TARRANT COUNTY

HOSPITAL DISTRICT d/b/a

JPS HEALTH NETWORK

REQUEST FOR PROPOSAL #2020858344

Retirement Plan Advisor

The Tarrant County Hospital District d/b/a JPS Health Network (hereinafter referred to as the “District”) is seeking to solicit proposals for the provision of retirement plan advisor services for the District.

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

Release Date: 09-28-2020

Response Deadline: 10-19-2020, 2:00 p.m. CST

1. **INTRODUCTION AND OVERVIEW**

The District desires to award a contract or contracts based upon vendor proposals (“RFP Response(s)”) to this Request for Proposal (“RFP”). The District is soliciting vendor proposals from vendors capable of supplying the District with Retirement Plan Advisor Services (the “Service”), as set forth and specified herein (See Exhibit “A”, Service Specifications, attached hereto and incorporated herein for all purposes). All RFP Responses must be delivered to the District by the date and time, and in the manner specified in Section II hereof to be considered an RFP Response by the District. It is the sole responsibility of the vendor submitting an RFP Response (“Respondent”) to ensure that its RFP Response is delivered to the proper location on time and in the manner set forth herein.

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

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

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

**DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

The District maintains a policy of encouraging and engaging in business transactions with vendors who qualify and are certified under applicable law as Historically Underutilized Businesses (“HUBs”), Small Minority and Women Owned Business Enterprises (“SMWBEs”), and Individuals with Disabilities and Service-Disabled Veterans Owned Business Enterprises (“DOBEs”). HUBs, SMWBEs, and DOBEs are referred to herein as Disadvantaged Business Enterprises (“DBEs”). The District establishes a **25%** good faith target goal. The District also encourages its vendors to utilize subcontractors and vendors who qualify and are certified under applicable law as DBEs. Prior to the District’s consideration of a Respondent’s RFP Response each Respondent is required to and shall register as a vendor in the District’s online “JPS Procurement System” (located on the District’s Website at: <https://jpshealth.gob2g.com>). Prior to the Contract Award a Respondent’s good faith efforts to utilize DBE subcontractors and vendors in its business transactions shall be part of the criteria under which the vendor proposals will be considered. Each Respondent will be required to show in its RFP Response its historical efforts to utilize DBE subcontractors and vendors in its business transactions (See Article II, Section A.2 herein).

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTION 2252.908**

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

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

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

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

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

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

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

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

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

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

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

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

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTION 2271.001 et seq.**

In 2017 Texas Government Code Section 2271.001 et seq. was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not boycott Israel, and (ii) the company will not boycott Israel during the term of the contract. For the purposes of this RFP and any Contract Award pursuant to this RFP, and in compliance with the Texas Government Code, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relationships specifically with Israel, or with a person or entity doing business in Israel or in an Israel-controlled territory, but does not include an action made for ordinary business purposes. Respondents are hereby notified that respect to any Contract Award the vendor shall comply with the Texas Government Code Section 2271.001 et seq. verification requirements, the failure or refusal of which shall result in the withdrawal of the Contract Award.

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTIONS 2252.151 et seq.**

In 2017 Texas Government Code Chapter 2252 was amended by adding Sections 2252.151 et seq. to provide that a Texas governmental entity is prohibited from entering into a contract with a company that engages in certain scrutinized business operations in Sudan, Iran, or with foreign terrorist organizations. For the purposes of this RFP and any Contract Award: (i) “scrutinized business operations in Sudan” shall have the meaning ascribed to that term as set forth in Section 2270.0001 et seq. of the Texas Government Code; (ii) “scrutinized business operations in Iran” shall have the meaning ascribed to that term as set forth in Section 2270.0101 et seq. of the Texas Government Code; and (iii) “scrutinized business operations with designated foreign terrorist organizations” shall have the meaning ascribed to that term as set forth in Section 2270.0151 et seq. of the Texas Government Code. Respondent’s signature affixed to the attached Exhibit “B” shall be deemed to be the Respondent’s certification to the District that the Respondent does not engage in scrutinized business operations in Sudan, Iran or with foreign terrorist organizations.

**EACH RESPONDENT ACKNOWLEDGES THAT THE DISTRICT IS A GOVERNMENTAL BODY OPERATING UNDER AND SUBJECT TO THE PROVISIONS OF THE TEXAS PUBLIC INFORMATION ACT (“TPIA”) (CHAPTER 552 OF THE TEXAS GOVERNMENT CODE) AND THEREBY ACKNOWLEDGES THAT INFORMATION THAT IS COLLECTED, ASSEMBLED, OR MAINTAINED IN CONNECTION WITH THE TRANSACTION OF OFFICIAL BUSINESS BY A GOVERNMENTAL BODY IS CONSIDERED PUBLIC INFORMATION POTENTIALLY SUBJECT TO DISCLOSURE PURSUANT TO A VALID TPIA REQUEST AND HEREBY ASSUMES FULL RESPONSIBILITY AND ALL COSTS FOR CHALLENGING ANY REQUESTS FOR INFORMATION IT CONSIDERS CONFIDENTIAL UNDER THE TPIA.**  **RESPONDENTS SHOULD CONSULT THE ATTORNEY GENERAL’S WEB SITE (**[**WWW.OAG.STATE.TX.US**](http://WWW.OAG.STATE.TX.US)**) FOR INFORMATION CONCERNING THE APPLICATION OF THE PROVISIONS OF THE TPIA TO PROPOSALS AND PROPRIETARY VENDOR INFORMATION.**

**II. RFP RESPONSE REQUIREMENTS, CONDITIONS AND RELATED INFORMATION**

**A. Preparation of RFP Response.**

### **1.** Each Respondent should carefullyexamine and familiarize itself with this RFP and all exhibits, drawings, specifications, and instructions regarding the Product/Services included in this RFP (collectively, the “RFP Documents”). Each Respondent, by submitting an RFP Proposal, represents that Respondent has read and understands this RFP and the drawings, exhibits attached to this RFP.

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

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

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

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

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

**B. Form of Contract.**

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

### **IF ANY RESPONDENT PROPOSES CHANGES TO THE CONTRACT FORM THE RESPONDENT MUST DO SO BY COMPLETING THE “VENDOR’S PROPOSED AMENDMENT” SET FORTH ON EXHIBIT “F” TO THIS RFP SHOWING ALL THE RESPONDENT-PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS TO THE REQUIRED CONTRACT FORM (WHICH MAY BE DONE BY INCLUDING A REDLINE OF THE CONTRACT FORM). A RESPONDENT’S ATTEMPT TO PROVIDE ITS PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS IN ANY MANNER OTHER THAN ON THE VENDOR’S PROPOSED AMENDMENT MAY RESULT IN THE DISTRICT’S REJECTION OF THE RESPONSE WITHOUT FURTHER EXAMINATION.**

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

**C**. **Submission of RFP Responses.**

###  **1.** All RFP Responses shall be submitted to the District as follows:

1. **All RFP submissions must be sent electronically to** **Bid\_submissions@jpshealth.org**. The proposal must be submitted in a format that preserves graphic appearance, such as portable document format (PDF) or other digital image format that is platform-independent and easily readable without purchased software.
2. An attempted award will be deemed invalid if the Respondent, upon award of a contract (if ever), is not registered with **JPS Vendor Credentialing System** ([www.Symplr.com](http://www.Symplr.com)) or is not in compliance with the District’s requirements for vendor credentialing.
3. To be considered, the body of the email containing the RFP Response must state the following: (i) the name and address of the Respondent, (ii) the Response Deadline, and (iii) the RFP number. **Please put the RFP number and description in your email subject line.**
4. Unless otherwise expressly provided in this RFP or in any amendment to this RFP, no Respondent shall modify or cancel the RFP Response or any part thereof for thirty (30) days after the Response Deadline. Respondents may withdraw RFP Proposals at any time before the RFP Proposals are opened by the District, but may not resubmit them. No RFP Proposal may be withdrawn or modified after the RFP Proposal deadline
5. RFP Proposals will not be considered if they show any omissions, alterations of required forms, additions or conditions not requested or irregularities of any kind. However, the District reserves the right to waive any irregularities and to make the award in the best interest of the District.
6. The Respondent acknowledges the right of the District to reject any or all RFP Responses and to waive any informality or irregularity in any RFP Response received. In addition, the District reserves the right to reject any RFP Response if the Respondent failed to submit the data, information or documents required by this RFP, or if the RFP Proposal is any way incomplete or irregular.
7. Failure to follow the instructions regarding the submission of RFP Responses may result in the District’s disqualification of such RFP Responses.

### **2.** RFP Responses are due on or before **10-19-2020, 2:00 p.m. CST (“Response Deadline”).** The Response Deadline may be extended by the District upon amendment to this RFP issued prior to the then-existing Response Deadline. RFP Responses are not scheduled for public opening. No telephone, telephonic, or FAX RFP Responses will be accepted. The District will not be responsible for missing, lost, or late deliveries. **RFP** **Proposals delivered after the Response Deadline will not be accepted or considered under any circumstances**.

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

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

## III. RFP SCHEDULE AND RELATED INFORMATION

## A. Estimated Schedule

|  |  |
| --- | --- |
| Milestone | Date |
| Request for Proposal Issued | **09-28-2020** |
| Questions submitted by Respondents  | **10-07-2020, 2:00 p.m. CST** |
| Pre-Proposal Conference | **No Pre-proposal Conference** |
| Response Deadline and Time for Submission of RFP Proposals | **10-19-2020, 2:00 p.m. CST** |
| RFP Evaluation Period  | **TBD** |

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

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

## B. District RFP Contact

Respondents may, in the manner prescribed herein, present requests (“Submission Questions”) for an explanation, clarification or interpretation of the (Service Specifications in this RFP) and/or other requirements for submission of RFP Responses to the RFP Contact identified below during the proposal submission period. All Submission Questions must be submitted in writing and emailed tothe RFP Contact, at the email address set forth below, and must reference the appropriate pages and sections number of this RFP that are the subject of such Submission Questions. The final date and time to submit Submission Questions **is 10-07-2020, 2:00 p.m. Central Time. NO PHONE CALLS PLEASE.** Confirmation of the delivery of Submission Questions to the District is the sole responsibility of the Respondent. The District may, in its sole discretion, elect not to answer or respond to any or all Submission Questions it receives, and the failure of refusal of the District to answer or respond to any Submission Question will not affect, in any way, this RFP. Submission Questions may be informally addressed during the Pre-Proposal Conference; provided, however, that no answer or response to any Submission Question by any representative of the District shall be effective unless and until it is issued by the District in writing in the form of one or more addenda to the RFP, and has been posted to the District’s RFP website link prior to the Response Deadline. It is the responsibility of each Respondent to check the website for all addenda to the RFP up to the Response Deadline. Prospective vendors are advised that no District employee other than the RFP Contact is empowered to make binding statements regarding this RFP, and no statements, clarifications, or corrections regarding this RFP are valid or binding on the District except those issued in writing by the RFP Contact as addenda to the RFP.

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

The RFP Contact is:

Haley Humphrey, Contracts Administrator

Contract Management Department

JPS Health Network

JPS Professional Office Complex

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

Fort Worth, TX 76104

Email: Bid\_Submissions@jpshealth.org

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

Exhibit “A”

Service Specifications

1. **INTRODUCTION**

The District is requesting proposals from qualified vendors to provide professional Consulting Services to the JPS Retirement Committee. The District is soliciting responses from qualified firms or individuals to provide analysis, advice, direction, and general guidance to the Retirement Committee members regarding the fund structure, investment lineup, implementation, and administration of the 401(a), 403(b), and 457(b) plans.

1. **BACKGROUND**

JPS Health Network, Tarrant County’s public healthcare provider, is a tax-supported entity and includes John Peter Smith Hospital, JPS Surgical Center, a network of community and school-based health centers, and psychiatric services. A Level I Trauma Center, JPS is licensed for 578 beds with over 1 million patient encounters per year. JPS has the only Psychiatric Emergency Center in Tarrant County and an inpatient psychiatric hospital for adolescents and adults. With more than 40 primary and specialty health centers (19 at public schools), JPS serves patients throughout the community. JPS has a Level III NICU where more than 4,300 babies are born each year. As a Comprehensive Level I Stroke Center and an AMI Certified facility by The Joint Commission, JPS provides the best possible care for heart attack and stroke patients. An academic medical center, JPS has 17 residency and fellowship programs, including one of the nation’s largest Family Medicine residency programs. JPS takes pride in teaching the best and brightest from around the world and offers programs in several different specialties.

The District sponsors a 401(a), 403(b), and 457(b) plan. These plans are not subject to ERISA due the District’s dual status, both as a governmental entity and as a nonprofit organization. Combined plans assets are equal to approximately $247.8 million, and are distributed as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Plan Name (as of 2/10/16)** | **# of Parts** | **Assets** | **Loans** |
| JPS Health Network Supplemental Retirement Plan (401(a)) | Active: 6277 Systematic Payout: 0 Termed w/ Balance: 1188  | $67,233,985  | $811,815  |
| JPS Health Network Tax Deferred Annuity Plan (403(b)) | Active: 4109Systematic Payout: 2 Termed w/ Balance: 1224  |  $155,942,457  | $3,409,182  |
| JPS Health Network 457 Plan (457(b)) | Active: 557Systematic Payout: 1Termed w/ Balance: 96  | $24,671,179  | $0 |

Eligible employees are permitted to enroll in the JPS 403(b) & 457(b) plans on an opt-in basis. Additionally, full-time employees who work 30 or more hours per week receive matching contributions in the 401(a) plan. The current match formula is 50% of contributions up to 4% of eligible compensation. These contributions are subject to a 5-year graded vesting schedule. For those hired after September 30, 2020, a new matching formula of dollar for dollar up to first 5% of base pay with a 3 year cliff vesting schedule will be in place.

**Changes & Considerations**

The District is considering the following changes to the plan design:

* The District currently engages external Counsel to prepare and maintain custom Plan Documents for each plan. It is the Committee’s desire to move to a Prototype or Volume Submitter arrangement maintained by the plan administrator/recordkeeper.
* The District’s payroll systems do not permit both dollar basis and percentage basis to be used in determining Participant deferral amounts. At this time, Participants are permitted to make deferral elections in dollar basis. It is the District’s desire to move to allow only percentage based deferral elections in the near future
1. **PROJECT SCOPE**

The firm selected will be required to provide the services described below as minimum deliverables:

1. The Consultant is to oversee a possible multiple plan conversion from current to successor provider effective on or around March 1st, 2021 .  Consultant is expected to provide guidance and oversight with respect to plan design optimization, Plan Document review, contract negotiations, communication/education strategies along with recommendations related to new fund line-up selection, mapping strategy and IPS customization are required.
2. Participation by the Consultant at all quarterly meetings will be required. The Consultant is expected to facilitate these meetings and provide an update on market conditions, status of the investments held by the plans, financial results, plan statistics, and other relevant topics to be disclosed to the Committee.  Ad hoc meetings should be held when necessary, at the request of the committee or advisor with mutual consent.
3. The Consultant is to provide specific investment advice and recommendations to the Committee; however, the responsibility for investment decisions of assets held in the retirement plans will be held by the trustees. The Consultant will not be granted discretionary authority or discretionary authority other than fiduciary responsibility for investment advice. Therefore, following services should be rendered at the initial point of engagement & periodically thereafter:
	1. Advise trustees concerning changes to the existing investment policy that you would consider beneficial to the continued viability and success of plans under administration.
	2. Full transparency related to revenue sharing and any other payment agreements between fund companies, Consultant, and recordkeeping firm.
	3. Analysis of various share classes available to plan participants & specific recommendations related to investment decisions.
	4. Communication with the trustees regarding selection, monitoring and replacement of investment managers and investment options offered by the retirement plans.
	5. Coordinate investment related changes with the record-keeper timely & accurately.
4. With the support and assistance of Human Resources & Benefits staff, formulate on-going & targeted communication & education strategies, enrollment outreach & plan promotion efforts throughout the year.
5. Act as an effective liaison between JPS & service providers to ensure highest level of service delivery, cost competitive pricing, issue resolution (when required) and new product/service recommendations to best manage JPS retirement plans.
6. Provide periodic vendor assessment by conducting an RFI/RFP comparing plan sponsor/plan participant support from incumbent vendors to that of market leading providers.  Present findings & recommendations to the Retirement Plan Committee in Fort Worth, TX.
7. Provide JPS with information required to comply with Internal Revenue Service and Department of Labor reporting requirements for the various plans.
8. Provide JPS with legislative, regulatory and industry updates to provide fiduciary stewardship and to assist in meeting all compliance requirements.
9. Provide general benchmarking information related to plan design, plan fees, best practices, etc., segmenting by specific industry sector, competitor landscape and/ or relevant survey results.

**Additional Information**

Please note that in addition to the group contracts maintained by the District, there is a second group of accounts, hereby referenced as “Legacy Contracts”. These are individual maintained variable annuity contracts between the Participants and Voya. These contracts may have active surrender schedules. Any decisions to transfer these contracts are borne by the individual contract holders, so it is unlikely that these assets will transfer as part of any decision to change service providers.

|  |  |  |
| --- | --- | --- |
| **Legacy Contracts** | **# of Parts** | **Assets** |
| **JPS Health Network** |
| 401(a) | 25  | $102,746  |
| 403(b) | 206  | $3,121,990  |
| **Acclaim Physicians Group** |
| 401(a) | 1  | $40,915  |
| 403(b) | 5  | $38,987 |

1. **REQUIRED INFORMATION**
2. Organization
3. Provide the name and address of your firm and the location of each of your firm’s offices. Indicate which location would service this account, including the name, phone number, and e-mail address of the primary RFP contact.
4. Provide a brief history of your firm. Include the year organized, the ownership structure, the core business and the year investment advisory services were first offered.
5. Describe any significant developments affecting your firm in the last five years, such as changes in ownership, restructuring, personnel changes, etc. Please note any planned or anticipated changes in the ownership or management of your firm during the next two years.
6. Is your firm registered as an investment adviser with the Securities and Exchange Commission under the Investment Advisers Act of 1940? Please provide a copy of your Form ADV Part II A&B.
7. In the last five years, has the firm, any primary consultant or any other officer or principal been involved in any business litigation, regulatory, or other legal proceedings or government investigation involving allegations of fraud, negligence, criminal activity, or breach of fiduciary duty relating to investment consulting activities? If so, please describe the case, provide an explanation, and indicate the current status.
8. Describe in detail any potential conflicts of interest your firm, or any affiliates may have in the management of this account, and your method and procedures for addressing these conflicts of interest.
9. Please list the amount of liability, errors and omissions, employee dishonesty, fiduciary liability insurance, or other coverage your firm carries.
10. Please describe your proposed project team, including role they will play, title, years at firm and any certifications they hold. Identify the primary portfolio manager and client contacts assigned to the hospital.
11. Describe your firm’s experience in providing investment consulting services to non-profit and government plans in general and in Texas specifically.
12. Please provide the size (in assets) of your largest, smallest, and median Defined Contribution plan client. Please only include those clients managed by the team to be assigned to the company. What are your total assets under management?
13. Identify the key consultants and other staff who will service our account and their home office location(s). Provide biographical data, noting each individual’s years of investment advisory experience.

**Note**: Include key team members who will be used during the implementation if different from the ongoing team.

1. Please share your professional associations and any relevant nominations or awards.
2. Philosophy
3. In approximately 250 words, describe the philosophy of your organization. Indicate the attributes of your investment consulting philosophy that distinguish your firm.
4. What do you believe are the key strengths or competitive advantages your firm possesses?
5. Does your firm adhere to the Fiduciary Standard of Care, and therefore always act in the best interest of the client?
6. Investment Services
7. Describe your overall approach to ongoing investment consulting services.
8. How often do you recommend meetings with your clients’ Committees? What is the structure of those meetings, who attends, and what are their roles?
9. Describe your experience and approach in developing investment policy statements, objectives, and guidelines for clients.
10. Describe your due diligence process for selecting and monitoring investment options. What reporting or tools are provided to your clients to assist with monitoring investment performance? Please provide a sample report.
11. Please describe your firm’s process for the evaluation and selection of investment managers for a client, including how the firm evaluates a manager’s personnel, firm, investment philosophy, investment style and products, research and/or modeling capabilities, financial condition, assets under management, types of clients, client service and fees.
12. Do you recommend any proprietary investment products?
13. Recordkeeper/Administrator Management & Oversight
14. Describe your process for working with other service providers, including custodians, record-keepers, attorneys, etc.
15. Describe your process, tools used, and recommended frequency for comparing our account fees and services to others similar in size and industry?
16. Fee Structure
17. Describe the proposed fees for the services your firm will provide.
18. Describe all other fees or expenses, including, but not limited to, fees for administration, recordkeeping, reports, travel, mailing expenses and any other fee not mentioned.
19. Describe any other fees your firm might receive as a result of the services you provide to the hospital that would be paid by a source other than the hospital
20. **REFERENCES**

Using the format outlined below, please provide three current client references and three former client references for which you provided the same services. References should be based on the office that will be providing services to JPS. **Please include at least one hospital client in both current and former client reference (if possible).**

**Current Client Reference 1**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Description of services provided: |  |

**Current Client Reference 2**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Description of services provided: |  |

**Current Client Reference 3**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Description of services provided: |  |

 **Former Client Reference 1**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Number of enrolled employees at date of termination: |
| Description of services provided: | Reason for termination: |

 **Former Client Reference 2**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Number of enrolled employees at date of termination: |
| Description of services provided: | Reason for termination: |

 **Former Client Reference 3**

| Organization name: | Contact and title: |
| --- | --- |
| Address: | Phone number: |
| Effective date of contract: | Number of enrolled employees: |
| Number of enrolled employees at date of termination: |
| Description of services provided: | Reason for termination: |

1. **PRICE**

The price quote shall remain firm for 120 days. Contract pricing shall remain firm for the term of the contract. If a price increase is warranted the vendor must submit a written request justifying the reason for the price to the JPS contract owner 30 days prior to effective date.

1. **CONTRACT TERM**

The proposed term of the agreement is three (3) years with two (2) one-year renewal options**,** which may be exercised by the District by providing the Successful Bidder with written notice of renewal no less than sixty (60) days prior to the end of the original term or any renewal term of the contract. The contract will be subject to cancellation by the District for any reason, at any time, and without penalty of any kind upon furnishing thirty (30) days advance written notification to vendor. At the end of the final renewal term of the contract the District reserves the right to extend the contract for up to 120 days to provide an opportunity to bring a new contract into place with another vendor.

1. **SELECTION AND EVALUATION PROCESS**

**Selection Process**

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

**Evaluation Criteria Specific to This RFP**

The Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of all proposals received in response to this RFP. The evaluation of RFP Responses will involve scoring each RFP Response in the areas listed and set forth below in Section 9: Evaluation Factors. The District’s evaluation of the RFP Responses will be based upon each Respondent’s response to the evaluation factors stated in this RFP. Any Respondent’s failure to provide complete and full responses to the requested information may lead to disqualification of such RFP Response.

1. **EVALUATION FACTORS**

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

1. Price
2. Independent structure; no 3rd party affiliated companies
3. No competing products
4. Percentage of government business
5. Organizational capabilities
6. Staff qualifications
7. **RFP CONTENT**
8. **Executive Summary**

Provide a synopsis of the highlights of the proposal and overall benefits of the proposal to the District. This synopsis should not exceed two pages in length and should be easily understood. The overall RFP Response shall not exceed 50 pages total, excluding exhibits.

1. **Company Background**

Please provide company background and experience, as well as company structure.

Information required to include experience with other government organizations.

Responses shall include a complete list of all key personnel associated with the services proposed. For each person on the list, the following information shall be included:

1. The person’s relationship with firm, including job title and years of employment
2. The role that the person will play in connection with the proposed services
3. Address, telephone, and e-mail address
4. The person’s relevant experience
5. **Questionnaire**

Complete Exhibit A, Section 4.

1. **District’s Needs**

Provide information on how your organization will meet the needs of JPS Health Network.

1. **References**

Provide references in accordance with Exhibit A, Section 5.

1. **Diversity Enterprise Participation**

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

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

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

 **OR**

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

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

1. **Forms**

a. Exhibit “B” Signature Form

b. Exhibit “D” Vendor Certification Form

c. Exhibit “E” Conflict of Interest Questionnaire

d. Exhibit “F” Vendor Proposed Amendment (include **redline** if proposing changes to Exhibit “C”, Contract Form)

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

1. **EVALUATION CRITERIA SCORE SHEET**

| **EVALUATION CRITERIA** | **Max Points** | **Vendor****Score** |
| --- | --- | --- |
| 1. Price – Best ValuePricing will be scored according to the pricing formula. $\frac{Lowest Responsive Price}{Price of Propser Being Evaluated} × Possible Points =Points Awarded$ | **20** |  |
| **THIS SECTION WILL BE SCORED BY THE EVALUATION COMMITTEE** |
| 2. Independent Structure; No 3rd Party affiliated Companies | **15** |  |
| 3. No Competing Products | **10** |  |
| 4. % of Government Business  | **10** |  |
| 1. Organizational Capabilities
 | **10** |  |
| 1. Staff Qualifications
 | **10** |  |
| 1. References
 | **10** |  |
| **THIS SECTION WILL BE SCORED BY DIVERSITY & INCLUSION DEPARTMENT** |
| 8. Disadvantaged Business Enterprise Participation. This will be applied to your HUB/SMWVBE Participation and is worth **15 points**.  **If the Respondent is a Certified HUB/SMWVBE,** skip B and C; **if not,** complete B and C**.** The breakdown is as follows: |
| A. Certified HUB/SMWVBE | **15** |  |
| **OR** |
| B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and /or organizations notified regarding the interest in HUB/SMWVBE participation in this contract; AND | **5** |  |
| C. Plan of Action – List the subcontractors selected for participation, their certification, and approximate dollar value of the work to be subcontracted and the expected percentage of the total contract amount. | **10** |  |
| **MAXIMUM TOTAL POSSIBLE POINTS** | **100** |  |
| **Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Evaluator ID: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **RFP #2020858344 Retirement Plan Advisor** |

**Exhibit “B”**

**Signature Form**

Respondent shall signify Respondent’s acceptance of and compliance with the requirements, terms, and conditions of this RFP #2020858344 Retirement Plan Advisor by signing in the signature space set forth below.

Respondent warrants that Respondent has examined and is familiar with this RFP and its terms and conditions.

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

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

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

|  |
| --- |
| **RFP #2020858344 Retirement Plan Advisor** |
| RESPONDENT (COMPANY) NAME:  |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name:  | Date:  |
| Title:  |
| Telephone: Email:  |

**Exhibit “C”**

**Contract Form**

This Professional Services Agreement (the “Agreement”) is made and entered into effective \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”), by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”), and Tarrant County Hospital District d/b/a JPS Health Network, a unit of local government and more specifically a county hospital district, created and operating under Chapter 281 of the Texas Health and Safety Code (“District”). The District and Contractor may be referred to individually as a “Party” to this Agreement and they may be referred to collectively as the “Parties” to this Agreement.

**RECITALS**

**Whereas**, the District, in furtherance of its statutory obligations to provide health care services to the indigent and needy residents of Tarrant County, Texas, owns and operates a fully accredited, integrated health delivery system that includes several hundred licensed in-patient beds at three facilities, as well as an extensive network of community-based facilities located throughout and serving the residents of Tarrant County, Texas;

**Whereas**, the District has requested proposals to provide the services described on **Schedule 1** (Scope of Services), which is attached hereto and incorporated herein for all purposes (“Services”);

**Whereas**, Contractor has presented a proposal to provide the Services to the District;

**Whereas**, Contractor has developed and maintains the expertise and resources necessary to perform and complete the Services;

**Whereas**, Contractor is a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ operated under the laws of the State of \_\_\_\_\_\_\_\_\_, is qualified to do business in the State of Texas, and is qualified and capable of performing and completing the Services; and,

**Whereas**, Contractor desires to provide the Services as so required by the District, and the District desires to contract with Contractor for the Services;

**Now, Therefore**, for and in consideration of the mutual covenants and conditions hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the District and Contractor hereby agree as follows:

1. Services to be Performed; Applicable Standards. Contractor shall perform and complete the Services in accordance with this Agreement, using industry best practices applicable to the performance of the Services. Furthermore, Contractor shall use only qualified personnel to perform and complete the Services in a diligent, professional and workmanlike manner, in accordance with all industry standards which are applicable to the Services, if any. Contractor will supply at its own expense, necessary computers, software, supplies and other materials required to perform and deliver the Services to the District.
2. Fees for Services Performed. The District shall pay to Contractor fees for the Services performed and the reimbursable expenses incurred by Contractor under this Agreement as set forth in **Schedule 2** (Fees and Expenses), which is attached hereto and incorporated by reference herein. Except to the extent expressly included in reimbursable Expenses on **Schedule 2**, the District will not be required to reimburse Contractor for any salaries, consulting fees, commissions, general overhead at Contractor’s place or places of business, office rental expense, utility expenses or expenses related to computers, software, supplies and other materials required to perform and deliver the Services or used by Contractor in the performance and delivery of the Services.
3. Term and Termination.

(a) Term.  The Parties agree that this Agreement shall be for a period of **one (1) year**. Thereafter, the District may renew the Agreement for up to **two (2) additional one-year terms** by providing Contractor with written notice (email notice will be acceptable) of renewal no less than **thirty (30)** days prior to the expiration of the then-current term. At the end of the term of the Agreement, the District reserves the right to extend the contract for up to **120 days** to provide an opportunity to bring a new contract into place with another vendor.

(b) Termination for Cause. Either Party may terminate this Agreement for cause upon the occurrence of an Event of Default (as defined below) by delivery of written notice of termination to the other Party while such Event of Default continues to exist, whereupon all obligations of the District under this Agreement shall terminate, other than the payment by the District for all amounts due under this Agreement through the effective date of termination.

(c) Event of Default; Notice of Material Breach. Either Party shall be in material default under this Agreement upon the occurrence of any one or more of the following which continues to exist fifteen (15) days after a Notice of Material Breach (defined below) is given to the defaulting Party (each occurrence being a “Event of Default”): (i) a failure or refusal by a Party to timely make any payment that is required to be paid by such Party under this Agreement; (ii) a failure by a Party to perform or observe any other obligation under this Agreement; (iii) any warranty or representation of a Party in this Agreement is false or misleading in any material respect; (iv) the commencement of any insolvency, bankruptcy or similar proceedings by or against such Party (including any assignment by such Party for the benefit of creditors or the appointment of a receiver for the assets of such Party). A “Notice of Material Breach” means written notice that includes: (i) a description sufficient to identify the Event of Default to the defaulting Party; and, (ii) if not obvious from the nature of the Event of Default, the notifying Party’s specific recommendations of the actions to be (or if appropriate, not to be) taken by the defaulting Party in order for it to cure the Event of Default.

(d) Remedies for Default. Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to any and all other remedies available under law, elect to: (1) terminate this Agreement in accordance and upon compliance with the termination provisions in Section 3 of this Agreement, and/or (2) commence collection actions (including court actions) for all sums due under this Agreement, and/or (3) seek such other remedies for such Event of Default as are available at law or in equity. All rights and remedies available to a Party hereunder, by law or equity, shall be cumulative and there shall be no obligation for such Party to exercise a particular remedy.

(e) Early Termination.  The District shall have the right to terminate this Agreement without cause in its sole discretion at any time prior to such completion of the Services by giving Contractor at least thirty (30) days’ prior written notice of such termination (hereinafter referred to as “Early Termination”). In the event of Early Termination, the District will pay all fees due to Contractor under Section 2 hereof for all Services performed by Contractor in accordance with the requirements of this Agreement up to and including the date of termination. The District also shall reimburse Contractor for all expenses incurred by Contractor in the performance of Services hereunder and which are or would be due to Contractor under Section 2 hereof if Early Termination had not occurred. Contractor acknowledges and agrees that in the event of such Early Termination, Contractor will not perform any unnecessary part of the Services nor will it incur any unreasonable expenses after receiving notice of Early Termination, but Contractor will perform only those Services and incur only those expenses reasonably necessary to fulfill its obligations under Section 1 hereof and this Section 3. Nothing set forth in this Section 3 shall limit the District’s other rights or remedies.

1. Confidentiality and HIPAA.

(a) The District may disclose to Contractor in confidence or otherwise make available to Contractor certain material which is not generally known to the public (“District Confidential Information”), including, but not limited to, information pertaining to: research; pricing; procurement; distribution; personnel; compensation; financial statements or projections; business plans; contracts; systems development and implementation; scientific and mathematics techniques; infrastructure and technical configuration; security policies; methodologies and implementations; intellectual property; trade secrets; inventions; marketing plans; existing and potential clients, customers, patients, suppliers, vendors and other business relationships; and other information provided, delivered or made available by the District or otherwise accessible to Contractor.

(b) Contractor agrees to hold in confidence all District Confidential Information and to use such information only for the purpose of performing and completing the Services for the District. Furthermore, Contractor will protect the District Confidential Information received under this Agreement in the same manner and to the same extent to which it protects its own valuable proprietary information, but in all events using at least a reasonable standard of care. Contractor may not make any copies of the District Confidential Information except in the course and scope of performing and completing the Services and all District Confidential Information (including but not limited to all copies thereof) shall be promptly returned by Contractor to the District upon the termination or expiration of this Agreement, or sooner if demanded by the District.

(c) Subject to the requirements of the limitations stated in Section 12 (Texas Public Information Act) below, the District agrees to keep Contractor’s proprietary information, including all information relating to the Services, confidential and not to use such proprietary information except as contemplated under this Agreement.

(d) The confidentiality obligations in this Agreement shall not apply to information: (1) in a receiving party’s possession prior to disclosure under this Agreement unless disclosed to receiving party by the disclosing party under a prior agreement with the disclosing party for confidentiality or non-disclosure (“Prior NDA”), (2) which is or becomes publicly known through no fault on the part of receiving party, (3) received from a third party not under an obligation to the owner of such information not to disclose it, (4) independently developed by receiving party without the benefit of the information disclosed under either a Prior NDA or this Agreement (as to which receiving party has the burden of proof), (5) required to be disclosed by government regulation, statute, or judicial order, provided that prior to such disclosure and if reasonably possible, receiving party will inform the disclosing party of such requirements and permit the disclosing party to seek a protective order or other relief regarding such information, or (6) disclosed without confidentiality restrictions to any third party by or with the express permission of the disclosing party.

(e) The Parties acknowledge the existence of applicable legal requirements pursuant to the federal Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder (collectively “HIPAA”). Attached to and incorporated in this Agreement as **Schedule 3** is the District’s standard Business Associate Agreement (“BAA”). Contractor acknowledges that for all purposes under the BAA and this Agreement, the District is a “Covered Entity” and Contractor is a “Business Associate”. Furthermore, Contractor agrees to comply with and satisfy all of the terms and conditions of the BAA applicable to a Business Associate. Any violation of or failure to satisfy the terms and conditions of the BAA shall be a breach of this Agreement.

(f) This Section 4 titled “Confidentiality and HIPAA” and the BAA shall survive the termination or expiration of the Agreement.

1. Indemnity.

(a) CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE DISTRICT, DISTRICT’S MANAGERS, OFFICERS, AGENTS, EMPLOYEES, STAFF, REPRESENTATIVES, AND DIRECTORS (COLLECTIVELY, THE “DISTRICT INDEMNITEES”) FROM ALL LOSSES (DEFINED BELOW) AND SHALL DEFEND THE DISTRICT AND DISTRICT INDEMNITEES AGAINST ALL CLAIMS AND CAUSES OF ACTION OF THIRD PARTIES ARISING OUT OF OR RELATED TO ANY OF THE FOLLOWING, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF THE DISTRICT OR DISTRICT INDEMNITEE: (i) A VIOLATION OF ANY FEDERAL, STATE, LOCAL OR FOREIGN LAW, RULE, REGULATION OR ORDER APPLICABLE TO CONTRACTOR AND/OR ITS AGENTS, EMPLOYEES OR REPRESENTATIVES; (ii) ANY VIOLATION OR BREACH BY CONTRACTOR OF ITS REPRESENTATIONS AND WARRANTIES TO THE DISTRICT IN THIS AGREEMENT; OR, THE FACT THAT ANY OF SUCH REPRESENTATIONS AND WARRANTIES CEASES TO BE TRUE AT ANY TIME PRIOR TO TERMINATION OR EXPIRATION OF THIS AGREEMENT; (iii) THE FAILURE OF CONTRACTOR TO OBTAIN, OR CAUSE TO BE OBTAINED, ANY REQUIRED LICENSES, PERMITS OR CONSENTS FOR THE DISTRICT TO RECEIVE AND USE THE SERVICES OR ANY COMPONENT THEREOF, TO THE FULL EXTENT PROVIDED IN THIS AGREEMENT, EXCLUDING ANY REQUIRED CONSENT THAT IS NOT OBTAINED DUE TO THE DISTRICT’S FAILURE TO PAY FOR SAME; AND (iv) PERSONAL INJURIES, DEATH OR DAMAGE TO TANGIBLE PERSONAL OR REAL PROPERTY TO THE EXTENT CAUSED BY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF CONTRACTOR OR ANY CONTRACTOR AGENT, EMPLOYEE OR REPRESENTATIVE. FOR PURPOSES OF THIS SECTION 5, THE TERM “LOSSES” MEANS ALL ASSESSMENTS, LOSSES, DAMAGES, COSTS, EXPENSES, LIABILITIES, JUDGMENTS, AWARDS, FINES, SANCTIONS, PENALTIES, CHARGES, AND AMOUNTS RESULTING FROM, OR AGREED TO BE PAID IN SETTLEMENT OF, ANY THIRD PARTY CLAIM OR ALLEGATION INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY AND OTHER LEGAL FEES AND COSTS AND EXPENSES OF INVESTIGATING OR DEFENDING AGAINST SUCH CLAIM OR ALLEGATION.

(b) CONTRACTOR AGREES TO, AND SHALL, INDEMNIFY AND HOLD THE DISTRICT HARMLESS AGAINST ANY CLAIMS, CAUSES OF ACTION, DAMAGES, AND EXPENSES TO THE EXTENT THE SAME ARISE OUT OF OR ARE ASSERTED AGAINST THE DISTRICT ALLEGING THAT ANY SERVICES PROVIDED HEREUNDER INFRINGES ANY UNITED STATES PATENT, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD-PARTY, PROVIDED THAT (1) THE DISTRICT GIVES CONTRACTOR WRITTEN NOTICE WITHIN TWENTY-ONE (21) DAYS AFTER THE DISTRICT’S ACTUAL KNOWLEDGE OF THE EXISTENCE THEREOF, OF ANY SUCH CLAIMS, DAMAGES, OR EXPENSES, AND/OR (2) THE DISTRICT AGREES TO COOPERATE REASONABLY WITH CONTRACTOR AS REASONABLY NECESSARY TO DEFEND, SETTLE, REIMBURSE, OR AVOID ANY SUCH CLAIMS, DAMAGES AND EXPENSES.

(c)  Upon timely receipt of the District’s written notice, Contractor will assume the defense of any claims against the District. The District agrees to cooperate with Contractor in the defense or settlement of all such claims.

(d)  Contractor shall not be bound by the terms of any compromise or settlement agreement negotiated or concluded by the District without the prior written consent of Contractor.

1. Exclusion and Ethics.

(a) Contractor agrees that it will immediately report in writing to the District in the event, if ever, Contractor, including any of its officers, directors, employees, contractors or agents, becomes a target of any criminal investigation or any investigation that could result in debarment or exclusion Contractor or such other person from federally or state funded healthcare programs.

(b) Contractor warrants and represents to the District that Contractor has never been:

1. convicted of a criminal offense;
2. listed by a federal agency as debarred, excluded or otherwise ineligible for federal plan participation;
3. sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,
4. excluded from any state or federal healthcare program.

(c) Contractor further warrants and represents to the District that neither Contractor, nor any of Contractor’s officers, directors, members, partners, shareholders (excluding shareholders, members and limited partners that own less than 5% of the combined voting power of Contractor), employees, contractors or agents:

1. is currently under criminal investigation or any investigation that could result in debarment or exclusion from federally or state funded healthcare programs; or
2. has ever been:

(i) convicted of a criminal offense that is a felony or a misdemeanor of moral turpitude;

(ii) listed by a federal agency as debarred, excluded or otherwise ineligible for Federal plan participation;

(iii) sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,

(iv) excluded from any state or federal healthcare program.

(d) In the event that any of the foregoing representations in this Section 6(b) or (c) ceases to be true, Contractor will immediately report same in writing to the District.

(e) Upon receipt of any report required by Contractor hereunder or in the event of a failure to report by Contractor, the District may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the District shall have no further obligations or liabilities hereunder.

1. Availability of Records. If and to the extent required by 42 U.S.C. § 1395x(v)(1)(I), until the expiration of four (4) years after the termination of this Agreement, Contractor shall make available, upon written request by the Secretary of the Department of Health and Human Services, or upon request by the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the costs of the Services provided by Contractor under this Agreement.
2. Work Product and Inventions.  All materials and/or other information developed, generated or produced, in whole or part, by Contractor (including the employees, independent contractors or agents of Contractor) in performing and completing the Services including, but not limited to, all documentation, flow charts, diagrams, specifications, descriptions, definitions, reports, and data (collectively, the “Work Product”) and any invention, product, computer program or specification, whether patentable or unpatentable, made, conceived or first actually or constructively reduced to practice, in whole or part, by Contractor (including the employees, independent contractors or agents of Contractor) in performing and completing Services (individually, an “Invention” and collectively, the “Inventions”), shall be the District’s sole and exclusive property. Contractor shall perform all acts that may be deemed reasonably necessary or desirable by the District to evidence that the Work Product and Inventions are ‘works made for hire’ and/or to more fully transfer ownership to the District of the Work Product and Inventions.
3. Contractual Relationship Only.  Neither Party is the legal representative or agent of the other, nor shall either Party have the right or authority to assume, create, or incur any liability or any obligation of any kind, expressed or implied, against, or in the name of or on behalf of the other Party. No agency, partnership, joint venture, or employment is created as a result of this Agreement. Furthermore, the District shall not be responsible for paying or withholding any taxes, fees or other amounts, with respect to the amounts paid to Contractor or for paying any compensation or benefits to or providing insurance for any of Contractor’s employees or contractors. Contractor agrees to defend, indemnify and hold harmless the District, and its managers, directors, officers, employees, agents, and representatives, against any and all losses, liabilities, claims, allegations, demands, causes of action, judgments, awards and costs (including but not limited to legal fees and expenses) (collectively “Claims”) arising out of or related to the employment or contract relationship of any of Contractor’s employees and independent contractors including but not limited to Claims for salary/wages, vacation pay, sick leave, retirement benefits, social security, worker’s compensation, health or disability benefits, unemployment insurance benefits, or employee compensation or benefits of any kind.
4. Annual Budget.  The Parties acknowledge and agree that the District is a governmental entity that is subject to an annual budgetary process and restrictions on spending in conformity with that process, its approved budget and applicable law. The Parties further agree that, notwithstanding anything to the contrary in this Agreement, if for any reason funds are not expressly and specifically allocated for this Agreement in the District’s formally and finally approved budget in any fiscal year subsequent to that in which funds for this Agreement were first allocated, the District may immediately and without penalty terminate this Agreement; provided, however, that in no event shall such a termination be effective earlier than the last date for which funds have already been so allocated under an existing formally and finally approved budget. Should the Agreement terminate under the provisions of this section titled “Annual Budget”, the District will provide Contractor with written notice as soon as is reasonably possible of the pending termination under this section, the effective date of which shall be at the end of the District’s fiscal year in which funds had previously been allocated unless the District states a later effective date of termination and, other than the payment of any amounts due and owing through the date of termination, the District shall have no further obligations or liabilities hereunder.
5. Tax Exemption.  Contractor recognizes that the District qualifies as a tax-exempt governmental agency pursuant to Section 151.309 of the Texas Sales, Excise, and Use Tax Code, and is not responsible for payment of any amounts accountable or equal to any federal, state or local sales, use, excise, personal property, or other taxes levied on any transaction or article provided for by this Agreement.
6. Texas Public Information Act.  Contractor acknowledges that the District is a governmental body under Chapter 552 of the Texas Government Code and thereby acknowledges that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act (“TPIA”) request and hereby assumes full responsibility for challenging any requests for information it considers confidential under Chapter 552. Contractor’s confidential information, which may include, but is not limited to, any trade secrets, financial information, and related proprietary information, (“Confidential Information”) that is provided by Contractor to the District under the terms of this Agreement may be subject to the exception to disclosure applicable to the District under Chapter 552 of the Texas Government Code, Subchapter C. If a TPIA request for public information is made on the District to disclose documents or information which contain what Contractor has identified to the District to be, or is otherwise believed by the District to be Confidential Information, the District agrees to (i) promptly notify Contractor of such request for disclosure, and (ii) decline any such request for disclosure of such Confidential Information and file a written request with the Texas Attorney General’s office seeking a determination as to whether such disclosure may be withheld; provided, however, failure to notify by the District shall not be deemed a material breach of the Agreement. The District is not required to take any further action with respect to any request made for determination by the Attorney General, and after any such request is made, all responsibility for briefing, supplementing and challenging the results of any requests to the Attorney General shall be Contractor’s sole responsibility.
7. Chapters 2271 and 2252 Texas Government Code Verification.  In compliance with Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm) et seq. of the Texas Government Code, Contractor verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section [808.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm) of the Texas Government Code. In compliance with Section [2252.151](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.151) et seq. of the Texas Government Code, Contractor warrants, represents, and by its execution of this Agreement hereby verifies that: (1) Contractor does not engage in scrutinized business operations in Sudan; (2) Contractor does not engage in scrutinized business operations in Iran; and (3) Contractor does not engage in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section [2270.0052](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0052) of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section [2270.0102](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0102) of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section [2270.0152](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0152) of the Texas Government Code.
8. Applicable Law and Venue.  The Parties agree that this Agreement is subject to, and agree to comply with, applicable local, State of Texas, and federal statutes, rules and regulations.  THIS AGREEMENT BETWEEN THE PARTIES SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THELAWS OF THE STATE OF TEXAS, USA, WITHOUT REFERENCE TO ITS LAWS RELATING TO CONFLICTS OF LAW.  Any legal action arising out of or relating to the Agreement shall be brought only in the state or federal courts located in Tarrant County, Texas, and the Parties irrevocably consent to the jurisdiction and venue of such courts.
9. Prohibition on Use of Name and Logo.  Contractor agrees that it will not, without the prior written consent of the District, use the names, logos, symbols, trademarks or service marks of the District, including but not limited to those associated with JPS Health Network, for any purposes or uses (expressly including but not limited to for Contractor’s advertising, promotion or other marketing) other than those reasonably related to performing and completing the Services. This section titled “Prohibition on Use of Name and Logo” shall survive the termination or expiration of this Agreement.
10. Non-Solicitation.  During the term of this Agreement and for a period of one year following the termination or expiration hereof: (a) neither Party shall, directly or indirectly, including on behalf of any other person, solicit for employment, solicit for contracting, hire, retain, engage, employ or contract, any employee of the other Party; and, (b) Contractor shall not directly or indirectly, including on behalf of any other person, solicit for employment, solicit for contracting, hire, retain, engage, employ or contract any third party contractor’s employee who provides on-site services for the District. The non-solicitation obligations of this Agreement shall survive the termination or expiration of this Agreement.
11. Insurance.  During the term of this Agreement Contractor will maintain commercial general liability insurance and professional liability insurance each in a coverage amount not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) in the aggregate. Furthermore, upon the execution of this Agreement and upon request any time thereafter, Contractor will furnish a then current certificate(s) of insurance.
12. Assignment Prohibited.  Contractor may not, without the prior written consent of the District, assign its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, and any attempt to do so shall be void and deemed a material breach of this Agreement.
13. Non-Waiver.  No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. No delay in exercising, no course in dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof. No failure or refusal of any approval referenced in this Agreement shall excuse or relieve the performance or other responsibilities of the other Party.
14. Severability. Without limiting this section of the Agreement, if any provision of this Agreement, or the application thereof to any person or circumstance, is held to be illegal, invalid or unenforceable for any reason, and the basis of the bargain among the Parties is not thereby destroyed, such illegality, invalidity or unenforceability shall not affect any other provision of this Agreement that can be given effect in the absence of the illegal, invalid or unenforceable provision of application. To this end, all provisions of this Agreement are declared to be severable.
15. Termination Right.  In the event of a change-in-control (defined below), the District may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the District shall have no further obligations or liabilities hereunder. A “change-in-control” means that (a) there occurs a reorganization, merger, consolidation or other corporate transaction involving Contractor (a “Corporate Transaction”), in each case with respect to which the owners of Contractor immediately prior to such Transaction do not, immediately after the Corporate Transaction, own more than 50% of the combined voting power of Contractor or any other entity resulting from such Corporate Transaction; or, (b) all or substantially all of the assets of Contractor are sold, liquidated or distributed.
16. Notices.  All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) when received by the Party to whom directed; (b) when sent by fax transmission to the following fax numbers; or (c) when deposited in the United States mail when sent by certified or registered mail, return receipt requested, postage prepaid to the following addresses (or at such other addresses or fax numbers as shall be given in writing by either Party to the other):

If to the District: Tarrant County Hospital District

Robert Earley, President and CEO

1500 South Main Street

Fort Worth, Texas 76104

Telephone: (817) 927-1234

Fax: (817) 924-1207

If to Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: (\_\_\_) \_\_\_\_\_\_\_\_\_\_\_

Fax: (\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_

1. Entire Agreement; Amendment. This Agreement (i) represents the entire understanding and agreement of the Parties hereto with respect to the matters contained herein, and (ii) may be amended, modified or waived only by a separate writing executed by the Parties expressly so amending, modifying or waiving this Agreement.
2. Binding Agreement.  This Agreement binds and inures to the benefit of the Parties, and their respective successors and permitted assigns.
3. Headings and Captions.  The subject headings of the sections, paragraphs, and subparagraphs of this Agreement are included herein solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify, or aid in the meaning, construction, or interpretation of any of the provisions of this Agreement.
4. Definition of Person.  For purposes of this Agreement, “Person” means any natural person, corporation, limited liability company, association, partnership, joint venture, proprietorship, governmental agency, trust, estate or other entity or corporation, whether acting in an individual, fiduciary or other capacity.
5. Taxes.  The fees payable by the District to Contractor hereunder are inclusive of any sales, use, gross receipts or value added, withholding, ad valorem or other taxes based on or measured by Contractor’s cost in acquiring equipment, materials, supplies or services used by Contractor in performing and completing the Services, plus all interest, penalties and other amounts levied thereon by a governmental agency for late payment or otherwise. Further, each Party shall bear sole responsibility for any real or personal property taxes on any property it owns or leases, for franchise or similar taxes on its business, for employment taxes on its employees, for intangible taxes on property it owns or licenses, and for taxes on its net income.
6. Compliance with Laws.  In providing the Services required by this Agreement, Contractor shall observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Contractor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.
7. Use of Words.  Whenever necessary in this Agreement and where the context requires, the gender of words shall include the masculine, feminine, and/or neuter, and the number of all words shall include the singular and the plural.
8. Counterparts.  This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, and all of which shall, for all purposes constitute one and the same instrument.
9. Further Assurances and Cooperation.  During the term of this Agreement, each Party shall exercise commercially reasonable efforts to cooperate with the other Party in the performance by the other Party of its respective duties and obligations under this Agreement. Neither Party shall unreasonably withhold or delay any consent, approval or request by the other Party required under this Agreement. Further, the Parties shall deal and negotiate with each other in good faith in the execution and implementation of their respective duties and obligations under this Agreement.
10. Construction.  This Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.
11. No Third Party Beneficiary Status.  The terms and provisions of this Agreement are intended solely for the benefit of each Party hereto and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third party beneficiary rights upon any other Person.
12. Attorney’s Fees and Court Costs.  Each Party shall bear and pay for all attorneys’ fees, costs and expenses incurred in the negotiation and execution of this Agreement. If either Party brings an action against the other to enforce any condition or covenant of this Agreement, each Party shall be individually responsible for its own court costs and attorney’s fees.
13. Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE USE OF THE SERVICES.
14. Electronic Signatures; Facsimile and Scanned Copies; Duplicate Originals; Counterparts; Admissibility of Copies. Each Party agrees that: (i) any electronic signature (if any), whether digital or encrypted, to this Agreement made by any Party is intended to authenticate this Agreement and shall have the same force and effect as an original manual signature; and (ii) any signature to this Agreement by any Party transmitted by facsimile or by electronic mail shall be valid and effective to bind that Party so signing with the same force and effect as an original manual signature. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile or electronic transmission, will have the same effect as physical delivery of the paper document bearing an original or electronic signature. This Agreement may be executed in multiple duplicate originals and all such duplicate originals shall be deemed to constitute one and the same instrument. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall be deemed to constitute a single instrument. The Parties warrant and represent that a true and correct copy of the original of this Agreement shall be admissible in a court of law in lieu of the original Agreement for all purposes of enforcement hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, in duplicate originals with one original being delivered to each Party, to be effective on the Effective Date.

|  |  |
| --- | --- |
| **Contractor:** [full legal name]By: Name: Title: Date:  | **District:** Tarrant County Hospital Districtd/b/a JPS Health NetworkBy: Name: Title:  Date:  |

Professional Services Agreement 032320.docx

**Schedule 1**

**Scope of Services**

(Insert a detailed description of the Scope of Services here.)

 

**Schedule 2**

**Fees and Expenses**

**1.         Caps on Fees and Expenses.** Contractor has agreed that the:

(a)        total Fees (defined below) payable by the District for the Services will not exceed \_\_\_\_\_\_\_\_\_\_\_\_\_ and 00/100 Dollars ($\_\_\_\_\_\_\_\_\_\_\_) (“Cap on Total Fees”); and,

 (b)        total Expenses payable or reimbursable by the District will not exceed an amount equal to \_\_\_\_\_\_% of the total Fees billed to the District at any point in time and in no event will exceed an amount equal to \_\_\_\_\_\_% of the Cap on Total Fees (“Cap on Total Expenses”).

**2.         Monthly Invoices – Fees.** Contractor will invoice the District monthly for the amount of time actually expended during the applicable monthly period by its personnel providing the Services (that has not been previously invoiced) based on Contractor’s standard hourly rates as reflected on **Schedule “2-A”** attached to the Agreement and incorporated herein for all purposes (“Fees”); provided that in no event will Contractor invoice the District for any Fees in excess of the Cap on Total Fees.

**3.         Monthly Invoices – Expenses.** In addition to the Fees, Contractor will invoice the District monthly for the Reimbursable Expenses (defined below and collectively referred to as the “Expenses”) incurred during the applicable monthly period in performing the Services; provided that in no event will Contractor invoice the District for any Expenses in excess of the Cap on Total Expenses.

The “Reimbursable Expenses” means those reasonable and necessary out-of-pocket expenses for travel, hotel rooms, and meals, actually incurred by Contractor to perform and complete the Services, which, without the prior approval of the District, shall exceed neither (i) the set percentage of the total Fees billed to the District (up to the Cap on Total Expenses), nor (ii) the applicable per diem lodging rates and per diem meals and incidental expense rates established by the General Services Administration (“GSA”) for Tarrant County, Texas. Current GSA per diem lodging rates and per diem meals and incidental expense rates can be found at https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup.

**4.         Monthly Invoices – Payment Deadlines.** Amounts invoiced as set forth herein are payable by the District within thirty (30) business days of receipt; provided, however, that once the District has been invoiced and has paid \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_/100 Dollars ($\_\_\_\_\_\_\_\_\_) for Fees, no additional Fees are payable by the District regardless of when invoiced until twenty (20) business days of completion of the Services, as evidenced by Contractor’s delivery to the District of the final Report.



**Schedule 2-A**

**Contractor’s Standard Rates and Profiles**

****

[List the persons or categories of persons performing the Services and their respective hourly rates or other basis of determining the Fees.]

**Schedule 3**

**BUSINESS ASSOCIATE AGREEMENT**

**USE AND DISCLOSURE OF PHI**

1. Acknowledgment of HIPAA Obligations and Other Regulations Implementing HIPAA. The parties acknowledge that federal regulations set forth in the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“**HITECH**”) relating to the confidentiality, integrity, and accessibility of protected health information (whether created, maintained, accessed, stored or transmitted electronically or otherwise) require covered entities to comply with the privacy and security standards adopted by the U.S. Department of Health and Human Services as they may be amended from time-to-time, 45 C.F.R. part 160 and part 164, subparts A and E (“**Privacy Rule**”) and 45 C.F.R. part 160, part 162, and part 164, subparts A and C (“**Security Rule**”). The Privacy Rule and Security Rule are sometimes collectively referred to herein as the“**Privacy and Security Standards**”. The Privacy and Security Standards require Covered Entity to ensure that Business Associates who create, receive, maintain, access, store, or transmit Protected Health Information in the course of providing services on behalf of Covered Entity comply with certain obligations regarding the confidentiality, integrity, and availability of Protected Health Information.
2. Definitions.
	1. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean Contractor.
	2. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean Tarrant County Hospital District d/b/a JPS Health Network.
	3. “HIPAA Rules” shall mean the rules at 45 C.F.R. Part 160, Part 162, and Part 164.
	4. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
	5. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, Individual, Health Care Operations, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
3. Purposes for which Protected Health Information, including Electronic Protected Health Information, May be Used or Disclosed. Business Associate may use, access, and disclose Protected Health Information (“PHI”) for the purposes of providing services to Covered Entity (“Services”) as set forth in the underlying agreement to which this BAA is attached (“Agreement”).
4. Business Associate Obligations. Business Associate agrees to comply with applicable federal and state confidentiality and security laws, including, but not limited to the Privacy and Security Standards, and including without limitation:
	1. *Knowledge of HIPAA and Texas Patient Privacy Laws*. Business Associate agrees to review and understand Texas Health and Safety Code Ch. 181 and HIPAA as it applies to Business Associate, and to comply with the applicable requirements of Texas Health and Safety Code Ch. 181, HIPAA, and HITECH (including without limitation 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316), as well as any applicable amendments. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law.
	2. *Training*. Business Associate agrees to provide training to its employees regarding the state and federal law concerning protected health information as necessary and appropriate for the employees to carry out the employees' duties for Business Associate as required by Texas Health and Safety Code Ch. 181.
	3. *Use and Disclosure of PHI*.
		1. Business Associate may only use or disclose PHI as necessary to perform the Services on behalf of Covered Entity, and shall not use or disclose PHI in a manner that would violate Texas Health and Safety Code Ch. 181 or HIPAA if so used or disclosed by Covered Entity.
		2. Business Associate may use and disclose PHI as Required by Law.
		3. Business Associate agrees to make uses and disclosure and requests for PHI consistent with Covered Entity’s Minimum Necessary policies and procedures, i.e., only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
		4. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except that Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out its legal responsibilities and its responsibilities under this BAA. However, the Business Associate shall in such case:
			1. provide training to members of its workforce regarding the confidentiality requirements in the Privacy and Security Standards and this BAA;
			2. obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (a) the PHI will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity and (b) the person or entity will notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached; and
			3. agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this BAA or for a purpose not expressly permitted by the Privacy and Security Standards.
	4. *Disclosure to Third Parties*. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to the same restrictions and conditions that apply to the Business Associate under this BAA. Business Associate shall ensure that any agent, including a subcontractor, to which the Business Associate provides PHI, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. The Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were the Business Associate’s own acts, failures or omissions, to the extent permitted by law. The Business Associate further expressly warrants that its agents will be specifically advised of, and will comply in all respects with, the terms of this BAA. Furthermore, in accordance with Section 13404 of HITECH, Business Associate shall comply with 45 C.F.R. § 164.504(e)(1)(ii).
	5. *No* *Offshore PHI*. Without the prior written approval of Covered Entity, Business Associate shall neither (i) create, receive, maintain, or transmit Covered Entity’s PHI outside the geographic boundaries of the United States, nor (ii) provide, transmit, or allow access to Covered Entity’s PHI to any person or entity located outside the geographic boundaries of the United States, including employees, agents or other representatives of that person or entity.
	6. *Data Aggregation*. In the event that the Business Associate works for more than one Covered Entity, Business Associate is permitted to use and disclose PHI, but only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the Privacy and Security Standards.
	7. *De-Identified Information*. Use and disclosure of de-identified health information is permitted, but only if (i) the precise use is disclosed to Covered Entity and permitted by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 C.F.R. § 164.502(d), and any such de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. § 164.514(a) and (b), or such regulations as they may be amended from time to time.
	8. *Notice of Privacy Practices*. Business Associate agrees that it will abide by the limitations of any Notice of Privacy Practices (“**HIPAA Notice**”) published by Covered Entity of which it has knowledge. Covered Entity shall provide to Business Associate such HIPAA Notice when it is adopted. Any use or disclosure permitted by this BAA may be amended by such HIPAA Notice. The amended HIPAA Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to such notice.
	9. *Withdrawal of Consent or Authorization*. If the use or disclosure of PHI in this BAA is based upon an Individual’s specific consent or authorization for the use of his or her PHI, and the Individual revokes such consent or authorization in writing, or the effective date of such authorization has expired, or the consent or authorization is found to be defective in any manner that renders it invalid, the Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such Individual’s PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy and Security Standards expressly applies.
	10. *Use or Disclosure that Would Violate HIPAA*. Business Associate is prohibited from further use or disclosure of PHI in a manner that would violate the requirements of the Privacy and Security Standards if the PHI were used or disclosed by Covered Entity, except to the extent permitted in Section D.3(d) above.
	11. *Safeguards*. Business Associate is required to implement and maintain administrative, physical, and technical safeguards with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this BAA, in accordance with Subpart C of 45 C.F.R. Part 164, that reasonably and appropriately protects the confidentiality, integrity, and availability of PHI and ensure that such PHI is not received, used, accessed, stored, transmitted, or disclosed other than as provided by this BAA or as Required by Law.
	12. *Securing PHI*. Business Associate shall secure any and all Electronic Protected Health Information (“EPHI”) covered by this BAA in accordance with the guidance issued by the Secretary entitled “Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals,” as amended and updated from time to time. In addition, with respect to PHI covered by this BAA, Business Associate shall comply with any guidance issued by the Secretary under the authority of HITECH Section 13401(c). Business Associate shall use best efforts to avoid the creation or storage of paper PHI.
	13. *Records Management*. Upon termination of this BAA or the Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form and shall comply with federal and state laws as they may be amended from time-to-time governing the maintenance or retention of PHI. If the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity of the reason thereof, and Business Associate agrees to extend the protections of this BAA to such PHI and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the information infeasible for so long as Business Associate retains the PHI.
	14. *Individual Rights Regarding Designated Record Sets*. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate agrees as follows:
		1. Correction of PHI. Business Associate agrees that it will amend PHI maintained by Business Associate as requested by Covered Entity pursuant to 45 C.F.R. § 164.526.
		2. Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will permit an Individual to inspect or copy PHI about the Individual in that set as directed by Covered Entity under conditions and limitations required under 45 C.F.R. § 164.524 as it may be amended from time-to-time. Covered Entity is required to take action on such requests as soon as possible but not later than 30 days following receipt of the request. Under Texas law, Business Associate must take action within 15 days of receiving applicable fees for copies or, if no fees are charged or there is a medical emergency, within 15 days of receipt of the request. Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline, to the extent the requested information is maintained by Business Associate and not Covered Entity.

The information shall be provided in the form or format requested, if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged.

* + 1. Individual Right to Amendment. Business Associate agrees that it will accommodate an Individual’s right to have access to and amend PHI about the Individual in a Designated Record Set in accordance with the Privacy and Security Standards set forth at 45 C.F.R. § 164.526 as it may be amended from time-to-time.
	1. *Accounting of Disclosures*. Business Associate agrees to maintain documentation of and make available to the Individual and/or Covered Entity from whom the PHI originated, as Covered Entity requests, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 C.F.R. § 164.528 as it may be amended from time-to-time. Such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including any disclosures prior to the compliance date of the Privacy and Security Standards).
		1. Covered Entity is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline.
		2. Such accounting must be provided without cost to the Individual or Covered Entity if it is the first accounting requested by an Individual within any 12-month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if the Individual is informed in advance of the fee and is afforded an opportunity to withdraw or modify the request.
		3. Business Associate’s obligations under this Section shall continue for as long as Business Associate maintains PHI.
	2. *Policies and Procedures*. Business Associate shall implement and maintain reasonable and appropriate policies and procedures to comply with the standards, implementation specifications, or other requirements of Part 164 of Title 45, Code of Federal Regulations, including, but not limited to, the provision of a process for complaints regarding Business Associate’s obligations under this BAA, HITECH, and HIPAA and imposition of sanctions against workforce members who fail to comply with the requirements of this BAA, HITECH, and HIPAA.
	3. *Security Incident*. Business Associate agrees to immediately report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information (“Unsecured PHI”) as required at 45 C.F.R. § 164.410, and any Security Incident of which the Business Associate becomes aware.
	4. *Notification in Case of Breach*.
		1. The parties acknowledge and agree that the express statutory language of HITECH including, but not limited to, the breach notification requirements under Section 13402 of HITECH (the “Breach Notification Rule”) is directly applicable to Business Associate and is hereby incorporated into this BAA.
		2. Business Associate shall, following the discovery of any Breach of Unsecured PHI:
			1. initially notify Covered Entity without unreasonable delay and in no case later than three (3) calendar days after discovery of a Breach;
			2. subject to Section 18(f) below, notify each Individual whose Unsecured PHI has been, or is reasonably believed to have been accessed, acquired, or disclosed as a result of such Breach; and
			3. notify Covered Entity of such Breach in accordance with 45 C.F.R. § 164.410. Such notice shall include:
				1. the identification of each Individual whose Unsecured PHI has been, or is reasonably believed to have been accessed, acquired, or disclosed as a result of such Breach;
				2. a brief description of what happened, including the date of Breach and date of discovery;
				3. a description of the types of Unsecured PHI involved in the Breach (i.e., whether the full name, social security number, etc. was disclosed);
				4. the steps the Individual should take to protect themselves from potential harm resulting from the Breach;
				5. a brief description of what the Business Associate involved is doing to investigate the Breach, to mitigate losses, and to protect against further Breaches; and
				6. contact procedures for Covered Entity or Individuals to ask questions or learn additional information, which shall include a toll free number, an email address, Web site, or postal address.
		3. All notifications under this Section 18 shall be made without unreasonable delay and:
			1. if to an Individual pursuant to Section 18(b)(ii), no later than sixty (60) calendar days following the discovery of such Breach by the Business Associate, as defined by 45 C.F.R § 164.410;
			2. if to Covered Entity pursuant to Section 18(b)(iii), no later than forty-five (45) calendar days following the discovery of such Breach by the Business Associate, as defined by 45 C.F.R § 164.410.
		4. All notifications under subsection (b)(ii) of this Section 18 shall comply with all applicable provisions under 45 C.F.R. § 164.404.
		5. Business Associate shall implement a reasonable system for discovery of Breaches of Unsecured PHI. Business Associate shall notify Covered Entity of any and all Breaches of Unsecured PHI. A Breach shall be treated as discovered by Business Associate on the first day on which such Breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate is deemed to have knowledge of a Breach if the Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the Breach), who is an employee, officer or other agent of the Business Associate.
		6. In the event Business Associate discovers a Breach of Unsecured PHI, Covered Entity shall decide how and when the notification to Individuals and media shall be provided and shall approve the content of such notifications. At the request of Covered Entity and in Covered Entity’s sole discretion, Business Associate shall provide the notification to Individuals and/or the media as directed by Covered Entity, and/or reimburse Covered Entity for the cost of notifying Individuals and/or the media.
	5. *Subcontractors*. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and § 164.308(b)(2), if applicable, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions and conditions that apply to the Business Associate with respect to such information.
	6. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligations under 45 C.F.R. Part 162 or Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements therein that apply to the Covered Entity in the performance of such obligations.
1. Internal Practices, Books, and Records. The Business Associate shall make available its internal practices, policies, procedures, books, and records relating to the use and disclosure of PHI received from Covered Entity, created or received by the Business Associate on behalf of Covered Entity, to the Secretary for the purpose of determining Covered Entity’s compliance with HIPAA, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.
2. Indemnification. To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney’s fees, defense costs, and equitable relief ), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate in connection with the performance of Business Associate’s duties under this BAA. This indemnity shall apply even if Covered Entity is alleged to be solely or jointly negligent or otherwise solely or jointly at fault; provided, however, that a trier of fact finds Covered Entity not to be solely or jointly negligent or otherwise solely or jointly at fault. This indemnity shall not be construed to limit Covered Entity’s rights, if any, to common law indemnity.

Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the costs and expenses of which shall be the responsibility of the Business Associate. Covered Entity shall provide the Business Associate with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist the Business Associate in establishing a defense to such action.

These indemnities shall survive termination of this BAA and the Agreement, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

1. Insurance. As long as Business Associate maintains PHI, Business Associate will maintain cyber insurance with coverage for HIPAA breaches including breach management and Individual notification expenses in the minimum amount of ten million dollars per occurrence and twenty million dollars in the annual aggregate. Upon the execution of the Agreement and upon Business Associate’s request any time thereafter (no more than annually), Business Associate will furnish a then current certified certificate(s) of insurance. Such policy (or policies) shall be primary over Covered Entity’s policies (if any), and shall provide for severability of interests, and thirty (30) days’ notice of cancellation. Business Associate shall provide thirty (30) days’ prior written notice to Covered Entity of any nonrenewal or cancellation of any insurance coverage.
2. Mitigation. If Business Associate violates this BAA or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such violation. Additionally, Business Associate agrees to mitigate, to the extent practicable, any other damages of which it is aware resulting from a violation of this BAA or the HIPAA Rules.
3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
4. Termination for Breach. Without limiting the termination provisions herein, if Business Associate breaches any provision of this BAA, Covered Entity may, at its option, access and audit the records of Business Associate related to its use and disclosure of PHI, require Business Associate to submit to monitoring and reporting, and such other conditions as Covered Entity may determine is necessary to ensure compliance with this BAA; or Covered Entity may terminate this BAA and the Agreement on a date specified by Covered Entity.
5. Survival of Key Provisions. The provisions of this BAA and the respective rights and obligations of the Business Associate under Section D.12. of this BAA shall survive the termination of this BAA and the Agreement.
6. Amendments. Covered Entity and Business Associate agree to enter into good faith negotiations to amend this BAA to come into compliance with changes in state and federal laws and regulations relating to the privacy, security and confidentiality of PHI. Covered Entity may terminate this BAA upon thirty (30) days written notice in the event that Business Associate does not promptly enter into an amendment that Covered Entity, in its sole discretion, deems necessary to ensure that Covered Entity will be able to comply with such laws and regulations.
7. Regulatory References. A citation in this BAA to the Code of Federal Regulations (C.F.R.) shall mean the cited section as that section may be amended from time to time.
8. Obligations of Covered Entity. To the extent applicable, Covered Entity shall:
	1. provide Business Associate a copy of its HIPAA Notice produced by Covered Entity in accordance with 45 C.F.R. § 164.520 as well as any changes to such HIPAA Notice;
	2. provide Business Associate with any changes in, or revocation of, authorizations by Individuals relating to the use and/or disclosure of PHI, if such changes affect Business Associate’s permitted or required uses and/or disclosures;
	3. notify Business Associate of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522;
	4. notify Business Associate of any amendment to PHI to which Covered Entity has agreed that affects a Designated Record Set maintained by Business Associate; and
	5. if Business Associate maintains a Designated Record Set, provide Business Associate with a copy of its policies and procedures related to an Individual’s right to: access PHI; request an amendment to PHI; request confidential communications of PHI; or request an accounting of disclosures of PHI.

**Exhibit “D”**

**Vendor Certification Form**

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

**INCLUDE THE FOLLOWING:**

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

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

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

**Exhibit “E”**

**Conflict of Interest Questionnaire**

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

Each Respondent shall complete the Conflict of Interest Questionnaire set forth below and shall return the completed Conflict of Interest Questionnaire with its RFP Response.

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:

1. 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;
2. a transaction conducted at a price and subject to terms available to the public; or
3. 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

1. a contract between the local governmental entity and vendor has been executed; or
2. 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:

1. a contract between the local governmental entity and vendor has been executed; or
2. 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.

[Balance of page left blank intentionally. Conflict of interest questionnaire follows.]

|  |
| --- |
| **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.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 No1. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

 Yes No |
|  |
| **5** | Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more. |
|  |
| **6** | Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1). |
|  |
| **7** |  Signature of vendor doing business with the governmental entity Date |
|  |

**Exhibit “F”**

Vendor’s Proposed Amendment

RFP #2020858344 Retirement Plan Advisor

 The District will NOT review, consider or approve any exceptions, additions, deletions or revisions made by Respondent to the RFP itself or to its Exhibits and Attachments. The District will only consider those exceptions, additions, deletions or revisions (collectively, the “Proposed Revisions”) as are set forth by Respondent specifically on this form (See Proposed Revisions section on the next page). The Respondent may submit its Proposed Revisions below in this separate Respondent’s Proposed Amendment; ONLY the Proposed Revisions specified in this Amendment (you may attach a redline, or additional pages if you need additional space) will be considered. The District will review only those Proposed Revisions set forth in this Proposed Amendment, and may accept or reject the same at its sole discretion. No such Proposed Revisions will become effective unless accepted by the District and agreed to in writing and signed by both parties.

 In submitting a response to this RFP, the Respondent agrees to accept the terms and conditions set forth in this RFP or incorporated herein by reference. The successful Respondent will be expected to enter into a contract which contains substantially the same terms and conditions as are included in Exhibit C to this RFP. In no event is Respondent permitted to submit its own standard contract terms and conditions in response to this solicitation. If Respondent attempts to substitute its own standard contract terms and conditions in response to this solicitation the Respondent’s Response may be rejected by the District without further examination.

Clearly indicate the portions of the Contract Form to which you propose an amendment. Be specific as to whether you want to delete language, add language or replace language. A redline is highly recommended if you propose significant revisions.

The District considers the Respondent to agree to all terms and conditions of the Contract Form (including Exhibits), unless otherwise indicated herein. Absence of Proposed Revisions (next page) will constitute agreement for those terms not herein addressed, and there will be no further negotiations regarding the same. The District will only review Proposed Revisions included in this **Vendor’s Proposed Amendment.**

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

[ ]  Respondent accepts Contract Form (including Exhibits) without exception.

OR

[ ]  Respondent proposes exceptions/modifications to the Contract Form (including Exhibits). For numerous or complex modifications, please enclose a red-lined version of Exhibit C, Contract Form that clearly shows each proposed exception/modification, and provide your rationale for the changes. *The District considers the Respondent to agree to all terms and conditions of the* Contract Form *(including Exhibits), unless otherwise indicated herein. Absence of Proposed Revisions will constitute agreement for those terms not herein addressed, and will not be subject to further negotiation.*

**Proposed Revisions to Exhibit C**

**In the “Section/Addition” column, indicate page, section and paragraph number of language you propose to revise (if applicable) and include proposed revised language in “Proposed Revision” column. If you are attaching a red-lined version of Exhibit C instead, please indicate that below and include attachment.**

|  |  |
| --- | --- |
| **Section/Addition** | **Proposed Revision** |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

****

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

**Signature**

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

**Printed Name**

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

**Title**

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

**Date**

**EXHIBIT “G”**

 **JPS SUPPLIER DIVERSITY: GOOD FAITH FORM**

|  |  |
| --- | --- |
| RFP # orName of Contract: | RFP #2020858344 Retirement Plan Advisor |
| Prime Vendor Name: |   |
| Prime Vendor address: |   |

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

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

[ ]  If no, please continue to **#2 below**

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

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

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

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

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

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

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