

Contract #: _____



STATE OF ARKANSAS SERVICES CONTRACT

| | | | |
|--------------|--|--------------------|--|
| Contract # | | Federal ID# | |
| Service Type | | Procurement Method | |

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

| | |
|-----------------------|--|
| Department No. & Name | |
| Division | |

| | | | |
|--------------------|--|-------------------------------|--|
| Contractor Name | | | |
| Contractor Address | | | |
| Contractor Number | | Minority/Women Owned Business | <input type="radio"/> Yes <input type="radio"/> No |

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Service Area:

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on _____, and shall continue until _____, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than _____ (mm/dd/yyyy).

- 4. Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

- 5. Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: _____ (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: _____ (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

- 6. Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation _____ (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. Termination & Cancellation Clauses.

- A. Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.
- C. For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

- 13. Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
- 14. Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
- 15. Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
- 16. Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
- 17. Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
- 18. Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
- 19. Attachments.**

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on

- i. the other party's receipt of it, or
- ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

| | |
|------------|-------|
| _____ | _____ |
| Name | Title |
| _____ | _____ |
| Telephone# | Email |

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

| | |
|------------|-------|
| _____ | _____ |
| Name | Title |
| _____ | _____ |
| Telephone# | Email |

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

| | |
|------------|-------|
| _____ | _____ |
| Name | Title |
| _____ | _____ |
| Telephone# | Email |

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21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Printed Name

Printed Name

Title

Title

Address

Arkansas Department of Parks, Heritage and Tourism
1 Capitol Mall Ste 3B
Little Rock, AR 72201

Address

Signature

Signature

Date

Date

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____ (Contractor) _____ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

| Name | Address | Relationship |
|------|---------|--------------|
| | | |
| | | |
| | | |
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| | | |

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

☐

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

- A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

| Level of Personnel | Number | Compensation Rate | Total for Level |
|--|--------|-------------------|-----------------|
| | | | |
| | | | |
| | | | |
| TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S) | | | |

- B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

| Reimbursable Expense Items (Specify) | Estimated Rate of Reimbursement | Total |
|--------------------------------------|---------------------------------|-------|
| | | |
| | | |
| | | |
| TOTAL REIMBURSABLE EXPENSES | | |

Total compensation inclusive of expense reimbursement: _____

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

- A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

| Services | Quantity | Cost Per Item | Total Cost |
|----------------|----------|---------------|------------|
| | | | |
| | | | |
| | | | |
| TOTAL SERVICES | | | |

- B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

| Commodities | Quantity | Cost Per Item | Total Cost |
|-------------------|----------|---------------|------------|
| | | | |
| | | | |
| | | | |
| TOTAL COMMODITIES | | | |

Total services inclusive of commodities: _____

Annual Contract Amount: _____

Contract #: _____

Attachment #3

Source of Funds

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

| Fund Source | Identify Source of Funds * | Fund | Fund Center | Amount of Funding | % of Total Contract Cost |
|-------------|----------------------------|------|-------------|-------------------|--------------------------|
| | | | | | % |
| | | | | | % |
| | | | | | % |
| | | | | | % |
| | | | | | % |
| | | | | | % |
| TOTALS | | | | | % |

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.