F. Tax Exempt Authority**

NTTA is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Code.

**G. Incurring Costs**

All costs incurred by a Bidder in preparing the Bid or otherwise in responding to this RFB will be wholly the responsibility of the Bidder. NTTA will not reimburse any Bidders for costs incurred as it relates to participating in the procurement process for this solicitation.

**H. Disclosure of Interested Parties**

Section 2252.908 of the Texas Government Code states that state agencies and other governmental entities, such as NTTA, may not enter into certain contracts with a business entity (defined as a “Contractor” in that section) unless the Contractor submits a “disclosure of interested parties” (Form 1295) to NTTA at the time the Contractor submits the signed contract to NTTA for execution by NTTA.

If the Contract under this procurement is of a type that requires the Contractor to submit Form 1295, it will be the Contractor’s responsibility to submit the form as required by law. The Contractor may obtain information about the Contract from the Solicitation Contact Person identified on the cover page of this RFB. The Contractor must use the online application at the Texas Ethics Commission website to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the Contractor must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be delivered to NTTA’s Legal Department, Attention: Apryl Flowers, at 5900 West Plano Parkway, Suite 100, Plano, TX 75093, when the contract signed by the Contractor is delivered to NTTA for execution. NTTA will not execute the contract, and no contract will be formed if NTTA has not received the completed Form 1295 with the certification of filing.

NTTA must notify the Texas Ethics Commission of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from NTTA.

Please refer to the information at the Texas Ethics Commission’s website for instructions on registering and completing Form 1295.

**I. Hold Harmless Agreement**

Each Bidder agrees to protect, defend, indemnify, and hold harmless NTTA and its directors, officers, agents, and employees from any and all costs, claims, and damages of every kind and nature (including attorneys' fees) made, rendered, or incurred by or on behalf of every person or corporation whatsoever, including the parties hereto and their employees that may arise, occur, or grow out of any acts, actions, work, or other activity done by the Bidder, its employees, subcontractors, or any independent contractor working under the direction of either the Bidder or subcontractor in connection with the preparation and submission of a Bid.

**J. Equal Opportunity**

Each Bidder submitting a Bid agrees not to refuse to hire, discharge, promote, demote, or otherwise discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, sex, sexual orientation, gender identity, veteran status, national origin, ancestry, or physical handicap.

**K. Disclaimer of Liability**

NTTA will NOT hold harmless or indemnify any Bidder for any liability whatsoever.

**L. Licenses/Certificates**

NTTA reserves the right to require documentation that each Bidder is an established business and is abiding by all laws applicable to the Bidder and of the State of Texas.

If Bidder is required by any regulatory agency to maintain professional license or certification to provide any product and/or service solicited under this RFB, NTTA reserves the right to require Bidder to provide documentation of its current license and/or certification before considering its Bid and/or before awarding a Contract.

**M. Notice of Impropriety**

If a Bidder has knowledge of conduct by an NTTA employee in connection with this procurement that the Bidder reasonably believes may be unethical or a violation of law or may create an appearance of impropriety by such person in his or her capacity as an NTTA employee, the Bidder agrees promptly to report such conduct to NTTA's General Counsel, who is NTTA's official Ethics Officer.

**N. Force Majeure**

NTTA will not be liable for defaults or delays due to acts of God or the public enemy, acts or demands of any governmental agency, strikes, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence.

**O. Procurement Protests**

NTTA encourages Bidders promptly to bring questions and concerns relating to this RFB to NTTA's attention pursuant to the process set forth in the "Instructions to Bidders". Any formal protest relating to this RFB or the Contract award hereunder

must be made in writing and submitted to the Senior Director of Procurement Services and Business Diversity no later than five (5) business days after the earlier of the (i) date the protestor was or reasonably should have been aware of the matter giving rise to the protest or (ii) the date the Contract award was made by the NTTA Board of Directors. A “business day” under this RFB is any day NTTA’s administrative offices (as distinguished from its Customer Service Center) are open for the regular conduct of NTTA business.

Each protest must comply and will be treated in accordance with NTTA’s Procurement Policy, which may be found on NTTA’s website, [ntta.org](http://ntta.org) (currently under “Policies” in the “Who We Are” section) and is incorporated into this RFB by reference. References in the Procurement Policy to NTTA’s Director of Procurement are references to NTTA’s Senior Director of Procurement Services and Business Diversity.

Bidders understand and agree that in light of NTTA’s operational needs and customer service obligations, the filing of a protest or any legal action challenging any aspect of this RFB or the Contract award thereunder will not prevent NTTA from proceeding with the RFB process, a Contract award thereunder, or utilization of the services requested through this RFB. To the fullest extent allowed by law, Bidders waive any claim for injunctive relief pertaining to this RFB, the contract award, or the commencement of services hereunder. By submitting a response to this RFB, Bidders unconditionally and irrevocably acknowledge that adequate remedies exist at law, without resort to injunctive or other equitable relief, to fully redress any potential claim arising in connection with this RFB.

## **VII. APPENDICIES**

- A. Scope of Work
- B. Bid Sheet
- C. Required Forms
- D. Business Information Form
- E. Insurance Requirements
- F. Business Diversity Program
- G. Form of Contract

## APPENDIX A

### **SCOPE OF WORK**

Follows this cover page.

## APPENDIX A

### **SCOPE OF WORK**

As part of the contract with DPS, NTTA is required to provide tools and equipment. These unmanned aerial vehicles (drones) take high resolution photos that are transferred into a computer and run through software documenting major crash scenes to be used for courtroom purposes. Drones can scan a scene at a faster rate, reducing the closure time of the roadway and making it safer for the first responders and traveling public. This equipment integrates with the DPS computers and software they use for crash investigation and is approved for use by the DPS State Crash Team.

The TIM Department is seeking bids for the following DJI Drone's and accessories:

- DJI Matrice 4E Worry Free Plus Combo
- DJI Matrice 4T Worry Free Plus Combo
- DJI Matrice 4 series batteries
- DJI Matrice 4 series – Low Noise Propellers
- Semi-Annual Preventative Maintenance Program

## APPENDIX C

### **REQUIRED FORMS**

The following forms are required to be submitted with your bid. Unless otherwise noted, these forms follow this cover page.

- Bid Sheet (*form attached as Appendix B*)
- Respondent's Agreement Regarding COI Confidentiality Disclosures & Conflict of Interest Questionnaire
- Business Diversity Forms

APPENDIX B

**BID SHEET**

Follows this cover page.

NORTH TEXAS TOLLWAY AUTHORITY BID SHEET 25029-NTT-00_GS-TM DPS DRONES					
This quote will remain valid for 180 days from receipt.					
Product Code/Part Number	Product - Name	Description	Quantity	Unit Price	Extended Price
CP.EN.00000574.02 SKU-S-DJI-M4E	DJI Matrice 4E Worry Free Plus Combo	DJI Matrice 4E Aircraft (1) DJI Matrice 4 series battery (1) DJI RC Pluc 2 Enterprise controller (1) DJI 100W USB-C Power Adapter (1) DJI Matrice 4 series charging hub (1) microSD card (1) DJI Matrice 4E gimbal protector (1) DJI Cellular Dongle 2 pry bar (3) DJI Matrice 4 series propellers (1) 100W power Adaptor AC cable (M4E) (1) USB-C to USB-c data cable (1) USA-A to USB-C data cable (1) DJI Matrice 4 Series stoarge case (1) DJI Matrice 4 Series storage case shoulder strap	5.00		\$0.00
CP.EN.00000574.02 SKU-S-DJI-M4T	DJI Matrice 4T Worry Free Plus Combo	DJI Matrice 4T Aircraft (1) DJI Matrice 4 series battery (1) DJI RC Pluc 2 Enterprise controller (1) DJI 100W USB-C Power Adapter (1) DJI Matrice 4 series charging hub (1) microSD card (1) DJI Matrice 4E gimbal protector (1) DJI Cellular Dongle 2 pry bar (3) DJI Matrice 4 series propellers (1) 100W power Adaptor AC cable (M4E) (1) USB-C to USB-c data cable (1) USA-A to USB-C data cable (1) DJI Matrice 4 Series stoarge case (1) DJI Matrice 4 Series storage case shoulder strap	1.00		\$0.00
CP.EN.00000559.01	DJI Matrice 4 series battery	DJI Matrice 4 series battery	24.00		\$0.00
CP.MA.00000556.01	DJI Matrice 4 series propellers	DJI Matrice 4 series low-noise propellers (pair)	18.00		\$0.00
TOTAL					\$0.00
COMPANY NAME (PRINTED)					Total Price \$0.00
AUTHORIZED AGENT (PRINTED)					Tax EXEMPT
SIGNATURE					Shipping
					Grand Total \$0.00
					DATE

## RESPONDENT'S AGREEMENT AND DISCLOSURES

**Persons and firms participating in the procurement specified below (the "Procurement") must sign and submit this agreement ("Agreement") before or with a Proposal (defined below). Failure to execute, submit, and abide by this Agreement is grounds for disqualification and other consequences under law.**

---

**Procurement:** DPS Drones

**Procurement Number:** 25029-NTT-00-GS-TM

---

### **A. Definitions**

In this Agreement and the attached Conflict of Interest Questionnaire (Form CIQ):

- (1) **"Proposal"** means a bid, proposal, or response submitted for the Procurement.
- (2) **"Respondent"** means a person or entity that submits a Proposal.
- (3) **"Respondent Party"** means a Respondent and each of its owners, directors, officers, employees, agents, and representatives.
- (4) An **"NTTA Representative"** means an NTTA director, officer, employee, agent, or other person acting on behalf of NTTA.
- (5) A **"family member"** means your spouse or domestic partner, children, step-children, sons-in-law, daughters-in-law, parents, step-parents, mothers-in-law, fathers-in-law, your divorced spouse if you had a child together who is now living, and parents of your divorced or deceased spouse if you and that spouse had a child together who is now living.
- (6) A **"family relationship"** includes every person included in the definition of "family member," PLUS the following additional persons: your brothers, sisters, grandparents, grandchildren, great-grandparents, great-grandchildren, aunts, uncles, nephews, nieces, brothers-in-law, sisters-in-law, spouse's grandparents, spouse's grandchildren, grandchildren's spouses, and grandparents' spouses.
- (7) **"Confidential Information"** means all information that is not publicly disclosed by NTTA, relating to NTTA or its operations, finances, patrons, personnel, or consultants that is furnished to or obtained, directly or indirectly, by a Respondent Party and other information that a Respondent Party should reasonably know NTTA considers confidential. Confidential Information includes, but is not limited to, information regarding: NTTA's security operations, equipment, plans, policies, procedures, or devices; NTTA's ideas, processes, know-how, and techniques; NTTA's business methods, financial data and information, accounting, and financial-control procedures; NTTA's products, services, policies, violation-enforcement system, patrons, TollTag customers, personnel; and any other aspect of NTTA's operations.
- (8) A **"debarment"** means an oral or written finding or decision barring, suspending, or otherwise limiting a person's or entity's right to engage in any business activity with a governmental entity.

### **B. Representations, Warrants, and Covenants**

(1) **No Collusion** Respondent warrants and covenants that: (1) the Proposal is not made on behalf of any undisclosed person or entity; (2) no Respondent Party has directly or indirectly solicited anyone to submit a false or sham Proposal; (3) Respondent has not directly or indirectly sought or agreed to fix any profit, price, or cost element in any Proposal; (4) all statements contained in the Proposal are true, complete, and correct; (5) no Respondent Party has directly or indirectly provided its prices or costs to anyone else in order to effectuate a collusive or sham Proposal; and (6) Respondent will not directly or indirectly divulge the terms of its Proposal to any other proposer or seek to obtain such information from another proposer until after award of the contract or NTTA's rejection of all Proposals and cancellation of the procurement.

(2) **Confidential Information** Respondent will maintain NTTA's Confidential Information in strict confidence, and, except as approved in writing by NTTA's General Counsel or as otherwise required by applicable law, no Respondent Party will disclose NTTA's Confidential Information to any other person or entity. Respondent will be responsible for all loss, cost, damage, or expense resulting directly or indirectly from the release or unauthorized use of Confidential Information by any Respondent Party, any contractor or subcontractor of Respondent, or any third party that gains access to Confidential Information through a Respondent Party.

#### **(3) No Conflicts of Interest**

(a) Respondent warrants and covenants that no Respondent Party has offered or given to, or solicited or received from, an NTTA Representative any gift, benefit, or other thing of value that (1) is consideration for a decision, recommendation, or other exercise of discretion regarding the Procurement, or (2) is intended to or might influence an NTTA Representative regarding the Procurement. Furthermore, from the date the Procurement is advertised by NTTA until either (1) a contract is executed or (2) NTTA formally terminates the Procurement, whichever occurs first, a Respondent Party will not offer or give to, nor solicit or accept from, any NTTA Representative any gift, benefit, or other thing of value whatsoever. This provision does not apply to compensation under a contract already in place.

(b) Respondent represents and covenants that no Respondent Party has or will have any direct or indirect financial, personal, or other interest or relationship that will conflict in any manner with Respondent's performance under the contract for this Procurement.

(c) If the undersigned or any owner, officer, director, or similar executive-level personnel in Respondent's organization is now aware of any of the following facts, place an "X" in the "Yes" box **and describe those facts in an attachment to this Agreement**; otherwise, place an "X" in the "No" box. If such a person later becomes aware of any such facts, Respondent covenants to promptly disclose them to NTTA's Ethics Officer:

Yes	No	Within the last twenty-four (24) months, an NTTA Representative or NTTA Representative's family member has had a financial interest (including real property) in, had a business relationship with, or been an employer or employee of, a Respondent Party.

Yes	No	An NTTA Representative is a Respondent Party or a Respondent Party's family member.

(d) Respondent has completed and executed the attached Conflict of Interest Questionnaire (Form CIQ) in accordance with the instructions accompanying Form CIQ and laws referenced therein (stating "none" in line 3 if Respondent has no knowledge of reportable information), and will complete and submit an updated Form CIQ when required by those instructions and applicable law. (NOTE: for purposes of Form CIQ, Respondent is a "vendor" and an NTTA Representative is a "local government officer.")

#### (4) **Continuing Effect**

Respondent agrees that this Agreement is important and material to the Procurement and will continue in effect after a contract is awarded. A Respondent Party's breach of this Agreement, material misrepresentation, or omission in connection with any part of this Agreement is cause to reject Respondent's Proposal, will make Respondent liable to NTTA for all damages that arise therefrom, and may trigger other consequences under law.

### C. **Disclosures**

Please answer "Yes" for any event that occurred, in whole or in part, during the past five (5) years. Please attach additional pages explaining the nature and circumstances of each disclosed matter. Failure to respond to each question and/or to provide adequate explanations may lead to the rejection of the Proposal.

		YES	NO
1.	Has a federal, state, or local governmental entity proposed or issued a debarment against a Respondent Party?		
2.	Is there a past, pending, or threatened civil, criminal, administrative, or regulatory proceeding involving allegations that a Respondent Party: (a) made one or more material misrepresentations or omissions in a business transaction or (b) engaged in an act or omission in a business transaction that resulted in alleged damages that are greater than or equal to 10% of the Respondent's annual revenues?		
3.	Has a customer: (a) terminated a contract with Respondent for cause or default or (b) accepted damages from Respondent in lieu of contractual termination for cause or default?		
4.	Has Respondent learned of any reason why NTTA might be prohibited from doing business with a Respondent Party?		
5.	Has a Respondent Party had any professional license or certificate suspended or revoked?		
6.	Has a Respondent Party been convicted of a felony criminal offense?		
7.	Has Respondent sought bankruptcy protection in a United States Bankruptcy Court?		

The undersigned represents and warrants, under penalty of perjury, that: (1) (s)he is the \_\_\_\_\_ of \_\_\_\_\_ (2) (s)he is authorized to make the representations, warranties, and covenants in this Agreement on Respondent's behalf; and (3) the representations, warranties, and covenants set forth in this Agreement and any attachments are true and correct.

Signature: \_\_\_\_\_

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

[attach FORM CIQ & instructions]

# 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.**

A. 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

B. 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

## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/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;

(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.

APPENDIX D

**BUSINESS INFORMATION FORM**

Follows this cover page.



## Business Information Form

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

Firm Physical Address: \_\_\_\_\_

City/State/Postal Code: \_\_\_\_\_

Firm Mailing Address: \_\_\_\_\_

City/State/Postal Code: \_\_\_\_\_

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

Contact Email Address: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Firm Remit-To Address: ☐ (check if same as Mailing Address)

Address: \_\_\_\_\_

City/State/Postal Code: \_\_\_\_\_

Contact Name & Phone Number: \_\_\_\_\_

Email address to use to dispatch purchase orders: \_\_\_\_\_

Type of Business (check one): ☐ Individual/sole proprietor or single-member LLC ☐ C Corporation

☐ S Corporation ☐ Partnership ☐ Limited Liability Company ☐ Trust/Estate

☐ Other (please specify) \_\_\_\_\_

State where business was formed: \_\_\_\_\_

The undersigned affirms that he or she is authorized to submit the firm's response to this solicitation and execute a contract between the firm and the North Texas Tollway Authority. The undersigned further affirms that all of the statements and representations made in the response were made based on reasonable inquiry and are complete and accurate to the best of the knowledge of the undersigned. The NTTA reserves the right to reject any response found to contain false, misleading or inaccurate information. By signing and submitting this response the firm certifies that it understands the terms and conditions of this solicitation and that it agrees with such terms and conditions except those to which it specifically objects in writing.

Authorized Agent: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_

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

APPENDIX E

**INSURANCE REQUIREMENTS**

See Exhibit C of Form of Contract

## APPENDIX F

### **BUSINESS DIVERSITY PROGRAM**

#### **NORTH TEXAS TOLLWAY AUTHORITY “DISADVANTAGED, MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM”**

#### **Professional Services, Consulting and Goods/Services Contracts, and Special Provision for Construction and Maintenance related projects**

##### **1. General**

The North Texas Tollway Authority (NTTA) is committed to providing contracting opportunities for disadvantaged, minority- and women-owned business enterprises (D/M/WBE). In this regard, NTTA maintains DBE and M/WBE programs in order to facilitate contracting opportunities for these businesses.

The programs are implemented in accordance with the NTTA’s Disadvantage, Minority, Women-Owned, and Small Business Enterprises Policy (Diversity Policy) originally adopted by NTTA Board of Directors under Resolution No. 10-19 on January 20, 2010 and any revisions thereafter.

The following document outlines:

- Criteria regarding commercially useful function
- Factors to determine good faith efforts
- Contractor responsibilities
- Monthly reporting and compliance requirements
- Noncompliance enforcement

The Business Diversity Department Contracting and Compliance Manual (CCM) outlines the procedures, provisions and compliance requirements to support and comply with NTTA’s Diversity Policy. The CCM is approved and incorporated into the contract by reference for all purposes by NTTA.

The CCM and the Diversity Policy may be obtained online at NTTA website at [BusinessDiversityDepartmentContractingComplianceManual.pdf \(ntta.org\)](https://www.ntta.org/BusinessDiversityDepartmentContractingComplianceManual.pdf) or by contacting the Business Diversity Department at (214) 461-2007.

##### **2. Commercially useful function criteria**

A commercially useful function (CUF) is when the D/M/WBE is responsible for the performance, management and supervision of a distinct element of work in accordance with normal industry practice. The criteria utilized to determine a commercially useful function is set forth in the CCM (page 18).

### 3. Factors to determine good faith efforts

All prime contractors are required to demonstrate a good faith effort toward achieving a D/M/WBE goal. A good faith effort can be demonstrated by actions that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to, either individually or collectively, achieve the goal.

If a prime contractor does not meet the designated goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to NTTA that it has made a good faith effort to meet the goal. The factors that determine if a good faith effort has been met are set forth in the CCM (page 23).

### 4. Contractor's responsibilities

All responding firms, including D/M/WBE certified firms, must submit documentation regarding all subcontractor utilization and how they will meet or exceed the established goal using certified D/M/WBE firms for this project on the [Subcontractor Planning Form](#).

This form can be found on-line at <https://www.ntta.org/procurement/busdiv/complianceandresources/Pages/default.aspx>

Subcontractor Planning Form, good faith effort documentation, and supporting information must be submitted to the Business Diversity Department for all contracting opportunities in accordance to the CCM. The Subcontractor Planning form must be submitted to NTTA with the Bid.

#### **Information for construction and maintenance related projects:**

For all construction and maintenance related projects, Subcontractor Planning Form must be submitted to NTTA no later than 5:00 pm on the 14th calendar day after written notification of the conditional award of the contract.

Additional questions and/or clarification can be obtained by contacting the Director of Business Diversity at [businessdiversity@ntta.org](mailto:businessdiversity@ntta.org). Please copy the Procurement Services Department at [bidpurchasing@ntta.org](mailto:bidpurchasing@ntta.org) on all correspondence. Subcontractor Planning Form must include a brief description of the type of work to be performed and the dollar value or percentage of utilization of work that will be assigned to the subcontractors, including D/M/WBEs, and must be signed by both the prime contractor and subcontractors.

All compliance forms may be obtained online at NTTA website at: <https://www.ntta.org/procurement/busdiv/complianceandresources/Pages/default.aspx>

### 5. Monthly reporting and compliance requirements

NTTA's diversity compliance software is NTTA's web-based computer system that tracks the monthly subconsultant payment reporting for NTTA contracts. NTTA's diversity compliance system has been fully implemented and replaces any previous subcontractor's payment reporting with a more efficient online reporting process.

Prime contractors are required to submit their information into the business diversity contract compliance tracking system by the 15th of each month. Prime contractors will have a designated User ID & password to login to the diversity compliance tracking system via the following link <http://ntta.diversitycompliance.com/>

**6. Non-compliance enforcement**

All participants of the D/M/WBE business process must comply with the requirements set forth in the Diversity Policy and are subject to noncompliance enforcement as set forth in the Non-Compliance Enforcement section of the CCM.

NORTH TEXAS TOLLWAY AUTHORITY  
“D/M/WBE GOAL”

**Contract No:** 25029-NTT-00-GS-TM  
**Project:** DPS Drones

The following goal is established for DBE, MBE, and WBE subcontractor participation:

<b>Total D/M/WBE Goal</b>	<b>GFE of total contract amount</b>
---------------------------	-------------------------------------

DBE = Disadvantaged Business Enterprise  
MBE = Minority Business Enterprise  
WBE = Women-Owned Business Enterprise

The purpose of the Business Diversity Department (BDD) is to strengthen the North Texas Tollway Authority (NTTA) through the inclusion of Disadvantaged, Minority-, and Women-Owned Enterprises (D/M/WBEs) in the procurement of goods and services. The four major focus areas of the BDD include:

- Expanding outreach efforts and marketing initiatives
- Aligning policies and procedures with the current business environment and industry best practices
- Streamlining compliance and reporting processes
- Building capacity of qualified D/M/WBEs

Please see Section Four the of Business Diversity Program for the link to the Business Diversity Forms.

APPENDIX G

**FORM OF CONTRACT**

Follows this cover page.

This FORM OF CONTRACT is for reference only. **Do not sign and return this form to NTTA.**

**AGREEMENT FOR  
DPS DRONES**

**BETWEEN**

**NORTH TEXAS TOLLWAY AUTHORITY  
AND**

**[INSERT CONTRACTOR NAME]**

**Contract No. 25029-NTT-00-GS-TM**

## TABLE OF CONTENTS

1.	SCOPE OF WORK .....	2
2.	COMPENSATION .....	2
3.	INSURANCE; BOND REQUIREMENTS .....	4
4.	TERM; TERMINATION .....	4
5.	INSPECTION OF BOOKS AND RECORDS .....	5
6.	NOTICES .....	6
7.	COMPLIANCE WITH LAWS .....	7
8.	REPRESENTATIONS, WARRANTIES, AND COVENANTS .....	7
9.	NON-DISCRIMINATION; DIVERSITY POLICY.....	8
10.	OWNERSHIP OF INFORMATION.....	9
11.	CONFLICTS OF INTEREST .....	10
12.	REQUEST FOR DELIVERABLES .....	11
13.	NTTA INDEMNIFIED .....	11
14.	LIQUIDATED DAMAGES .....	12
15.	LITIGATION EXPENSES .....	12
16.	CONFIDENTIALITY .....	13
17.	MISCELLANEOUS .....	13
18.	SOC 2 TYPE II AUDIT REQUIREMENT .....	19

### EXHIBITS

Exhibit A – Scope of Work

Exhibit B – Compensation

Exhibit C – Insurance

Exhibit D – Subcontractor Plan Form

Exhibit E – Information Security Addendum

Exhibit F – Form of Bond

## **AGREEMENT FOR DPS DRONES**

**Contract No. 87582-NTT-00-GS-TM**

THIS AGREEMENT (together with all attachments hereto, the "Agreement") by and between the NORTH TEXAS TOLLWAY AUTHORITY, ("NTTA"), a regional tollway authority and political subdivision of the State of Texas and [insert Contractor's legal name here], a [insert state of formation and type of legal entity] ("Contractor"), is entered into as of the Effective Date, as defined on the signature page of this Agreement. NTTA and Contractor may be referred to herein each, individually, as a "Party" and together, collectively, as the "Parties."

### **RECITALS**

**WHEREAS**, NTTA is a regional tollway authority and a political subdivision of the State of Texas authorized and existing pursuant to the Texas Regional Tollway Authority Act (the "Act"), codified in part as Chapter 366 of the Texas Transportation Code; and

**WHEREAS**, NTTA exercises the powers conferred by the Act in the acquisition, design, financing, construction, operation, and maintenance of turnpike projects and systems; and

**WHEREAS**, NTTA is authorized by the Act to enter into agreements necessary or incidental to its duties and powers, including agreements for the procurement of goods and/or services; and

**WHEREAS**, NTTA desires to retain Contractor to provide the goods and/or services (collectively, the "Deliverables") described herein.

**NOW, THEREFORE**, in consideration of payments hereinafter stipulated and the mutual promises herein, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

#### **1. SCOPE OF WORK**

The Deliverables are described in Exhibit A ("Scope of Work"). Contractor represents that it is fully equipped, competent, and capable of providing the Deliverables as required under this Agreement. Contractor will diligently provide all of the Deliverables in compliance with the schedule, if any, established in Exhibit A or as otherwise agreed to by the Parties in writing. Without limiting the generality of the foregoing, Contractor will provide all personnel, materials, facilities, and any other required resources, unless specifically exempted herein, to fully provide the Deliverables within the time specified, for the compensation stated, and otherwise in accordance with the terms and conditions of this Agreement. All Deliverables will be of high quality, will be complete in all respects, will comply fully with the terms of this Agreement, and will include all typical and reasonable services required in connection with providing such Deliverables, whether or not expressly described in Exhibit A. In providing any Deliverables, Contractor shall operate in coordination with NTTA's staff. All work performed in supplying the Deliverables will be subject to the approval of NTTA and will be performed consistent with the highest prevailing professional or industry standards applicable to the Deliverables that are allowed by law.

#### **2. COMPENSATION**

(a) Contractor agrees to accept the consideration described in Exhibit B as full and sufficient compensation for the satisfactory performance of its obligations under this Agreement. Payments by NTTA will be inclusive of all federal, state, and local taxes and will constitute full

payment for the Deliverables and all resources required to deliver the Deliverables, including materials, training, equipment, travel, overhead, fees, and expenses. If NTTA materially changes features, scope, or amounts of the Deliverables from those shown and described in the Scope of Work, then the fees to be paid to Contractor will be subject to adjustment upward or downward as specified by mutual written agreement signed by NTTA and Contractor prior to such change.

(b) No payment by NTTA will relieve Contractor of its obligation to deliver the Deliverables in accordance with the terms of this Agreement, including without limitation all schedules for delivery contained herein. If after paying for the Deliverables, NTTA determines that any Deliverables do not satisfy the requirements of this Agreement, NTTA may reject them and Contractor will return the compensation received for such Deliverables within 30 days of such rejection. In addition to all other available rights and remedies, NTTA may set off amounts owed by Contractor to NTTA against amounts owed by NTTA to Contractor.

(c) Contractor will provide fully-documented and accurate itemized invoices within 30 days of the end of the month for which work under this Agreement is being billed, with appropriate and applicable attachments. Each statement for goods and/or services must, at a minimum, include a description and quantity of any goods delivered, a description of any services performed, the day(s) that Contractor delivered such goods and/or performed such services, the time each person spent that day in performing the services, and the total amount billed for the goods and/or services, as applicable, included in the invoice. Upon request, Contractor will also submit certified time and expense records and copies of documentation acceptable to NTTA that support invoiced salary and expense figures. NTTA will review and timely approve (or raise disputes or inquiries concerning) each submitted invoice and compensate Contractor for all compliant and undisputed amounts within 30 days of its receipt of the invoice. NTTA will have the right to withhold payments for, and/or set off payments against, ineligible expenditures, use or sales taxes assessed for which NTTA is exempt, undocumented units of service billed, and any profit made by Contractor not provided for in this Agreement.

(i) With respect to Deliverables that are to be compensated based on time spent by an individual in rendering services comprising or associated with the Deliverables, time spent by a principal of Contractor performing services or functions capable of being carried out by other, subordinate personnel with a lower standard hourly rate will be billed at a rate equivalent to that of the applicable qualified, subordinate personnel.

(ii) Time spent by a principal of Contractor in an administrative or supervisory capacity will not be compensable.

(iii) Compensation, if any, set forth in Exhibit B will not be adjusted during the Term of this Agreement except as provided in this Subsection. Contractor may propose adjustments to hourly rates or other compensation or the addition of any new positions or classes of personnel annually by requesting such changes in writing at least 30 days in advance of the anniversary of the Effective Date. NTTA will approve, reject, or modify such request in writing within a reasonable time. Unless approved in writing by NTTA, no adjustment in hourly rates, other compensation, and/or any additional positions/classes of personnel will be made and/or charged to NTTA.

(iv) Travel expenses are reimbursable only to the extent expressly approved by NTTA in writing; approved travel and requests for travel reimbursements must comply

and be submitted in conformance with NTTA's Travel Authorization and Expense Reimbursement Procedure.

(d) Notwithstanding anything to the contrary contained or implied in this Agreement, all compensation billed to and payable by NTTA will be subject to the rate discounts and other benefits consistent with the most substantial discounts and benefits Contractor provides to comparable clients for services similar to those provided under this Agreement. Contractor will make available to NTTA for review, copying, and auditing throughout the Term and for three years after the expiration thereof all such books and records as may be necessary for NTTA or its representatives to determine compliance with this provision.

(e) Contractor acknowledges and agrees that it is providing the Deliverables on a nonexclusive basis and that NTTA, at its option, may elect to have any of the Deliverables performed by other contractors or by NTTA's staff.

### **3. INSURANCE; BOND REQUIREMENTS**

(a) Before beginning its performance under this Agreement, Contractor will, at Contractor's own expense, comply with the terms of Exhibit C, including obtaining insurance coverage on the terms and in the amounts specified therein.

(b) If during the Term there is an adverse change in Contractor's financial condition or if NTTA reasonably determines that additional insurance coverage or coverage amounts are prudent in light of the risks associated with Contractor or its delivery of the Deliverables, Contractor will procure such additional insurance coverage as NTTA reasonably requires and is commercially available.

(c) Before beginning its performance under this Agreement, Contractor will, at Contractor's own expense, obtain any bond(s) required by NTTA or by statute in the form(s) attached as Exhibit F, unless otherwise approved by NTTA.

### **4. TERM; TERMINATION**

(a) The term of this Agreement ("Term") will start on the Effective Date and, subject to earlier termination in accordance with this Agreement, will remain in effect for one (1) year. Termination of this Agreement shall not relieve a Party from any obligations that expressly survive termination.

(b) Contractor will begin work under this Agreement at the commencement of the Term. Any work undertaken or expenses incurred by Contractor before the commencement of the Term shall be at the sole risk and expense of Contractor. Contractor shall promptly begin work to provide the Deliverables in accordance with this Agreement and shall continue with all diligence required to comply with this Agreement, including, without limitation, any schedule or schedules pertaining to all or any portion of the Deliverables.

(c) Notwithstanding any dispute that may arise between Contractor and NTTA related to this Agreement or otherwise, Contractor will at all times perform its obligations under this Agreement diligently and without delay in accordance with the requirements of this Agreement.

(d) In addition to any other remedy set forth in this Agreement or otherwise available at law or in equity, NTTA may terminate this Agreement by written notice to Contractor at any

time, without prejudice to any other legal rights to which NTTA may be entitled, upon the occurrence of any one or more of the following (each, a "Default"):

(i) NTTA determines, in its sole judgment, that Contractor's performance under this Agreement is unsatisfactory; or

(ii) Contractor defaults in the performance of any of the provisions of this Agreement; or

(iii) any representations or warranties made by Contractor to NTTA prove to be untrue or inaccurate in any material respect; or

(iv) Contractor files, or a third party files against Contractor, a petition in bankruptcy;

(v) NTTA determines, in its sole judgment, that termination is in NTTA's best interest.

(e) If a Default occurs under any of (d)(i) – (iv) above, NTTA will have the right to set off or otherwise recover any damages incurred by reason of Contractor's Default, including, without limitation, any costs or expenses incurred by NTTA to engage another party to provide the Deliverables as required by this Agreement. NTTA's right to terminate this Agreement will be in addition to, and not in lieu of, any and all rights, actions, options, and privileges otherwise available to NTTA as a consequence of said Default, whether arising at law or in equity, pursuant to this Agreement, or otherwise. Following a Default by Contractor, NTTA may withhold payment of any sums that Contractor claims are owed by NTTA pending determination of the amount of any setoff or damages available to or damages suffered by NTTA due to Contractor's failure to satisfactorily perform under this Agreement, and Contractor will not alter, cease, or slow down its performance under this Agreement on account of NTTA's withholding payment of any such disputed amount.

(f) If NTTA terminates this Agreement pursuant to a Default under Section 4(d)(v) above, NTTA will compensate Contractor for all Deliverables provided and expenses reimbursable in accordance with this Agreement through the date of that termination; provided, however, that no consideration will be given to profit which Contractor might have anticipated receiving on the uncompleted portion of the Deliverables.

(g) Termination of this Agreement for any reason will not relieve either Party from its obligation to perform up to the date of termination or to perform all obligations that survive termination. Contractor will not be entitled to any compensation for any work or services performed or provided after the termination date. If before the termination of this Agreement, NTTA makes payments attributable to periods after termination, Contractor will refund those payments to NTTA within 30 days of the termination date. Contractor will not be entitled to any compensation for any work performed or provided after the termination date. Nothing in this Subsection will limit the rights otherwise available to a Party arising from the breach of this Agreement.

## **5. INSPECTION OF BOOKS AND RECORDS**

NTTA, its employees or agents, or any duly authorized representative of NTTA will have the right to inspect and examine the books and records (collectively, "Records") of Contractor, in whatever

form said Records may be kept, at Contractor's office for all lawful purposes, including but not limited to the following:

- (a) examination;
- (b) audit;
- (c) investigation;
- (d) contract administration;
- (e) checking the salary costs and other expenses described and/or contemplated in this Agreement; or
- (f) otherwise confirming compliance with the terms of this Agreement.

Records, for the purposes of this Section, include any and all authorization logs, transaction records, books, documents, and papers that are directly pertinent to the provision of the Deliverables. Contractor will maintain such Records, together with supporting or underlying documents and materials, for the duration of this Agreement and according to NTTA's Records Retention Schedule after the completion of this Agreement, including any and all renewals or extensions thereof. The Records, together with the supporting or underlying documents and materials, will be made available upon request to NTTA, through its employees, agents, representatives, contractors, or other designees, during normal business hours. Contractor will provide such access in reasonable comfort and will provide any furnishings, equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this Section.

## **6. NOTICES**

All notices (each, a "Notice") required to be given hereunder must be in writing and must be sent by hand delivery; certified mail, return receipt requested; or reputable overnight air courier, addressed as follows:

**(a) If to NTTA by hand delivery or air courier:**

North Texas Tollway Authority  
Attention: Senior Director of Procurement  
5900 W. Plano Parkway, Suite 100  
Plano, Texas 75093

Copy to: General Counsel  
5900 W. Plano Parkway, Suite 100  
Plano, Texas 75093

**(b) If to Contractor:**

\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If to NTTA by United States mail:**

North Texas Tollway Authority  
Attn: Senior Director of Procurement  
P.O. Box 260729  
Plano, Texas 75026

Copy to: General Counsel  
P.O. Box 260729  
Plano, Texas 75026

or to such other address as a Party may provide to the other in writing delivered as stated above. Notices transmitted in such manner will be deemed delivered upon the earliest of: (a) delivery at the applicable address, as indicated on a signed receipt (or if the recipient refuses to accept the Notice or the Notice cannot be delivered because of a change of address for which no proper Notice was given, at the time of the attempted delivery, as indicated in the records of the service that attempted to deliver the Notice), (b) three business days after the Notice was placed for delivery with the United States mail, or (c) one business day after the Notice was placed for same-day or overnight delivery with a reputable overnight air courier service, as applicable, with all fees paid and addressed as provided above.

**7. COMPLIANCE WITH LAWS**

Contractor warrants and covenants that it, its agents and subcontractors, and the employees of each of them will strictly comply with all laws, rules, regulations, orders, and decrees applicable to its performance of this Agreement, including, without limitation, workers' compensation laws, anti-discrimination laws, environmental laws, minimum and maximum salary and wage statutes and regulations, prompt payment laws, overtime laws, health and safety statutes and codes, licensing laws and regulations, the Regional Tollway Authority Act, antitrust laws, and all amendments and modifications to any of the foregoing, if any. Contractor warrants and covenants that it has in place a policy that prohibits its employees from carrying weapons in its workplace. During the Term, Contractor will maintain this policy and make any amendments necessary to its policy to clarify that for purposes of the Contractor's policy, the "workplace" is defined to include any NTTA facility where Contractor's employees provide services. Contractor warrants and covenants that whenever Contractor's employees, agents, or subcontractors or the employees of Contractor's agents or subcontractors are at an NTTA facility or worksite, all such agents, subcontractors, and employees will comply with the same rules, regulations, and standards of conduct that are applicable to NTTA employees at such NTTA facility or worksite. Contractor warrants and covenants that it has obtained and will maintain all required permits, licenses, registrations, and filings in connection with its performance of this Agreement. Upon NTTA's request, Contractor will timely furnish NTTA's general counsel with satisfactory proof of its compliance with these warranties and covenants.

**8. REPRESENTATIONS, WARRANTIES, AND COVENANTS**

(a) Contractor represents and warrants that it is duly formed and qualified to do business under the laws of the State of Texas and that the individual or individuals executing this Agreement on its behalf are fully authorized to do so without the necessity of any additional action by its board of directors, officers, partners, owners, shareholders, members, or any other party. Contractor further represents and warrants that each signatory is a fully authorized officer,

partner, or representative, as applicable, of Contractor and has full and complete authority to execute this Agreement on behalf of Contractor. NTTA is relying upon the assurances provided in this Section when entering into this Agreement.

(b) Contractor represents, warrants, and covenants to NTTA that (i) it has the full right, power, capacity, and legal authority to enter into and fully perform all obligations required of Contractor under this Agreement, (ii) the execution, delivery, and performance of this Agreement has been duly authorized by Contractor and does not and will not violate or cause a breach of any other agreement or obligation to which it is a party or by which it is bound, and (iii) no approval or other action by any third party is required in connection herewith.

(b) Contractor represents, warrants, and covenants that (i) it does not, and will not during the Term, boycott Israel in violation of Texas Government Code, Chapter 2271, (ii) it is not identified on any list of scrutinized companies or companies known to have interactions with a foreign terrorist organization as described in Texas Government Code, Chapter 2252, Subchapter F, (iii) it does not, and will not during the Term, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association in violation of Texas Government Code, Chapter 2274, (iv) it does not, and will not during the Term, boycott energy companies in violation of Texas Government Code, Chapter 2274, and (v) it is not: (A) owned by, nor is the majority of the its stock or other ownership interests held or controlled by: (1) individuals who are citizens of a "Prohibited Country" as defined below, or (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or directly controlled by the government of a Prohibited Country or (B) headquartered in a Prohibited Country. A "Prohibited Country" is defined as China, Iran, North Korea, Russia or any country that the governor, under Texas Government Code, Section 2274.0103, designates to be a threat to critical infrastructure.

(c) Contractor warrants that the Deliverables will be provided consistent with the highest prevailing professional or industry standards applicable to the Deliverables that are allowed by law. NTTA agrees to report in writing any deficiencies in the Deliverables to Contractor within 60 days of NTTA's acceptance of any portion of the Deliverables, as provided under this Agreement. NTTA will be entitled to the expeditious cure of any deficiencies in a manner least disruptive to the operation of NTTA's business. If Contractor is unable to cure deficiencies in the Deliverables, NTTA will be entitled to recover the fees paid to Contractor and to recover any additional costs incurred by NTTA specific to curing deficiencies in the Deliverables. Nothing contained in this Section, nor any warranty claim asserted by NTTA under this Section, will be deemed to constitute an election of remedies by NTTA for a breach by Contractor under this Agreement; nor will making a claim under this Section limit or otherwise impair NTTA's ability to pursue any and all remedies available under this Agreement or under applicable law for Contractor's breach of this Agreement.

(d) Upon NTTA's request, Contractor will timely furnish NTTA's general counsel with satisfactory proof of its compliance with these warranties, covenants, and representations.

## **9. NON-DISCRIMINATION; DIVERSITY POLICY**

NTTA is an equal opportunity employer. In conducting business with or on behalf of NTTA, Contractor will not discriminate against any person because of race, age, color, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, place of birth, or veteran status. Contractor further acknowledges NTTA's commitment to facilitate and assure the participation of disadvantaged, minority-, and women-owned business enterprises ("D/M/WBEs")

and agrees that it will use its best good faith efforts to assist NTTA in its fulfillment of such commitment. To ensure that disadvantaged, minority- and women-owned have the maximum practicable opportunity to participate in the awarding of NTTA contracts and related subcontracts, NTTA's Board of Directors has adopted a Disadvantaged, Minority, Women-Owned, and Small Business Enterprises (Diversity) Policy, which is incorporated by reference into this Agreement for all purposes. Contractor will submit to NTTA a fully executed Subcontractor Plan Form for all subcontractors, which is attached to this Agreement as Exhibit D and incorporated into and made part of this Agreement for all purposes. In connection with any subletting, subcontracting, assignment, or transfer of its work or obligations hereunder, Contractor will serve in a role typically described as the prime contractor with respect to all Deliverables provided pursuant to this Agreement and will be responsible for ensuring the delivery all of the Deliverables of whatever kind provided pursuant to this Agreement and in compliance with the terms of this Agreement. Contractor will submit a monthly report of all subcontracting activities via [NTTA.diversitycompliance.com](http://NTTA.diversitycompliance.com). Contractor's failure to make a good faith effort or to submit its reports in a timely manner may result in termination of this Agreement.

#### **10. OWNERSHIP OF INFORMATION**

(a) Notwithstanding any provision in this Agreement or in common law or statute to the contrary, all of the Deliverables, estimates, technical specifications, documents, designs, graphical representations, plans, useful techniques, drawings or renderings, sketches, reports, computer records, computer software and source code associated therewith, processes, data, discs, tapes, proposals, diagrams, charts, calculations, correspondence, memoranda, narratives, discoveries, inventions, trademarks, service marks, original works of authorship, and any portion thereof, created, compiled, or to be compiled by or on behalf of Contractor in providing the Deliverables, together with all materials and data furnished to Contractor by NTTA or that are created, directly or indirectly, in connection with Contractor's work in providing the Deliverables ("Work Product"), will at all times be and remain the property of NTTA and will not be subject to any restriction or limitation on their further use by or on behalf of NTTA; and, if at any time demand be made by NTTA for any of the above materials, records, and documents, whether after expiration or termination of this Agreement or otherwise, such will be turned over to NTTA without delay. Contractor, at its sole cost and expense, will have the right to retain a copy of the above materials, records, and documents for its archives. If Contractor or one of its subcontractors desires later to use any of the Work Product generated or obtained by Contractor or any of its subcontractors in connection with the Deliverables, it must secure the prior written approval of NTTA. Contractor agrees that NTTA will own all right, title, and interest worldwide in and to the intellectual property associated with the Work Product including, without limitation, all patent rights, copyrights, trademark and service mark rights, trade secret rights, contract and licensing rights, and claims and causes of action with respect to any of the foregoing, whether now known or hereafter to become known and whether arising under U.S. or foreign intellectual property law. To this end, all Work Product will be considered work made for hire for NTTA. If any of the Work Product may not, by operation of law or agreement, be considered work made by Contractor for hire for NTTA (or if ownership of all rights therein do not otherwise vest exclusively in NTTA immediately), Contractor hereby automatically assigns, upon creation of such Work Product, the ownership thereof to NTTA. Contractor irrevocably relinquishes for the benefit of NTTA and its assigns any rights in the Work Product recognized by applicable law. NTTA will have the right to obtain and hold, in whatever name or capacity it selects, any U.S. (state and federal) and international copyright registrations, U.S. (state and federal) and international trademark and service mark registrations, and U.S. and international patents in the Work Product, along with any other applicable intellectual property protection in the Work Product available in the U.S. or internationally.

(b) If for any reason the agreement of NTTA and Contractor set forth in Section 10(a) regarding the ownership of Work Product and other materials is determined to be unenforceable, either in whole or in part, Contractor assigns and agrees to assign to NTTA all right, title, and interest that Contractor may have or at any time acquire in said Work Product and other materials, without royalty, fee, or other consideration of any sort, and without regard to whether this Agreement has terminated or remains in force, and Contractor shall provide all reasonably requested assistance to effectuate such assignment, including executing any documents necessary or useful for that purpose. Notwithstanding anything contained herein to the contrary, Contractor will have no liability for the use by NTTA of any Work Product or Deliverable generated by Contractor under this Agreement on any project other than for the specific purpose for which the Work Product or Deliverable was prepared. Any other use of such Work Product without the prior written consent of Contractor will be at the sole risk of NTTA. **The foregoing notwithstanding, Contractor agrees to indemnify, defend, and hold NTTA, its officers, directors, agents, and employees harmless against any and all claims, suits, liabilities, judgments, and expenses and losses (including reasonable attorneys' fees and costs), at law or in equity, attributable, in whole or in part, to claims of third parties that use of the Work Product or NTTA's use of the Work Product infringes the intellectual property rights of another.**

(c) Notwithstanding any provision to the contrary contained in this Agreement, Contractor will retain sole ownership to its preexisting proprietary information, including but not limited to Contractor's pre-existing computer programs, software, standard details, figures, templates, and specifications.

(d) If required by NTTA, Contractor will furnish, and the Deliverables will include, as needed, instructions and development and maintenance of documentation, such as standard operating procedures, user guides, and associated peripherals, for the use of the Deliverables, as mutually agreed upon by NTTA and Contractor.

## **11. CONFLICTS OF INTEREST**

(a) Contractor represents and warrants to NTTA as of the Effective Date and throughout the Term that it, its subcontractors, and their respective owners, directors, officers, employees, and agents (collectively, "Affiliated Entities"): (i) have no financial or other beneficial interest in any contractor, product, or service evaluated or recommended by Contractor, except as expressly disclosed in writing to NTTA, (ii) will discharge their responsibilities under this Agreement professionally, impartially, and independently, and after considering all relevant information related thereto, and (iii) is under no contractual or other restriction or obligation, the compliance with which is inconsistent with the execution of this Agreement or the performance of its obligations hereunder.

(b) Contractor represents and warrants to NTTA as of the Effective Date and throughout the Term that the Affiliated Entities have no prohibited business or familial relationship as described and governed by Chapter 573 of the Texas Government Code, other applicable law, NTTA Board of Director's Ethics Policy, NTTA Employee Ethics Policy, or NTTA Procurement Policy with a board member, employee, or agent of NTTA, except as disclosed in an affidavit sworn to by an authorized representative of Contractor in a form acceptable to NTTA.

(c) Contractor and its subcontractors will not knowingly support, advance, or endorse any project, plan, position, or initiative that is hostile to NTTA's announced position or interests. If Contractor or any of its subcontractors believes that another client is seeking services or support

for such a matter, it must contact NTTA immediately. NTTA will determine if (and the extent to which) the matter is hostile to NTTA's position or interests, and what steps, if any, are required, which may include Contractor or the subcontractor declining work offered by another party. A project, plan, position, or initiative is "hostile" to NTTA's position or interests if it (a) substantially and materially conflicts with, (b) is substantively incompatible with, or (c) is overtly antagonistic to such position or interests. NTTA will afford Contractor a reasonable opportunity to present alternatives or modifications to NTTA's required action(s) or to otherwise address NTTA's concerns. However, in no event will NTTA be required to expend more money or work with different employees or representatives of Contractor than it would have if the conflict did not exist. After providing Contractor with such opportunity to present alternatives or modifications, NTTA will choose which, if any, of the alternatives are acceptable to NTTA, in its sole discretion, and NTTA's decision will be final.

(d) If required by Section 2252.908 of the Texas Government Code, Contractor shall submit a disclosure of interested parties in the form required by the Texas Ethics Commission. Such disclosure shall be submitted at the same time that the executed version of this Agreement is submitted to NTTA for approval.

## **12. REQUEST FOR DELIVERABLES**

The Request for Bids ("RFB") or Request for Proposals ("RFP") (as applicable) under which NTTA sought the Deliverables is hereby incorporated into this Agreement by reference for all purposes, as are the recitals at the beginning of this Agreement and all exhibits attached to this Agreement. In the event of any conflict between this Agreement and the documents that are incorporated by reference into this Agreement, the order of precedence specified in Section 17(z) shall govern.

## **13. NTTA INDEMNIFIED**

(a) AS USED IN THIS SECTION, THE FOLLOWING TERMS WILL HAVE THE MEANINGS INDICATED:

(i) "CONTRACTOR PARTY" MEANS A PERSON OR ENTITY WHO IS AN OWNER, MANAGER, DIRECTOR, OFFICER, EMPLOYEE, CONTRACTOR, OR AGENT OF CONTRACTOR.

(ii) "INDEMNIFIED PARTY" MEANS NTTA OR ANY PERSON OR ENTITY WHO IS A DIRECTOR, OFFICER, ADMINISTRATOR, EMPLOYEE, OR AGENT OF NTTA (EXCLUDING CONTRACTOR AND ANY CONTRACTOR PARTY).

(iii) "LITIGATION EXPENSE" MEANS FEES, COURT COSTS, MEDIATION OR ARBITRATION FEES OR COSTS, WITNESS FEES, OR OTHER FEES OR COSTS OF INVESTIGATING, DEFENDING, OR ASSERTING A CLAIM FOR INDEMNIFICATION UNDER THIS SECTION, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES.

(iv) "LOSS" MEANS ANY AND ALL LOSS, LIABILITY, CLAIM, COST, CAUSE OF ACTION, PENALTY, OR DAMAGE (INCLUDING PUNITIVE DAMAGES), WHETHER BASED IN CONTRACT, TORT, OR STRICT LIABILITY, ARISING OUT OF OR RELATING TO ANY OF THE FOLLOWING:

(A) ANY BREACH BY CONTRACTOR OR A CONTRACTOR PARTY OF ANY REPRESENTATION OR WARRANTY UNDER THIS AGREEMENT; OR

(B) ANY BREACH OR OTHER FAILURE BY CONTRACTOR OR A CONTRACTOR PARTY TO PERFORM IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT ANY OBLIGATION, COVENANT, OR OTHER AGREEMENT OF CONTRACTOR UNDER THIS AGREEMENT; OR

(C) ANY ERROR, OMISSION, OR NEGLIGENT ACT BY CONTRACTOR OR A CONTRACTOR PARTY RELATED TO CONTRACTOR'S OR A CONTRACTOR PARTY'S (1) PERFORMANCE OF (OR FAILURE TO PERFORM) ITS OBLIGATIONS UNDER THIS AGREEMENT OR (2) PROVISION OF GOODS OR SERVICES UNDER THIS AGREEMENT, WITHOUT REGARD TO WHETHER SUCH PERSONS WERE OR ARE UNDER THE DIRECTION OF AN INDEMNIFIED PARTY.

(b) CONTRACTOR WILL DEFEND, INDEMNIFY, AND SAVE AND HOLD HARMLESS EACH INDEMNIFIED PARTY FROM AND AGAINST (i) EACH AND EVERY LOSS SUFFERED OR CLAIMED AGAINST ANY INDEMNIFIED PARTY AND (ii) ANY LITIGATION EXPENSE INCURRED BY ANY INDEMNIFIED PARTY.

(c) IF AN INDEMNIFIED PARTY IS FOUND TO BE PARTIALLY AT FAULT FOR A LOSS, CONTRACTOR WILL NEVERTHELESS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, DEFEND, INDEMNIFY, AND SAVE AND HOLD HARMLESS EACH INDEMNIFIED PARTY FROM AND AGAINST THE PERCENTAGE OF THE LOSS AT LEAST EQUAL TO THE PERCENTAGE OF FAULT ATTRIBUTABLE TO CONTRACTOR AND ALL CONTRACTOR PARTIES.

(d) NOTWITHSTANDING SECTION 17(f), INDEMNIFIED PARTIES OTHER THAN NTTA ARE THIRD-PARTY BENEFICIARIES OF THIS AGREEMENT TO THE EXTENT OF CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION. ANY MODIFICATION OF THIS AGREEMENT BY NTTA WILL BE BINDING ON ALL OTHER INDEMNIFIED PARTIES.

(e) THE PROVISIONS OF THIS SECTION WILL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON, INCLUDING PURSUANT TO ANY TERMINATION RIGHT PROVIDED FOR OR ALLOWED HEREUNDER.

#### **14. LIQUIDATED DAMAGES**

**Intentionally deleted.**

#### **15. LITIGATION EXPENSES**

If any legal action or other proceeding is brought under this Agreement, in addition to any other relief to which the successful or prevailing party ("Prevailing Party") is entitled, the Prevailing Party is entitled to recover from the non-Prevailing Party reasonable attorneys' fees and all court costs and Litigation Expenses (as defined in Section 13(a)(iii)), even if not recoverable by law as court costs (including, without limitation, all fees, taxes, costs, and expenses incident to appellate, bankruptcy, and post-judgment proceedings), incurred in that action or proceeding and all appellate proceedings. For purposes of this Section, the term "attorneys' fees" includes, without

limitation, paralegal fees, investigative fees, expert witness fees, administrative costs, disbursements, and all other charges billed to the Prevailing Party by its attorneys.

## 16. CONFIDENTIALITY

(a) "Confidential Information" is (i) all information relating to NTTA or its operations (whether in writing or otherwise) that has been provided or shown to Contractor or any of its representatives by or on behalf of NTTA and (ii) all notes, analyses, compilations, studies, and other materials containing or in any way derived from information described in Subsection (a)(i) above; however, Confidential Information does not include information that becomes generally publicly available other than as a result of disclosure by Contractor or any of its representatives in violation of this Section.

(b) Except as otherwise required by applicable law, Contractor will not, and will not allow its representatives to, use the Confidential Information for any purpose other than as contemplated by this Agreement or disclose Confidential Information to any person or entity other than its representatives that (i) need to know the Confidential Information for the purposes contemplated by this Agreement, (ii) are first approved by NTTA, and (iii) agree to be bound by the provisions of this Subsection. Promptly upon NTTA's written request, Contractor will return to NTTA or destroy all Confidential Information held by Contractor or its representatives. If Contractor destroys Confidential Information, it will so certify in writing and promptly deliver to NTTA reasonably acceptable supporting evidence of the destruction. If Contractor or any of its representatives is requested or required under applicable law to disclose Confidential Information, Contractor will promptly notify NTTA in writing and cooperate with NTTA in lawful actions to prevent disclosure.

(c) Contractor acknowledges and agrees that a breach of this Section by Contractor causes NTTA irreparable harm for which an award of money damages is inadequate; therefore in the event of a breach or threatened breach of this Section, in addition to remedies available at law, NTTA is entitled to equitable relief, including injunctive relief and specific performance, without proof of actual damages. **CONTRACTOR WILL INDEMNIFY AND DEFEND NTTA, ITS DIRECTORS, OFFICERS, ADMINISTRATORS, AND EMPLOYEES AGAINST ALL DAMAGES, LOSSES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND LITIGATION EXPENSES (AS DEFINED HEREIN)), ARISING OUT OF OR RELATING TO ANY UNAUTHORIZED USE OR DISCLOSURE BY CONTRACTOR OR ITS REPRESENTATIVES OF THE CONFIDENTIAL INFORMATION OR ANY OTHER VIOLATION OF THIS SECTION.** Each Contractor employee, subcontractor, or subcontractor employee assigned to work on the Deliverables will sign any confidentiality and security document required by NTTA.

(d) Contractor further agrees that it will comply with all requirements of the Information Security Addendum attached hereto as Exhibit E.

## 17. MISCELLANEOUS

(a) Personnel, Equipment, and Material. Except as otherwise specified, Contractor will furnish and maintain, at its own expense, adequate and sufficient personnel, equipment, supplies, transportation, and material to provide the Deliverables as required under this Agreement. All employees and subcontractors of Contractor will have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee or subcontractor of Contractor who, in the sole opinion of NTTA, is incompetent or by his or her work or conduct becomes

detrimental to the provision of the Deliverables, will, upon the request of NTTA, immediately be removed from association with work being performed for NTTA under this Agreement.

(i) Contractor will obtain from all subcontractors, and cause to be extended to NTTA, appropriate representations, warranties, guarantees, and obligations for all Deliverables furnished by subcontractors, which (1) will be written to survive NTTA's inspections, tests, and approvals and (2) will run directly to Contractor and NTTA and be enforceable by Contractor or NTTA and their respective successors and assigns. Contractor assigns to NTTA all of Contractor's rights and interest in all extended warranties received by Contractor from its subcontractors. To the extent that any subcontractor warranty or guaranty would be voided by reason of Contractor's error or omission, Contractor will be responsible for correcting such defect. At NTTA's direction, Contractor will enforce each representation, warranty, guaranty, or obligation of its subcontractors. These provisions concerning subcontractor warranties are intended to provide NTTA with additional recourse if the Deliverables fail to meet the requirements of this Agreement, and in no event will they modify, limit, discharge, release, negate, or waive Contractor's own warranties or obligations. Contractor will not be entitled to use subcontractor warranties as a defense to Contractor's obligations under this Agreement.

(ii) As required under Section 2251.022 of the Texas Government Code, when Contractor receives a payment from NTTA under this Agreement, Contractor will pay each subcontractor entitled to a portion of such payment the subcontractor's appropriate share of the payment not later than the 10th day after the date Contractor receives the payment from NTTA. Contractor will also comply with all other applicable laws pertaining to its payment or use of any subcontractor. Upon NTTA's request, Contractor will timely furnish NTTA with satisfactory proof of its compliance with this Subsection (ii).

(b) Acts and Limitations of NTTA. NTTA may assign responsibility of NTTA's roles and responsibilities to persons, corporations, firms, or other entities as NTTA may designate, except as otherwise provided in this Agreement or by law. Notwithstanding anything herein to the contrary, all covenants and obligations of NTTA under this Agreement will be deemed to be valid covenants and obligations only to the extent authorized by the Act and permitted by the laws and the Constitution of the State of Texas, and no officer, director, or employee of NTTA will have any personal obligations or liability hereunder.

(c) Waiver. The failure of either Party to object to or to take affirmative action with respect to any conduct of the other Party which is in violation of the terms hereof will not be construed as a waiver of such failure, nor of any subsequent breach or wrongful conduct. The rights and remedies set forth herein are intended to be cumulative, and the exercise of any right or remedy by either Party will not preclude or waive its exercise of any other rights or remedies hereunder, at law or in equity.

(d) Independent Contractor Status. Contractor will be and act as an independent contractor under this Agreement. Under no circumstances will this Agreement be construed as one of agency, partnership, joint venture, or employment between the Parties. Contractor acknowledges and agrees that neither it nor any of its employees or subcontractors or subcontractors' employees will be considered an employee of NTTA for any purpose. Contractor will have no authority to enter into any contract binding upon NTTA or to create any obligation on behalf of NTTA without express written authorization from the Executive Director of NTTA. Under no circumstances will Contractor or its employees, agents, or subcontractors represent that such entity or individual(s) serves NTTA in any capacity other than as an independent contractor.

Contractor is solely responsible for its employees' and subcontractors' work, as well as for providing all necessary training, instruction, and supervision to its employees and subcontractors necessary for Contractor's delivery of the Deliverables in accordance with this Agreement. Notwithstanding the foregoing, work by Contractor to be performed at NTTA's offices or on NTTA's premises must be conducted during business hours for NTTA, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding NTTA holidays, unless otherwise coordinated with and approved by NTTA's Executive Director or his or her designee.

Nothing contained in this Agreement will be deemed or construed to create any liability for NTTA with respect to the liabilities, obligations, or acts of Contractor, its employees, agents, subcontractors, or any other person.

Contractor understands and agrees that NTTA will not be responsible or liable in any respect for any losses suffered by any Contractor-related entity by reason of use of any information provided by NTTA. Contractor further acknowledges and agrees that (i) if and to the extent Contractor or anyone on Contractor's behalf uses any information provided by NTTA in any way, such use is made on the basis that Contractor, not NTTA, has approved and is responsible for said information and (ii) Contractor is capable of conducting, and is obligated hereunder to conduct, any and all studies, analyses, and investigations as it deems advisable to verify or supplement said information, and use of said information is entirely at Contractor's own risk and at its own direction.

(e) Assignment; Successors; Beneficiaries. Contractor has no right or authority to assign its rights and/or obligations or to delegate its duties under this Agreement without NTTA's prior written approval, which may be granted, conditioned, or withheld at NTTA's sole discretion. Any attempted assignment or delegation without such approval will be void and constitute a material breach of this Agreement. NTTA may assign its rights or delegate performance of its obligations under this Agreement to any successor of NTTA or to any other person or entity to which NTTA is authorized by applicable law to make such assignment or delegation. This Agreement and all of the terms and provisions hereof will be binding upon, and will inure to the benefit of, the Parties and their respective approved successors and assigns. A Party's permitted assignment of rights under this Agreement is deemed to be a simultaneous delegation to the assignee of the assigning Party's obligations under this Agreement. By accepting an assignment, the assignee assumes the assigning Party's performance obligations hereunder. Provided, however, an assignment by Contractor does not release Contractor from its obligations under this Agreement unless NTTA expressly releases Contractor in writing and the permitted assignee expressly assumes Contractor's obligations under a written agreement executed by NTTA, Contractor, and Contractor's assignee.

(f) No Third-Party Beneficiaries. Except as otherwise set forth herein, nothing in this Agreement nor in any approval subsequently provided by either Party hereto will be construed as giving any benefits, rights, remedies, or claims to any other person, firm, corporation, or other entity, including, without limitation, the public in general or any member thereof, or authorizing anyone not a party to this Agreement to maintain a suit for personal injuries, property damage, or any other relief at law or in equity in connection with this Agreement.

(g) No Contingent Fees. Contractor warrants that it has neither employed nor retained any third party to solicit or secure this Agreement and that it has not paid or agreed to pay any such party any commission or other consideration contingent upon or resulting from the award of this Agreement. In the event of a breach or violation of this warranty, NTTA will have the right to

terminate this Agreement without liability or, in its sole discretion, to deduct such amount from Contractor's compensation hereunder.

(h) Texas Franchise Tax Certification. Contractor certifies that it is not delinquent in its Texas Franchise Tax Payments or, alternatively, that it is exempt from, or not subject to, such tax. A false statement concerning Contractor's franchise tax status will constitute grounds for termination of this Agreement at the sole option of NTTA.

(i) Sales and Use Tax. The stated amounts of all payments to be made by NTTA to Contractor pursuant to this Agreement are inclusive of federal, state, or other taxes; provided, however, that NTTA acknowledges and represents that it is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Code. As applicable, NTTA will provide a Tax Exemption Certification ("TEC") to Contractor to avoid sales and use taxes on any purchases made on behalf of NTTA under this Agreement. Contractor will use the TEC solely for purchases made under this Agreement. Contractor will not be reimbursed for taxes assessed on any purchase to which NTTA's exemption applies. All copies of the TEC will be destroyed by Contractor upon termination of this Agreement.

(j) Conferences. At the request of NTTA, Contractor will provide appropriate personnel for meetings related to the Deliverables or NTTA matters at Contractor's offices, the various offices of NTTA or its contractors, or any other reasonably convenient location.

(k) Governing Law; Venue. This Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement, will be governed and construed in accordance with the laws of the State of Texas (without giving effect to its conflicts of laws principles). The Parties acknowledge that venue is proper in Collin County, Texas, for any legal action, proceeding, claim, or dispute arising under or in connection with this Agreement and waive the right to sue or be sued elsewhere; such waiver includes, without limitation, waiver of any claim that a court in Collin County, Texas, is an inconvenient forum. Each Party submits to the exclusive jurisdiction of any court of the State of Texas sitting in Collin County, Texas.

(l) Headings. Section and Subsection headings set forth herein are for convenience only and do not constitute a substantive part of this Agreement

(m) Counterparts. This Agreement may be executed in two or more counterparts, which, taken together, will constitute one and the same instrument.

(n) Severability. If any provision of this Agreement is deemed to be invalid or unenforceable by any court of competent jurisdiction, then the balance of this Agreement will remain enforceable, and such invalid or unenforceable provision will be enforced by such court to the maximum extent possible.

(o) Entire Agreement; Exhibits and Attachments; Amendments. This Agreement, including all exhibits and attachments hereto, which are hereby incorporated into and made a part of this Agreement, is the final, complete, and exclusive understanding between the Parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, whether oral or written. Neither Party has relied on any statement, representation, warranty, or agreement other than those expressly contained in this Agreement, and there are no conditions precedent to either Party's obligations except as expressly stated in this Agreement. This Agreement cannot be amended or waived except by an agreement in writing signed by authorized representatives

of both Parties and specifically referring to this Agreement. The recitals at the beginning of this Agreement and all attachments hereto are made a part of this Agreement for all purposes.

(p) Time is of the Essence. Time is of the essence with respect to the provision of all the Deliverables that must be provided by a specified, agreed-upon completion or delivery date. Contractor will promptly advise NTTA in writing of any problems, delays, or adverse conditions that will materially affect Contractor's ability to meet schedules for provision of Deliverables or favorable developments that may enable Contractor to provide Deliverables sooner than anticipated. If at any time during the Term, Contractor cannot provide the Deliverables within the time required, NTTA, without limiting any other remedy available under this Agreement, at law or in equity, reserves the unilateral right to procure, at Contractor's cost and expense, the Deliverables from any other source.

(q) Interpretation. Contractor acknowledges that it has had satisfactory and sufficient opportunity to review the terms and conditions of this Agreement, including, at its option, with its legal counsel. Accordingly, no provision of this Agreement will be construed against or interpreted to the disadvantage of any Party by any court, other governmental or judicial authority, or arbiter by reason of such Party being deemed to have drafted or prepared such provision.

(r) Revolving Door. NTTA has adopted an Employee Ethics Policy (available for review at <https://www.ntta.org/whoweare/policies/Pages/default.aspx>) that includes the following "revolving door" provision: "An employee after leaving NTTA employment shall not participate on behalf of any third party in a matter involving the NTTA in which the employee participated while employed at the NTTA. For purposes of this Subsection, an employee participated in a matter if the employee made a decision or recommendation on the matter, approved, disapproved, or gave advice on the matter, conducted an investigation related to the matter, or took similar action related to the matter." Absent express written approval from NTTA, Contractor will not direct or allow a former NTTA employee to do any work on behalf of Contractor that might put the former employee in violation of this provision for a period of two years following termination of employment with NTTA. Except as otherwise agreed to in writing, Contractor and NTTA will not actively recruit or otherwise induce the other Party's employees to accept employment with such Party during the period of performance of this Agreement. However, subject to restrictions imposed by applicable provisions of NTTA Employee Ethics Policy, this provision will not restrict the right of either Party to solicit generally for personnel or restrict employees of either Party from pursuing, on their own initiative, employment opportunities with the other Party.

(s) Vendor Policing of Employee Ethics. NTTA's Employee Ethics Policy directs its employees to avoid conflicts of interest or appearances of impropriety, comply with the law, and use NTTA's property for only NTTA's purposes. Contractor is expected to be aware of these requirements and promptly report to NTTA any conduct by an NTTA employee that Contractor reasonably believes may be in violation of such Policy.

(t) Public Information Act. This Agreement, the Deliverables, and the Work Product are or will become the property of NTTA and may be subject to disclosure under the Public Information Act (Texas Government Code Chapter 552). Contractor covenants to familiarize itself with the provisions of that act. In no event will NTTA or any of its agents, representatives, operators, directors, officers, or employees be liable to Contractor for the disclosure of all or any portion of this Agreement, the Deliverables, or the Work Product. If NTTA receives a request for public disclosure of any portion of Contractor's information that has been provided to NTTA, to the extent required by law, NTTA will notify Contractor of the request and give Contractor an opportunity to assert, in writing, a claimed exception under the Public Information Act or other

applicable law within the time period specified by law. NTTA may elect to seek one or more exceptions to disclosure under the act; nonetheless, Contractor will be solely responsible for ascertaining and forwarding its claims for exceptions directly to the Office of the Attorney General. If Contractor has special concerns about information that it makes available to NTTA and which it believes is confidential or constitutes a trade secret, proprietary information, or other information excepted from disclosure, Contractor agrees to specifically and conspicuously designate that information as such in writing.

(u) Extra Work. If, for reasons beyond the control of Contractor, Contractor is directed by NTTA to (i) make changes to Deliverables already satisfactorily delivered and accepted by NTTA; or (ii) perform additional services of such magnitude that they are clearly beyond the Scope of Work, and the changes and/or additional work are so recognized by NTTA, such changes and/or additional work will be considered "Extra Work." To avoid delays in implementing required work, NTTA reserves the right of final decision regarding whether work constitutes Extra Work, said decision to be made in its reasonable discretion. No compensation will be made for additional work or revisions required due in any way to the error, omission, or fault of Contractor, its agents, representatives, or subcontractors or the employees of any of them. All Extra Work will require the prior written approval and authorization of NTTA. Compensation for approved Extra Work will be negotiated as set forth in a modification to this Agreement documenting the Extra Work.

(v) Suspension or Modification; Delays and Damages. NTTA may elect to suspend Contractor's delivery of the Deliverables, but not terminate this Agreement, by providing Contractor with written notice at least 14 days before the effective date of such suspension. Delivery may be reinstated and resumed in full force and effect upon Contractor's receipt from NTTA of 30 days' prior written notice, or a shorter period if agreed to by the Parties, requesting same. Contractor will not be entitled to any damages or other compensation of any form if NTTA exercises its right to suspend the delivery of the Deliverables; however, the period for delivery will be extended for a period of time determined by NTTA in its sole discretion to allow for said suspension. Such extension will be Contractor's exclusive remedy for delays, inconvenience, or other harms from such suspension. Similarly, NTTA may expand, limit, or cancel any portion of the work previously assigned to Contractor in accordance with this Agreement. Permitting Contractor to deliver the Deliverables or any part of them after the originally specified date for delivery or after the date to which the time for delivery may have been extended will in no way operate as a waiver on the part of NTTA of any of its rights under this Agreement.

(w) Reports of Accidents; Notices/Summons. Within 24 hours after an accident or event that: (i) causes or may cause injury to any third party or to the property of any third party (including an employee or subcontractor of Contractor), (ii) arises in connection with any action or failure to act by Contractor or its employee, subcontractor, or agent, and (iii) occurs on NTTA property or in connection with the provision of the Deliverables under this Agreement, Contractor will send a written report to NTTA, describing the accident or event. Contractor also will immediately send NTTA a copy of any summons, subpoena, notice, or other documents served upon or received by Contractor, its agents, employees, subcontractors, or representatives in connection with any investigation or matter before any court or administrative agency arising from Contractor's provision of the Deliverables under this Agreement.

(x) Referral of Third-Party Inquiries. All personnel of Contractor and its subcontractors will refer all media inquiries concerning NTTA or matters Contractor is handling pursuant to this Agreement to NTTA's Public Affairs Department.

(y) Publicity. Neither Contractor nor NTTA, nor any third party on either Party's behalf, will publish, distribute, or otherwise disseminate any press release, advertisement, or public statement making any reference to the other Party's products, services, or information pertaining to this Agreement, unless and until such matter has been submitted to and approved in writing by the other Party. Where approved by the other Party, the Parties will mutually agree on the form, content, and timing of any press releases or other publicity.

(z) Order of Precedence. Contractor will notify NTTA of any conflict or inconsistency arising between this Agreement and the documents that are incorporated by reference into this Agreement. NTTA will determine a final resolution of any conflict or inconsistency using the following order of precedence: (1) the body of the Agreement, (2) the Scope of Work, and (3) any other exhibit or attachment to this Agreement. Each of (1), (2), and (3) shall control any other separate document incorporated into this Agreement by reference. Under no circumstances will conflicts or inconsistencies result in increases to the total value of an individual contract line or other element of compensation or result in a schedule extension for completion of the Deliverables or any portions thereof.

**18. SOC 2 TYPE II AUDIT REQUIREMENT**

**Intentionally deleted.**

*[Signature page follows.]*

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the last date set forth below (the “Effective Date”).

**NTTA**

**North Texas Tollway Authority,**  
a regional tollway authority and a political  
subdivision of the State of Texas

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

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

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

Date of Execution:

\_\_\_\_\_

**CONTRACTOR**

**[Vendor Name],**

a \_\_\_\_\_

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

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

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

Date of Execution:

\_\_\_\_\_

## **Exhibit A**

### **Scope of Work**

Follows this cover page.

[To be inserted when finalized.]

## **Exhibit B**

### **Compensation**

Follows this cover page.

[To be inserted when finalized.]

**Exhibit C**

**Insurance**

N/A

**Exhibit D**

**Subcontractor Plan Form**

N/A

## Exhibit E

### Information Security Addendum

Whereas, North Texas Tollway Authority ("NTTA") and Contractor have entered into the agreement to which this addendum is attached, and any associated contract documentation, as such agreement and documentation have been or may be amended ("Commercial Agreement") in connection with which Contractor will provide certain services ("Services") for NTTA or in connection with services provided by NTTA;

Whereas, in the regular course of business, NTTA collects and maintains information about individuals (including toll customers, vehicle owners, and employees) that may include data such as a person's Social Security number, driver's license number, license-plate number, geolocation or travel data, bank account or credit card information, health information, employment-related information, or login and password credentials (all such data pertaining to individuals, whether or not specifically listed, being "Personal Information");

WHEREAS, in connection with the Services, Contractor may have access to, handle, or receive Personal Information or other confidential or proprietary materials, information, or data maintained by or concerning NTTA (collectively with Personal Information, "NTTA Information").

NOW, therefore, for good and valuable consideration, the receipt and sufficiency of which are acknowledged by Contractor, Contractor agrees as follows:

1. Contractor is responsible for the security of NTTA Information that it receives or accesses in performing Services, and Contractor shall at all times maintain appropriate information-security measures with respect to NTTA Information in a manner consistent with applicable law.

2. Contractor must implement and maintain current and appropriate administrative, technical, and physical safeguards with respect to NTTA Information in its possession, custody, or control, or to which it has access, to protect against unauthorized access or use of such NTTA Information. At a minimum, such safeguards shall be consistent with generally-recognized best practices for information security in the handling of similar types of data. Without limiting the foregoing, Contractor must appropriately and effectively encrypt NTTA Information (i) transmitted over the Internet, other public networks, or wireless networks, and (ii) stored on laptops, tablets, or any other removable or portable media or devices.

3. Contractor must identify to NTTA all subcontractors, consultants, and other persons who may have access to NTTA Information in connection with the Services. Before Contractor permits any subcontractor, consultant, or other person not directly employed by Contractor to have access to NTTA Information, Contractor must obtain NTTA's written approval, not to be unreasonably withheld (each approved party being an "approved subcontractor"). Contractor must restrict the NTTA Information to which a given employee or approved subcontractor has access to only that NTTA Information which such employee or approved subcontractor needs to access in the course of such employee's or approved subcontractor's duties and responsibilities in connection with the Services.

4. Before granting access to NTTA Information, Contractor must ensure that its employees and each approved subcontractor agrees to abide by these information security measures (or other applicable measures that are at least as protective of NTTA Information). Contractor shall be responsible for the acts and omissions of its employees, subcontractors, and consultants under this Addendum as though such acts or omissions were those of Contractor.

5. Absent NTTA's advance written permission, NTTA Information must not be stored, accessed, or processed at any location outside of the United States.

6. Contractor may use NTTA Information only for performing the Services, and Contractor must

ensure that its employees and approved subcontractors are restricted from any use of NTTA Information other than for such purpose.

7. Except to the extent otherwise expressly permitted under the Commercial Agreement, Contractor may not disclose NTTA Information except as required by law or a governmental authority having jurisdiction over Contractor. In the event of such required disclosure, Contractor must notify NTTA in advance (if legally permissible to do so) and reasonably cooperate with any decision by NTTA to seek to condition, minimize the extent of, or oppose such disclosure.

8. Contractor will immediately notify NTTA if Contractor discovers any actual or reasonably suspected breach of security or unauthorized use of NTTA Information (i) in the possession, custody, or control of Contractor, its employees, or its subcontractors and/or (ii) effectuated using access permissions or credentials extended to an employee or subcontractor of Contractor (said (i) and (ii), a "Security Incident"). In no event shall Contractor's notification to NTTA be later than three (3) calendar days after Contractor discovers the Security Incident; provided, however, that more immediate notification shall be given as the circumstances warrant or if more immediate notification is required by law. Contractor must provide all necessary and reasonable cooperation with respect to the investigation of such Security Incident, including the exchange of pertinent details (such as log files). In addition, Contractor must promptly undertake appropriate remediation measures and inform NTTA regarding the same.

9. Subject to requirements of data security or privacy laws, NTTA, in its sole discretion, will determine how, whether, and when to provide notice of a Security Incident to (a) any individuals whose personal information has been actually or potentially compromised; (b) any governmental authority; and/or (c) any other entity, including, but not limited to, consumer credit reporting agencies or the media. All notices must be approved by NTTA before they are distributed. Contractor must reimburse NTTA for costs or expenses NTTA incurs in connection with such notices (including the provision of credit monitoring or other identity protection services, to the extent the provision of such services is legally required or customary for similar data security incidents). Furthermore, Contractor shall indemnify and hold NTTA harmless from all claims, costs, expenses, and damages (including reasonable attorneys' fees) that NTTA incurs in connection with any regulatory action or third party claim arising from a Security Incident.

10. Contractor must cooperate and permit NTTA (and any governmental authorities with jurisdiction in connection with an audit requested by NTTA) reasonable access for on-site review of Contractor's data security systems and procedures to verify Contractor's compliance with its obligations under this Addendum.

11. Whenever NTTA Information is no longer needed for the performance of Services, or at any time upon written notification from NTTA, Contractor must unconditionally and without any charge or fee return or, at NTTA's written election, certify the secure destruction of, all NTTA Information in Contractor's possession, custody, or control (including NTTA Information in the possession, custody, or control of any of Contractor's subcontractors).

12. With respect to all NTTA Information that constitutes payment cardholder information under the Payment Card Industry Data Security Standard ("PCI DSS") and with respect to any actions or activity that may impact the security of NTTA's systems securing payment cardholder information, Contractor must, and must cause its approved subcontractors, as applicable, to:

- a. abide by PCI DSS, as updated from time to time (currently, version 3.1), and related security and reporting requirements or standards imposed by applicable payment card brand(s) including through the provision of, preparation of, or cooperation in connection with any all reports, assessments, audits, inquiries, or attestations made, to be made, or desired by NTTA pursuant to PCI DSS or applicable payment card brand requirements or standards;

- b. annually, and at such other times as NTTA may reasonably request, provide NTTA with a certification demonstrating compliance with PCI DSS in the relevant capacity, without charging NTTA any fee or other amount with respect to such compliance or certification thereof; and
- c. without limiting the foregoing, refrain from any recording or storage of card security codes, render primary account numbers unreadable wherever stored, and dispose of payment cardholder information in compliance with PCI DSS Requirement 9.8.

13. If the Commercial Agreement contemplates access to or the handling of any information that constitutes "Protected Health Information" under the Health Insurance Portability and Accountability Act and regulations adopted thereunder ("HIPAA"), the parties must enter into a separate Business Associate Agreement that complies with HIPAA before Contractor will be granted access to any Protected Health Information.

14. This Addendum shall remain in effect as to NTTA Information for so long as NTTA Information remains in the possession, custody, or control of Contractor or its subcontractors.

**Exhibit F**

**Form of Bond**

N/A