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**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

APPLICATION OF ENTERGY	§	BEFORE THE STATE OFFICE
TEXAS, INC. FOR AUTHORITY	§	OF
TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S RESPONSE
TO ENTERGY TEXAS, INC.
THIRD REQUEST FOR INFORMATION
QUESTION NOS. ETI 3-1 THROUGH ETI 3-4**

The Staff (Staff) of the Public Utility Commission of Texas (Commission) stipulates that the following responses to requests for information may be treated by all parties as if the answers were filed under oath.

Dated: November 21, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/ Margaux Fox
State Bar No. 24120829
Scott Miles
State Bar No. 24098103
Mildred Anaele
State Bar No. 24100119
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7021
(512) 936-7268 (facsimile)
Margaux.Fox@puc.texas.gov

SOAH DOCKET NO. 473-22-04394
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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on November 21, 2022 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Margaux Fox
Margaux Fox

**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

**COMMISSION STAFF'S RESPONSE
TO ENTERGY TEXAS, INC.
THIRD REQUEST FOR INFORMATION
QUESTION NOS. ETI 3-1 THROUGH 3-4**

ETI 3-1 In the past five years, has Commission Staff hired an attorney, consultant, or service provider on an hourly basis? If so, please provide the details of the engagement, including the engagement letter, the hourly rates by timekeeper, a description of the service provided, and the total amount paid to the consultant or service provider.

Response: No, Commission Staff has not made such hirings.

Prepared by: Margaux Fox

Sponsored by: Margaux Fox

**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

**COMMISSION STAFF'S RESPONSE
TO ENTERGY TEXAS, INC.
THIRD REQUEST FOR INFORMATION
QUESTION NOS. ETI 3-1 THROUGH ETI 3-4**

ETI 3-2 In the past five years, has the Commission hired an attorney, consultant, or service provider on an hourly basis? If so, please provide the details of the engagement, including the engagement letter, the hourly rates by timekeeper, a description of the service provided, and the total amount paid to the consultant or service provider.

Response: Yes, please see the attached Excel spreadsheet and the attached PDF.

Prepared by: Jay Stone
Sponsored by: Jay Stone

**SOAH DOCKET NO. 473-22-04394
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**COMMISSION STAFF'S RESPONSE
TO ENTERGY TEXAS, INC.
THIRD REQUEST FOR INFORMATION
QUESTION NOS. ETI 3-1 THROUGH ETI 3-4**

ETI 3-3 In the past five years, has Commission Staff hired an attorney, consultant, or service provider on a flat fee or fixed fee basis? If so, please provide the details of the engagement, including the engagement letter, the hourly rates by timekeeper, a description of the service provided, and the total amount paid to the consultant or service provider.

Response: No, Commission Staff has not made such hirings.

Prepared by: Margaux Fox

Sponsored by: Margaux Fox

**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

**COMMISSION STAFF'S RESPONSE
TO ENTERGY TEXAS, INC.
THIRD REQUEST FOR INFORMATION
QUESTION NOS. ETI 3-1 THROUGH ETI 3-4**

ETI 3-4 In the past five years, has the Commission hired an attorney, consultant, or service provider on a flat fee or fixed fee basis? If so, please provide the details of the engagement, including the engagement letter, the hourly rates by timekeeper, a description of the service provided, and the total amount paid to the consultant or service provider.

Response: Yes, please see the attached Excel spreadsheet and the attached PDF.

Prepared by: Jay Stone

Sponsored by: Jay Stone

CONTRACT NO. 473-17-00005
BETWEEN
THE PUBLIC UTILITY COMMISSION OF TEXAS
AND
HURLBERT CPA, LLC

The parties to this contract are The Public Utility Commission of Texas, an agency of the State of Texas, located at 1701 N. Congress, Ave., Austin, Texas 78701 and HURLBERT CPA, LLC, a Missouri Corporation whose address is P.O. Box 615, Liberty, MO 64069.

Article 1. DEFINITIONS

When used in this Contract, the following terms shall have the following meanings:

1.1 “Public Utility Commission,” “PUCT,” or “Commission” means the Public Utility Commission of Texas acting through its Executive Director and the agency’s designated Contract Administrator.

1.2 “Contractor” includes Hurlbert CPA, LLC, and any successors, heirs, and assigns.

1.3 “Services” means any and all services performed and any and all goods and products delivered by Contractor as specified in Attachment A, Statement of Work (SOW).

Article 2. COMPENSATION

2.1 Compensation. Contractor agrees to provide all Services (including labor, expenses, and any other services) described in Attachment A, SOW, for the following per Fiscal Year Audit firm fixed prices:

Audit FY 2017	\$42,000
Audit FY 2018	\$39,000
Audit FY 2019	\$39,000
Audit FY 2020	\$39,000

The total compensation under this contract is \$159,000. Contractor understands that the PUCT is not responsible for payment of any costs or expenses exceeding this amount.

If Contractor believes that changes in the scope of Services to be performed will require Contractor to increase its fee, it must request the PUCT’s written authorization to increase its fee. The Contractor must document the changes in the scope of Services and why they will require additional effort. The PUCT must approve the increase in fee by written amendment to this Contract before the Contractor performs any Services or may invoice the increased fee.

2.2 Payment Process. Contractor shall submit a statement for services or invoice to the PUCT Contract Administrator no later than the 15th day of the month after the month that the Services triggering payment of a portion of the fee were completed. The invoice must contain the name of the person performing Services and a brief description of work performed. No payment will be made for administrative overhead, overtime, etc.

The Contractor may invoice for its services as follows:

- 40% of the fee for each fiscal year audit upon submission of the draft audit report

- 40% of the fee for each fiscal year audit upon submission of the final audit report
- 20% of the fee for each fiscal year audit upon the later of: formal acceptance by the PUCT of the report or, if the Contractor is requested to brief the commissioners of the PUCT, upon briefing the commissioners on the report's findings. The PUCT will not provide additional compensation to the contractor for a trip to and time spent in Austin to brief the commissioners of the PUCT.

On the statement or invoice, Contractor must include a statement that the invoice accurately describes the Services performed and the Services were performed in compliance with the Contract. The statement or invoice must include the vendor identification number issued by the Texas Comptroller or Contractor's federal taxpayer identification number, a description of the Services provided, and the name and division of the PUCT Contract Administrator.

Contractor shall submit the statement or invoice to the PUCT as follows:

By email to: Payables@puc.texas.gov

2.3 Payment for Services. Contractor's acceptance of payment releases the PUCT of all claims for compensation owed in connection with this Contract.

2.4 Payments made to Subcontractors. Contractor shall pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Contractor receives the payment. The subcontractor's payment shall be overdue on the 11th day after the date Contractor receives the payment. The PUCT must approve Contractor's use of any subcontractor before Contractor engages the subcontractor (see Sec. 5.1).

2.5 Records. Contractor and its subcontractors, if any, shall maintain records and books of account relating to Services provided under this Contract. Contractor shall, for a period of seven (7) years following the expiration or termination of this Contract, maintain its records (electronic and paper) of the work performed under this Contract. Records include, but are not limited to correspondence concerning the subject of this Contract between Contractor and the PUCT; Contractor's internal correspondence; and correspondence between Contractor and any third party. Contractor shall make all records that support the performance of Services and payment available to PUCT and/or its designees or the State Auditor during normal business hours with reasonable notice, upon the request of the PUCT Contract Administrator.

2.6 Sole Compensation. Payments under this Article are Contractor's sole compensation under this Contract. Contractor shall not incur expenses with the expectation that the PUCT or any other agency of the state of Texas will directly pay the expense to a third-party vendor irrespective of the reason for incurring those expenses.

Article 3. CONTRACT ADMINISTRATION

3.1 PUCT Contract Administration. The PUCT designates **Jay Stone** to serve as its primary point of contact and Contract Administrator throughout the term of this Contract. Contractor acknowledges that the PUCT Contract Administrator does not have any authority to amend this Contract on behalf of the PUCT, except as expressly provided herein. Contractor further acknowledges that such authority is exclusively held by the Commission or its authorized designee, Executive Director Brian H. Lloyd.

3.2 Contractor Contract Administration. Contractor designates its Contract Administrator as follows: Vic Hurlbert, CPA.

3.3 Reporting. Contractor shall report directly to the PUCT Contract Administrator and shall perform all activities in accordance with reasonable instructions, directions, requests, rules, and regulations issued during the term of this Contract as conveyed to Contractor by the PUCT Contract Administrator.

3.4 Cooperation. The Parties' Contract Administrators shall handle all communications between them in a timely and cooperative manner. The Parties shall timely notify each other by email or other written communication of any change in designee or contact information.

3.5 Inquiries and Prompt Referral. Contractor understands that the PUCT does not endorse any vendor, commodity, or service. Contractor, its employees, representatives, other agents, or subcontractors may not issue any media release, advertisement, publication, or public pronouncement which pertains to this Contract or the Services or project to which this Contract relates or which mentions the PUCT without the prior approval of the PUCT. Contractor will promptly refer all inquiries regarding this Contract received from state legislators, other public officials, the media, or non-Parties to the PUCT Contract Administrator.

Article 4. REPORTS AND RECORDS

4.1 Written Reports. Contractor will provide written reports to the PUCT in the form and with the frequency specified in Attachment A, SOW, or as otherwise agreed in writing between the Parties.

4.2 Distribution of Consultant Reports. PUCT shall have the right to distribute any consultant report associated with this contract, or to allow another Texas state agency or the Texas legislature to distribute it. PUCT shall also have the right to post any consultant report associated with this contract to the PUCT's website or to the website of a standing committee of the legislature. This provision does not waive any right to confidentiality that PUCT may assert for the report or any portion thereof.

Article 5. SUBCONTRACTING PARTIES

5.1 Use of Subcontractors. The Parties acknowledge and agree that at the time of execution of this Contract, Contractor intends to perform the Services required under this Contract using its own employees. Contractor will notify the PUCT Contract Administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any such other subcontract or subsequent substitution of a subcontractor must be approved according to the terms of Article 7.

5.2 Sole Responsibility. Contractor is solely responsible for the quality and timeliness of the work produced by all subcontractors that Contractor may engage to provide Services hereunder and for the timely payment for all such work produced by all subcontractors that the PUCT accepts and pays for in accordance with the terms of this Contract.

5.3 Prime Vendor Contract. The Parties expressly agree that this Contract is intended to constitute a prime vendor contract, with Contractor serving as the prime vendor for delivery of the Services made the subject hereof. Contractor acknowledges and agrees that it is fully liable and responsible for timely, complete delivery of the Services described in this Contract, notwithstanding the engagement of any subcontractor to perform an obligation under this Contract.

Article 6. TERM, SUSPENSION, AND TERMINATION

6.1 Term. The term of this Contract shall begin on January 17, 2018 or the date signed by the last party to sign, the latter of the two, and shall continue in effect until April 30, 2021 unless sooner terminated under Sections 6.3 and 6.4 of this Contract.

6.2 Termination for Cause by the PUCT. If Contractor is in default of any material term of this Contract, the PUCT may serve upon Contractor written notice requiring Contractor to cure such default. Unless within thirty (30) days after receipt of said notice by Contractor, said default is corrected or arrangements satisfactory to the PUCT, as applicable, for correcting the default have been made by Contractor, the PUCT may terminate this Contract for default and shall have all rights and remedies provided by law and under this Contract. If PUCT terminates Contractor under Article 18.12, PUCT need not provide any notice or opportunity for curing the default.

6.3 Termination for the Convenience of the PUCT. The PUCT may, upon thirty (30) days written notice to Contractor, terminate this Contract whenever the interests of the PUCT so require. The PUCT will only reimburse those expenses already incurred at the time the notice is provided. The PUCT shall not be liable for any damages and/or loss to Contractor as a result of termination for convenience.

6.4 Transfer of Duties. In the event of termination, Contractor will provide reasonable cooperation to transfer its duties under the Contract to another entity without disruption to the provision of Services.

6.5 Remedies for Breach. All remedies available to PUCT for breach or anticipatory breach of this Contract by Contractor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunction relief, and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

6.6 Survival. In the event that this Contract expires or is terminated pursuant to its terms, the rights and obligations of the Parties under it shall end; provided that the provisions of Sections 2.5, 2.6, 3.5, 4.2, 6.5, 7.5, 9.2, 9.4, 9.5, 9.6, 17.2, 19.1, 19.2, 19.3, 19.4, 19.5, 19.7, and 19.9 and Articles 1, 10, 12, 14, 15, 16, 20, 21, 23, and 28 shall survive in their entirety.

Article 7. ASSIGNMENT, AMENDMENTS, AND MODIFICATIONS

7.1 Material Change Requests. PUCT may propose changes to Attachment A, SOW. Upon receipt of a written request from the PUCT for a change to Attachment A, SOW, Contractor shall, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this Contract. No changes to Attachment A, SOW, will occur without the Parties' written consent as provided in accordance with the terms stated in this Contract.

7.2 Changes in Law, Rules, or Rulings. Subsequent changes in federal or state legislation, rules and regulations or rulings by the PUCT may require modification of the terms of this Contract, including an increase or decrease in Contractor's duties or compensation. In the event of such subsequent changes to statutes, rules, and/or regulations, the PUCT and Contractor shall negotiate the terms of a contract modification in good faith and incorporate such modification

into this Contract by written amendment.

7.3 No Assignment of Duties. This Contract shall be binding upon and inure to the benefit of the permitted successors and assigns of any Party (including by merger of Contractor or otherwise by operation of law); provided however that Contractor shall not otherwise, without the prior written consent of the PUCT, assign or transfer this Contract or any obligation incurred under this Contract. Any attempt by Contractor to assign or transfer this Contract or any obligation incurred under this Contract, in contravention of this paragraph, shall be void and of no force and effect.

7.4 Amendments and Modifications. This Contract may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this Contract.

7.5 Binding on Successors. The terms of this Contract shall be binding on any successor organization of any of the Parties.

Article 8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Warranty of Performance. Contractor represents, warrants, and covenants that it will perform the Services outlined in Attachment A, SOW, in a professional and workmanlike manner, consistent with professional standards of practice in the professional industry.

8.2 Warranty of Services. Contractor warrants that the Services shall be rendered by the qualified personnel named in Section 19.8 of this Contract. If Services provided under this Contract require a professional license, then Contractor represents, warrants, and covenants that the activity will be performed only by duly licensed personnel.

Article 9. RISK OF LOSS AND PROPERTY RIGHTS

9.1 Risk of Loss. The risk of loss for all items to be furnished hereunder shall remain with Contractor until the items are delivered to and accepted by the PUCT, at which time the risk of loss shall pass to the PUCT.

9.2 Ownership. Except for materials where any intellectual property rights are vested in a third party, such as software or hardware, in which case such rights shall remain the property of the third party, all finished materials, conceptions, or products created and/or prepared for on behalf of the PUCT and purchased by the PUCT, or on behalf of the PUCT, that the PUCT has accepted as part of the performance of Services hereunder, shall be the PUCT's property exclusively and will be given to the PUCT either at the PUCT's request during the term of the Contract or upon termination or expiration of the Contract. Notwithstanding the foregoing, materials created, prepared for, or purchased exclusively by the PUCT or on behalf of the PUCT are the PUCT's exclusive property regardless of whether delivery to the PUCT is effectuated during or upon termination or expiration of this Contract.

9.3 Licensed Software. With PUCT's advanced written consent, contractor may obtain software licenses as an agent of the PUCT for software that is used by Contractor solely for the purpose of providing Services under this Contract. Contractor shall provide the PUCT with a copy of any software license obtained by Contractor as an agent for the PUCT for the purpose of providing Services under this Contract.

9.4 Prior Works. Except as provided herein, all previously owned materials, conceptions, or products shall remain the property of Contractor and nothing contained in this Contract will be

construed to require Contractor to transfer ownership of such materials to the PUCT.

9.5 Trademarks. The Parties agree that no rights to any trademark or service mark belonging to another Party or to any non-Party are granted to any other Party by this Contract, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Contractor under this Contract does not give the PUCT any rights of ownership in the trademark or the software.

9.6 Program Information. Program information, data, and details relating to Contractor's Services under this Contract shall be maintained separately from Contractor's other activities. Contractor shall undertake all reasonable care and precaution in the handling and storing of this information.

9.7 Provision to be Inserted in Subcontracts. Contractor shall insert an article containing paragraphs 9.2 and 9.6 of this Contract in all subcontracts hereunder except altered as necessary for proper identification of the contracting Parties and the PUCT under this Contract.

Article 10. PUBLIC INFORMATION

10.1 Texas Public Information Act. (Texas Government Code Chapter 552). The Parties acknowledge that notwithstanding any other provisions of this Contract, the Texas Public Information Act ("PIA") governs the treatment of all information held by or under the control of the Commission. The Commission will notify Contractor of requests for Contractor's information as provided under the PIA.

10.2 Agreement Not Confidential. Contractor acknowledges that a copy of this Contract shall be posted on the PUC's public-facing website. Additionally, Contractor acknowledges that not all information provided with the proposal may be confidential pursuant to the Texas Public Information Act, regardless of whether those terms are marked "Proprietary," "Trade Secret," or "Confidential." Contractor further acknowledges that in the event of a dispute over the release of a proposal or part of a proposal the PUCT is bound by the decision made by the Office of the Attorney General of Texas.

10.3 Contractor's Duty to Provide Public Information. Contractor is required, at no additional cost to the state, to make available in a format that is accessible by the public any information created or exchanged with the state pursuant to this contract. For the purpose of Section 10.3 of this contract, paper documents, Adobe Portable Document Format files (.pdf), Microsoft Excel spreadsheets (.xls), Microsoft Word documents (.docx), and Hypertext Markup Language (.html) files shall be considered "accessible by the public," unless another format is specified by the PUCT, at the PUCT's sole discretion. If information created or exchanged with the state pursuant to this contract is excepted from disclosure under the Texas Public Information Act, Contractor will not be required to make the information available to the public, but may be required to facilitate the PUCT's provision of the information to the Texas Attorney General for a decision on the information's confidentiality. The PUCT has no duty or responsibility to argue a defense of confidentiality to Contractor's information or data; it shall be Contractor's sole responsibility to do so.

Article 11. CONFLICTS OF INTEREST AND EMPLOYMENT RESTRICTION

11.1 No Conflicting Relationships. Contractor certifies to the Commission that no existing or contemplated relationship exists between Contractor and the Commission that interferes with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists

between Contractor and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Contractor with respect to the Commission.

11.2 Prohibition on Transactions with Parties Adverse to Commission. Contractor agrees that during the term of this Contract and any extensions or renewals thereof, it will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests that are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if, in the Commission's sole judgment, such activities of the Contractor will not be adverse to the interests of the Commission.

11.3 Notice of Conflict. Contractor agrees to promptly notify the PUCT of any circumstance that may create a real or perceived conflict of interest, whether arising prior to or during the term of the contract. Contractor agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Contractor's failure to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.3.

Article 12. INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless the PUCT, the State of Texas, and its officers, agents, employees, representatives, contractors, assignees, and designees from any and all liabilities, claims, suits, assessments, penalties, losses, damages, demands or causes of action, and all related costs, attorney fees and expenses of whatever kind or nature asserted by a third party and occurring in any way incident to, arising out of, or in connection with acts or omissions of Contractor, its agents, employees and subcontractors, committed in the conduct of this Contract. Contractor shall have the obligation to undertake the defense of any such claim, process, or legal proceeding at Contractor's expense; provided, however, that the PUCT may participate in the defense with counsel of its own choosing. Any defense shall be coordinated by contractor with the Office of the Attorney General when Texas State Agencies are named defendants in any lawsuit. Contractor may not agree to any settlement without first obtaining the concurrence from the Office of the Attorney General. Contractor and the PUCT agree to furnish timely written notice to each other of any such claim.

If all or any part of the Deliverables is the subject of any claim, suit, or proceeding for infringement or misappropriation of any Intellectual Property Right, Contractor may, and in the event of any adjudication that the Deliverables or any part thereof infringes or misappropriates any patent, trademark, copyright, or trade secret, or if the licensing or use of any of the Deliverables or any part thereof is enjoined, Contractor shall, at its expense do one of the following things: (i) procure for PUCT the right under such patent, trademark, copyright or trade secret to fully use the Deliverables or the affected part thereof; or (ii) replace the Deliverable or affected part thereof with another non-infringing Deliverable; or (iii) suitably modify the Deliverable or affected part thereof to make it non-infringing.

Article 13. INSURANCE

Contractor agrees to comply with all state and federal laws applicable to the liability and payment of Contractor and Contractor's employees, including laws regarding wages, taxes, insurances, and workers' compensation. Neither the PUCT nor the State of Texas shall be liable to the Contractor, its employees, agents, or others for the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee.

13.1 Minimum Insurance. Contractor shall, at its sole cost and expense, secure and maintain as a minimum, from the Effective Date and thereafter during the term of this Contract and any renewals or extensions thereof, for its own protection and the protection of the PUCT and the State of Texas:

(a) commercial liability insurance, covering, at a minimum, the following categories of liability within the following limits: (i) bodily injury and property damage - \$1,000,000 limit per occurrence, \$2,000,000 aggregate, (ii) medical expense - \$5,000 limit per person, (iii) personal injury and advertising liability - \$1,000,000 limit, (iv) products/completed operations - \$2,000,000 aggregate, (v) damage to premises rented - \$50,000 limit;

(b) automobile liability coverage for vehicles driven by Contractor's employees (\$500,000 per occurrence); and

(c) workers' compensation insurance in accordance with the statutory limits, as follows: (i) employer's liability - \$1,000,000 each incident, (ii) disease - \$1,000,000 each employee and \$1,000,000 policy limit.

The PUCT and the State of Texas shall be named an additional insured on the commercial liability and automobile policies.

Insurance coverage shall be from companies licensed by the State of Texas to provide insurance with an "A" rating from A.M. Best and authorized to provide the corresponding coverage.

13.2 Certificates of Insurance. Contractor shall furnish to the PUCT certificates of insurance and any applicable endorsements, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten (10) days of the Effective Date of this Contract, and upon request thereafter. Contractor shall provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates or endorsements promptly, shall constitute a material breach of this Contract. Contractor shall provide thirty (30) days written notice of any notice for renewal and/or cancellation of insurance.

Article 14. DISPUTE RESOLUTION

The Parties agree to resolve disputes arising under this Contract through the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and Subchapter C of the PUCT Rules for Administrative Services.

Article 15. SOVEREIGN IMMUNITY

The State of Texas and the PUCT do not waive sovereign immunity by entering into this Contract and specifically retain immunity and all defenses available to them under the Constitution, the laws of the State of Texas, or the common law.

Article 16. GOVERNING LAW

Notwithstanding anything to the contrary in this Contract, this Contract shall be deemed entered into in the State of Texas and shall be governed by, construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of the State of Texas. The Parties hereby submit to the jurisdiction of the courts located in, and venue is hereby stipulated to, the state courts located in Travis County,

Texas. Each Party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Contract. Further, each Party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Contract.

Article 17. COMPLIANCE WITH LAW

17.1 General. Contractor shall comply with all federal, state, and local laws, executive orders, regulations, and rules applicable at the time of performance. Contractor warrants that all Services sold hereunder shall have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations to which they are subject, including, but not limited to, Equal Employment Opportunity laws. All laws and regulations required in agreements of this character are hereby incorporated by this reference.

17.2 Taxes. Contractor agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as a result of any action taken as a result of this Contract.

17.3 Workers' Compensation. Contractor agrees that it shall be in compliance with applicable state workers' compensation laws throughout the term of this Contract and any renewals or extensions thereof.

17.4 Conflicts. Contractor agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the Commission. In the event that Contractor becomes aware of inconsistencies between this Contract and a Texas statute or PUCT rule, Contractor will so advise the PUCT immediately and will cooperate fully to revise applicable provisions of this Contract as necessary.

17.5 Compliance with Deceptive Trade Practices Act. Contractor shall comply with Texas Business and Commerce Code Chapter 17.

17.6 Compliance with Americans with Disabilities Act. Contractor shall Comply with the Americans with Disabilities Act, 42 U.S.C. Chapter 126.

17.7 Prohibited Use of Appropriated/Other Funds. Contractor shall comply with Texas Government Code Sections 556.005 and 556.0055 related to prohibited uses of appropriated and other funds.

17.8 Certificate of Interested Parties Form. At the time Contractor submits a signed contract to the PUCT, Contractor shall submit a "Certificate of Interested Parties" form to the PUCT and file the form with the Texas Ethics Commission. The form and instructions for filing the form can be found at: <https://www.ethics.state.tx.us/tec/1295-Info.htm>. Contractor shall not perform any work under the contract, nor receive any compensation prior to filing the form with the Texas Ethics Commission.

Article 18. CONTRACTOR'S CERTIFICATION

By accepting the terms of this Contract, Contractor certifies that, to the extent applicable, it is in compliance with the following requirements and prohibitions. Contractor understands and

agrees that a false certification may lead to termination of this Contract for cause.

18.1 Prohibitions on Gifts. Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

18.2 Delinquent Obligations. Contractor is not currently delinquent in the payment of any franchise or sales tax owed to the State of Texas, and is not delinquent in the payment of any child support obligations under applicable state law.

18.3 Terrorist Financing. The PUCT is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it, via cross referencing proposers/vendors with the Federal General Services Administration's System for Award Management (SAM), <https://www.sam.gov/>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

Contractor certifies that the Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at: <https://www.sam.gov/>

18.4 Antitrust. Neither Contractor nor anyone acting for Contractor has violated the antitrust laws of this State, codified in Section 15.01, et seq. of the Texas Business and Commerce Code or the Federal Antitrust Laws, nor has communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.

18.5 Family Code. Contractor has no principal who is ineligible to receive funds under Texas Family Code Section 231.006 and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

18.6 Prohibited Compensation. Contractor has not received compensation from the PUCT, or any agent, employee, or person acting on the PUCT's behalf for participation in the preparation of this Contract.

18.7 Government Code. Under Texas Government Code Section 2155.004, Contractor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

18.8 Outstanding Obligations. Payments due under the contract will be applied towards any debt that is owed to the State of Texas, including but not limited to delinquent taxes and child support.

18.9 Contracting with Executive Head of State Agency. Contractor certifies this Contract is in compliance with Texas Government Code Section 669.003 relating to contracting with the executive head of a State agency. If Texas Government Code Section 669.003 applies, bidder will provide the following information in order for the bid to be evaluated: Name of Former

Executive; Name of State Agency; Date of Separation from State Agency; Position with Bidder; and Date of Employment with Bidder.

18.10 Buy Texas. Contractor will comply with Texas Government Code Section 2155.4441, pertaining to service contracts regarding the use of products produced in the State of Texas.

18.11 Hurricane Recovery. Under Texas Government Code Section 2155.006, Contractor certifies that the individual or business entity named in this proposal is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

18.12 E-Verify. Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

1. All persons hired to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) hired by the proposer to perform work pursuant to the Contract, within the United States of America.

The Contractor shall provide, upon request of PUCT, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

This term should not be construed to require Contractor to utilize E-Verify to determine the eligibility of existing employees, or otherwise use E-Verify in violation of the law.

18.13 Debarred Vendors List. Contractor certifies that it is not on the Debarred Vendors List located at http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.

18.14 Does not Boycott Israel. As required by Texas Government Code section 2270.002, Contractor certifies that Contractor does not, and will not during the term of this Contract, boycott Israel. Contractor further certifies that no subcontractor of Contractor boycotts Israel, or will boycott Israel during the term of this Contract. Contractor agrees to take all necessary steps to ensure this certification remains true during the term of this Contract.

Article 19. GENERAL PROVISIONS

19.1 Relationship of Parties. Contractor is and shall remain at all times an independent contractor, and nothing in this Contract shall be deemed to create a joint venture, partnership, employment, franchise, master-servant, or agency relationship between the Parties. Except as expressly provided to the contrary elsewhere in this Contract, no Party has any right or authority to act on behalf of another Party, nor to assume or create any obligation, liability or responsibility on behalf of another Party. Under no circumstances shall the relationship of

employer and employee be deemed to arise between the PUCT and Contractor's personnel. Contractor shall be solely responsible for achieving the results contemplated by this Contract, whether performed by Contractor, its agents, employees or subcontractors.

19.2 Non-Exclusivity. Nothing in this Contract is intended nor shall be construed as creating any exclusive arrangement between Contractor and PUCT. This Contract shall not restrict PUCT from acquiring similar, equal, or like goods and/or services from other entities or sources.

19.3 Taxes and Statutory Withholdings. Contractor acknowledges that it is not a PUCT employee, but is an independent contractor. Accordingly, it is Contractor's sole obligation to report as income all compensation received by Contractor under the terms of this Contract. Contractor is solely responsible for all taxes (federal, state, or local), withholdings, social security, unemployment, Medicare, Workers' Compensation insurance, and other similar statutory obligations (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this contract. Contractor shall defend, indemnify and hold the PUCT harmless to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, or local), withholding, social security, unemployment, Medicare, Workers' Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this Contract. Further, Contractor understands that neither it nor any of its individual employees is eligible for any PUCT employee benefit, including but not limited to holiday, vacation, sick pay, withholding taxes (federal, state, local), social security, Medicare, unemployment or disability insurance, Workers' Compensation, health and welfare benefits, profit sharing, 401(k) or any employee stock option or stock purchase plans. Contractor hereby waives any and all rights to any such PUCT employment benefit.

19.4 Notice. Except as otherwise stated in this Contract, all notices provided for in this Contract shall be (a) in writing, (b) addressed to a Party at the address set forth below (or as expressly designated by such Party in a subsequent effective written notice referring specifically to this Contract), (c) sent by FedEx, with proper postage affixed and (d) deemed effective upon the third business day after deposit of the notice in the U.S. Mail.

IF TO THE PUCT:

ATTENTION: Brian H. Lloyd, Executive Director
1701 N. Congress Ave., 7th Floor
Austin, TX 78701

With copies to the PUCT Contract Administrator, and Jay Stone, CTPM, CTCM, at the same address.

IF TO CONTRACTOR:

ATTENTION: Vic Hurlbert, CPA
P.O. Box 615
Liberty, MO 64069

19.5 Headings. Titles and headings of paragraphs and sections within this Contract are provided merely for convenience and shall not be used or relied upon in construing this Contract or the Parties' intentions with respect thereto.

19.6 Export Laws. Contractor represents, warrants, agrees and certifies that it (a) shall comply

with the United States Foreign Corrupt Practices Act (regarding, among other things, payments to government officials) and all export laws and rules and regulations of the United States Department of Commerce or other United States or foreign agency or authority and (b) shall not knowingly permit any non-Party to directly or indirectly, import, export, re-export, or transship any intellectual property or any third Party materials accessed by Contractor during the course of this Contract in violation of any such laws, rules or regulations.

19.7 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Contract is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. The terms of this Contract cannot be amended, modified, or altered by any conflicting terms, provisions, or conditions contained in a proposal or a preprinted form, such as purchase orders or acknowledgements. If any conflict exists between this Contract and any terms and conditions on a proposal, purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Contract will govern.

19.8 Specific Personnel. Contractor has identified the personnel for this assignment ("Team"), as follows: **Vic Hurlbert, CPA; Sue Robinson, CPA; Kevin Curry, CPA; and Pam Mason.**

Contractor warrants that it shall use its best efforts to avoid any changes to the Team during the course of this Contract. Should personnel changes occur during the term of this Contract or any extensions or renewals thereof, Contractor will recommend to the PUCT personnel with comparable experience and required qualifications and training. The PUCT must approve any change in personnel on this project in writing. Contractor shall provide individuals qualified to perform the tasks assigned to such individual. At the PUCT's request, Contractor shall remove from the project any individual whom the PUCT finds unacceptable for any reason in the PUCT's sole discretion. Contractor shall replace such individual with another individual satisfactory to the PUCT as soon as practicable.

19.9 Publicity. Contractor understands and agrees that no public disclosures or news releases pertaining to this Contract or any results or findings based on information provided, created, or obtained to fulfill the requirements of this Contract shall be made without the prior written approval of the PUCT.

Article 20. NO IMPLIED WAIVER

The failure of any party, at any time, to enforce a provision of this contract will not constitute a waiver of that provision; will not affect the validity of this contract or any part of it; and will not affect the right of any party to enforce each and every provision.

Article 21. ORDER OF PRECEDENCE

In the event of conflicts or inconsistencies between the provisions of this contract and its attachment(s), the following are given preference in the order listed below:

- 1) The terms and conditions of this Contract;
- 2) Attachment A, SOW, including any exhibits;
- 3) Attachment B, Proposed Workplan.

Article 22. FORCE MAJEURE

Neither the PUCT nor Contractor will be considered in default in the performance of its obligations under this contract to the extent that the performance of such obligations is prevented

or delayed by any cause beyond the reasonable control of the affected party, which such party could not, by due diligence have avoided, including but not limited to acts of God, severe weather, explosions, riots, acts of war, or orders of legal authority. Such causes will not relieve either party of liability in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner, with all reasonable dispatch, and to give notice and full particulars of the same in writing to the other party as soon as possible after the occurrence of the cause that prevented or delayed performance of the obligations. If the event of Force Majeure continues for a period of more than one hundred and eighty (180) days, either party thereafter may terminate this contract upon giving at least ten (10) days prior written notice to the other party.

Article 23. SEVERABILITY

If any provision of this contract is held unlawful or otherwise unenforceable, such provision will be severed and deemed deleted and the remainder of this contract will continue in full force and effect, as if such provision had never existed.

Article 24. FUNDING OUT CLAUSE

This contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations, provisions of the Termination Article shall apply. Any contract resulting from this solicitation is contingent upon the continued availability of lawful appropriations by the Texas Legislature. See Texas Constitution, Article III Section 49, State Debts; and Texas General Appropriations Act for the 2014-2015 Biennium, Article IX, Section 6.03, Excess Obligations Prohibited.

Article 25. DRUG FREE WORKPLACE POLICY

The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988, 41 U.S.C. § 8102, et seq., and 48 CFR § 52.223-6 Drug-Free Workplace) and maintain a drug-free work environment. The requirements of the Drug Free Workplace Act and the rules interpreting it are incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments that may hereafter be issued.

Article 26. SUBSTITUTIONS

Substitutions are not permitted without written approval of the PUCT.

Article 27. RIGHT TO AUDIT

Pursuant to Section 2262.003 of the Texas Government Code, the State Auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this contract. The acceptance of funds by Contractor or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Contractor or any other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor will ensure that this clause

concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract awards.

Article 28. ENTIRE AGREEMENT

This contract, including Attachment A, SOW, constitutes the entire agreement and understanding between the parties with regard to its subject matter and supersedes and merges all prior discussions, writings, negotiations, understandings, and agreements concerning the provision of these Services. Any terms and conditions attached to a solicitation will not be considered unless incorporated into this Contract by specific reference.

In WITNESS WHEREOF both parties by their duly authorized representatives have executed this contract effective as of the date last signed.

The Public Utility Commission of Texas

By: 

Brian H. Lloyd
Executive Director

Date Signed: 1/19/18

HURLBERT CPA, LLC

By: 

Vic Hurlbert, CPA
Owner

Date Signed: 1/24/18

ATTACHMENT A

STATEMENT OF WORK

The audit objectives are outlined below. In addition, the contractor shall compile a balance sheet, a statement of revenues, a statement of expenditures and changes in fund balance, and a statement of cash flows for the Texas Universal Service Fund. The contractor shall perform the audit in accordance with generally accepted accounting principles (GAAP) consistent with the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB). The audit shall be in compliance with Service Organization Control (SOC -1) Statement on Standards for Attestation Engagements (SSAE) No. 18.

Section 1. Objectives

The PUC's objectives for this audit are:

- A. To determine the TUSF Administrator's compliance with the terms of its contract with the PUCT.
- B. To determine whether the TUSF Administrator's Statements of Changes in Fund Balance reports and balance sheet accurately represent its financial operations regarding the TUSF in accordance with GAAP.
- C. To determine whether the TUSF Administrator has adequate internal accounting and other control systems to administer the TUSF in compliance with the pertinent provisions of the Public Utilities Regulatory Act (PURA) (found at <http://www.statutes.legis.state.tx.us/Docs/UT/htm/UT.56.htm>), PUCT Substantive Rule 26, Subchapter P (found at <http://www.puc.texas.gov/agency/ruleslaws/subrules/telecom/Telecom.aspx>); the contract between the PUCT and Solix for TUSF Administration Services; and Solix' own administrative procedures. NOTE: The Contractor must fully document all procedures followed and the results in the audit report.
- D. To determine whether the TUSF Administrator's administrative procedures are adequate to accurately collect, disburse, and administer the TUSF.
- E. To determine whether the TUSF Administrator's administrative procedures are adequate to provide a safe return on investments.
- F. To determine whether the TUSF Administrator's administrative procedures are adequate to identify delinquent service providers.
- G. To determine whether documented collection procedures exist and are followed.
- H. To determine whether the TUSF Administrator's procedures are adequate to identify those entities that should be reporting but are not.
- I. To determine whether the TUSF Administrator has procedures in place to identify potential reporting entities and provide proper notification to those entities and whether the TUSF Administrator follows those procedures.

- J. To determine the type and amount of expenses submitted for reimbursement by each state agency that administers a program supported by the TUSF.
- K. To determine whether the TUSF Administrator has procedures in place as it relates to cybersecurity.

Section 2. Deliverables

The Contractor shall provide a draft audit report and a final audit report for each fiscal year audited. The report shall contain:

- A. An opinion on the Statement of Changes in Fund Balance and the balance sheet of the TUSF. The Statement of Changes in Fund Balance report includes additions to the fund, deletions to the fund, and the ending fund balance.
- B. An SOC 1 SSAE18 opinion on the TUSF Administrator's internal control structure and the adequacy and functioning of those control systems. NOTE: All rules and procedures will be reported on in the deliverable.
- C. A review of and report on all TUSF disbursements made to Texas state agencies that are responsible for administering a program supported by the fund. These agencies are the PUCT, the Department of Assistive and Rehabilitative Services and the Health and Human Services Commission.
- D. An opinion of the TUSF Administrator's TUSF financial statements along with a statement of revenue and disbursements for each month of the fiscal year and the year-end balance sheet.

The Contractor shall provide five (5) copies of the final report to the PUCT along with an electronic copy and three (3) copies to the TUSF Administrator. The Contractor may be required to provide an oral presentation of the audit report to the PUCT commissioners in open meeting.

Section 3. Meetings/Progress Reports

The Contractor shall provide regular updates to the PUCT concerning progress on the audit and any issues that arise. The updates shall be regular and scheduled, but may be informal or formal.

Section 4. Periods to be Audited and Deadlines:

Fiscal Year 2017 (9/1/2016 – 8/31/2017)

Draft audit report due: March 15, 2018

Final audit report due: May 15, 2018

Fiscal Year 2018 (9/1/2017 – 8/31/2018)

Draft audit report due: January 31, 2019

Final audit report due: March 29, 2019

Fiscal Year 2019 (9/1/2018 – 8/31/2019)

Draft audit report due: January 31, 2020

Final audit report due: March 31, 2020

Fiscal Year 2020 (9/1/2019 – 8/31/2020)

Draft audit report due: January 29, 2021

Final audit report due: March 31, 2021

The Contractor shall cooperate with the TUSF Administrator to schedule the audit no later than December 1 before the audit report due dates. The first year Contractor shall cooperate with the TUSF Administrator to schedule the audit no later than February 1, 2018.

ATTACHMENT B
PROPOSED WORKPLAN

Task	Task Description	Detail Task	Action	Task Assigned
A	Confirm bank/investment balances	Request Solix Treasurer to issue confirmations, send those to us and we send them to the institution or confirm on confirmation.com	Agree confirmations to Solix trial balance and then agree to Solix financials.	Hurlbert
B	Identify control objectives and activities found in Solix contract with PUCT, PURA, PUCT Substantive Rules and Solix Administrative Procedures.	Revise internal control matrix with updated control objectives and activities.	Obtain written proof of updated items.	Hurlbert
C	Obtain supporting data for each CONTROL ACTIVITY or item to be tested	Send data request to Solix state fund manager to obtain documentation for each control objective/activity	Perform <i>risk assessment</i> for each control	Hurlbert
D	Identify tests to be performed for each control	Develop tests to be performed	Resolve sample sizes or one-time reviews	Hurlbert
E	Audit Solix financial statements	Obtain trial balance and subsidiary schedules and tie to Solix financials	Tie work papers to support Solix financials	Hurlbert

F	Test of controls – revenues and expenses	Obtain all Solix revenues and expenses	Perform sample of revenues and expenses and request & test all supporting documentation such ACH, checks, deposits and handoff control reports.	Hurlbert
G	Management Representation	Request management rep letter	Review for compliance	Hurlbert
H	Fraud	Schedule fraud interviews	Conduct fraud interviews	Hurlbert

TUSF CONTRACTUAL COMPLIANCE

August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
1	The TUSF administrator must create and maintain databases and record keeping processes and procedures for the TUSF that are separate and distinct from other funds.	PUCT/Solix Contract Attachment A.A	Observe screen shot of Solix data bases to testing separate and distinct funds.	Curry & Mason
2	Solix to promptly refer inquiries from federal agencies, legislators, other public officials, media or any person to the CA.	PUCT/SOLIX Contract Attachment A.B	Inspect email communications from Solix to the PUCT CA. There were no inquiries.	Curry & Mason
3	The TUSF administrator will keep debt collection activities updated on a monthly basis as authorized by the PUCT.	PUCT/SOLIX Contract Attachment A.C	Inspect Solix reports and letters of communication.	Curry & Mason
4	Undistributed fund monies must be invested in secure short-term instruments designed to minimize risk while providing maximum liquidity and ROI.	PUCT/SOLIX Contract Attachment A.D	Inspect investment reports.	Curry & Mason
5	The TUSF administrator will be required to perform incidental tasks necessary to support administration of the TUSF such as development and maintenance of mailing lists, procedure manuals, reconciliations of mailing lists, maintenance, testing and	PUCT/SOLIX Contract Attachment A.E	Interview TUSF Manager and reviewed incidental tasks completed during the audit period.	Curry & Mason.

upgrades of the computer system, establishment of budgets, schedules and cost tracking systems.			
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TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
6	From time to time, the TUSF administrator will be involved in resolving disputes regarding assessments and disbursements. In this capacity, it will be necessary for the TUSF administrator to either employ alternative dispute resolution techniques such as mediation and arbitration or have access to such expertise.	PUCT/SOLIX Contract Attachment A.F	Identify disputes	Curry & Mason
7	The TUSF Administrator shall verify that all appropriate information has been provided by each ETP, local exchange company (LEC), other entities or agencies and shall issue disbursements to ETPs, LECs, other entities and agencies within 45 days of the due date of their reports except as otherwise provided.	PUCT/SOLIX Contract Attachment A.G	Test disbursements paid within 45 days.	Hurlbert

TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
8	Monthly Reports A. Statement of Fund Performance B. Aging -Complete history of Accounts C. Collections Activity D. Bank Reconciliation E. Cash Flow - Breakdown of Cash F. Cash Flow with backup G. Data Month and Activity H. STAP Check Register I. Disbursement Memo Copies for the Activity Month J. GL Trial Balance K. Payment Register L. Disbursement Reconciliation Report of Support M. Texas USF Interest Breakdown	PUCT SOLIX Contract Attachment A. Monthly Reports	Review reports to identify if they were filed with the PUCT as shown on the PUCT website or in monthly "data" excel reports.	Hurlbert

TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
9	Contract Tasks			
9a.	Provide Annual Support form to carriers that receive High Cost and Small and Rural Support to attest that they are still entitled to the support they are receiving.	PUCT/SOLIX Contract Attachment A. Tasks	Review annual support form – High Cost and Small & Rural support	Hurlbert
	Database Scrubs:			
9b.	Compare PUCT database to TUSF Administrators database to assure that everyone who is required to report TUSF is doing so. Follow up to resolve any open carrier's issues.	PUCT/SOLIX Contract Attachment A. Tasks	Review the Solix comparison effort.	Curry & Mason
9c.	Compare FCC database to TUSF Administrators database to assure that everyone who is required to report TUSF is doing so. Follow up to resolve any open carrier's issues.	PUCT/SOLIX Contract Attachment A. Tasks	Review the Solix comparison effort.	Curry & Mason
9d.	Annual Intra LATA verification by circuit. Carriers to provide contact name, email and phone to verify that the circuits are still running	PUCT/SOLIX Contract Attachment A. Tasks	Review circuit report	Hurlbert

TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
10	All Reports and Invoices are due to the PUCT by the 25th of the month following the month in which they are incurred.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Test report timeliness.	Hurlbert
11	Entities that are due money based on their RMT form submitted by the 25th of the month must be paid by the 10th of the following month. If the 10th falls on a weekend the first business day before the 10th is the payment deadline.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Test payment timeliness.	Hurlbert
12	Contractor is required to have an on-line system for entities to submit their RMT forms. The PUCT must have access to that system and have the ability perform research and run reports.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Observe on line system	Hurlbert
13	Contractor is required to pay all invoices presented and approved by the PUCT and Texas Department of Assistive and Rehabilitative Services (DARS) administrative expenses within 10 calendar days.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Test payment timeliness.	Hurlbert
14	Contractor is responsible for setting up a bank account separate from any other account for the sole purpose of administering the TUSF.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Review bank statements	Curry & Mason
15	Contractor is required to have a current \$2,000,000 letter of credit or performance bond on file with the PUCT for the duration of the contract.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Review letter of credit or performance bond	Curry & Mason
16	Contractor must submit an investment policy to be approved by the PUCT.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Review investment policy	Hurlbert

TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
	Liquidated Damages			
17	If contractor breaches this agreement by failing to meet deadlines, payments to the entities receiving benefits under the TUSF programs could be compromised.	PUCT/SOLIX Contract Attachment A. Contractor Requirements	Reviewed liquidated damage payments to PUCT. There were none, thus, the test was not applicable.	Curry & Mason
	Security Policy			
18	Contractor shall provide notice to PUCT's Project Manager and PUCT's Information Security Officer as soon as possible following contractor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or confidential information (Security Incident).	PUCT/SOLIX Contract Attachment A. Security Policy	Reviewed all security incidents reported to PUCT Project Manager. None reported by Solix.	Robison
19	Within twenty-four (24) hours of the discovery or reasonable belief of a Security Incident, contractor shall provide a written report to PUCT's Information Security Officer detailing the circumstances of the incident and actions taken.	PUCT/SOLIX Contract Attachment A. Security Policy	Reviewed all security incidents reported to PUCT Project Manager. None reported by Solix.	Robison

TUSF
CONTRACTUAL COMPLIANCE
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
20	Contractor shall comply with agency policies regarding building access and physical security as appropriate.	PUCT/SOLIX Contract Attachment A. Security Policy	Review snap shot of audit team entering building	Curry & Mason
21	Contractor shall comply with agency's Computer Services Security Policies as appropriate. PUCT will provide a copy of its Computer Services Security Policies by the effective date of the contract and updates, as applicable. Contractor shall conform to the State of Texas Security policies and procedures for handling data.	PUCT/SOLIX Contract Attachment A. Security Policy	Review Solix Computer Services Security Policies.	Robison
22	In the event of a security breach where names, mailing addresses, birthdates, social security numbers, credit card information and driver's license data are disclosed, contractor will be responsible for notifying anyone affected by such a security breach.	PUCT/SOLIX Contract Attachment A. Security Policy	Review notifications, if any	Robison

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
23	Solix is to verify each CRW for completeness.	<i>SUBST. RULES ¶ §26.403 (g) (1)</i> An ETP shall report the following to the TUSF administrator on a monthly basis: (A) the total number of eligible lines for which the ETP seeks TUSF support; and (B) a calculation of the base support computed in accordance with the requirements of subsection (d) of this section.	Inspect the on-line system pertaining to ETP reported information.	Curry & Mason
24	The PUCT approves carriers for qualification to participate in THCUSP and notifies Solix of those carriers periodically. Once notified, Solix includes the carrier in their database.	<i>SUBST. RULES ¶ §26.403 (g) (3)</i> An ETP shall report annually to the TUSF administrator that it is qualified to participate in the THCUSP.	Inspect the approval documentation of carriers. .	Hurlbert
25	Solix reviews other reports required to be reported by ETP's.	<i>SUBST. RULES ¶ §26.403 (g) (4)</i> An ETP shall report any other information that is required by the commission of the TUSF administrator, including and information necessary to assess contributions and disbursements from the TUSF.	Interview the Solix manager responsible for TUSF.	Hurlbert

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
26	Solix electronically verifies each CRW for the required information supporting any amounts to be distributed under the Small and Rural ILEC Universal Plan. Solix will not disburse funds related to this program unless the required information is contained on each CRW.	<i>SUBST. RULES</i> ¶ §26.404 (h) (1) - Monthly reporting requirements. An ETP shall report on a monthly basis: (A) the total number of eligible lines for which the ETP seeks SRILEC USP support; and (B) a calculation of the base support computed in accordance with the requirements of subsection (e) of this section under the Small and Rural ILEC Universal Service Plan.	Inspect the on-line system pertaining to required information to be reported. Review ILECs that are paid by wire center and others that were paid a flat amount.	Hurlbert
27	Solix verifies that the ETP provides an annual statement to receive support.	<i>SUBST. RULES</i> ¶ §26.404 (h) (3) Annual requirements. (3) An ETP shall report annually to the TUSF administrator that it is qualified to participate in the Small and Rural ILEC Universal Service Plan.	Review the statement from a randomly selected ETP.	Hurlbert
27a	Solix verifies that the ETP provides "Other" reports to assess contributions and disbursements from the TUSF.	<i>SUBST. RULES</i> ¶ §26.404 (h) (4) 4) Other reporting requirements. An ETP shall report any other information that is required by the commission or the TUSF administrator, including any information necessary to assess	Review the statement from a randomly selected ETP.	Hurlbert

		contributions and disbursements from the TUSF.		
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TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
28	Solix requires any ILEC awarded support under PURA to provide a copy of the final order detailing the amount of support to be paid. Solix will not disburse funds related to this program unless the final order is provided.	<i>SUBST. RULES § 26.406 (e)</i> An ILEC awarded support under this section shall provide TUSF administrator a copy of the commission 's final order indicating the amount of support it is to receive under this section.	Inspect and test on-line system for ILECs receiving support from PURA.	Hurlbert
29	Solix requires any ILEC awarded support under AFA to provide a copy of the formal order detailing the amount of support to be paid. Solix will not disburse funds related to this program unless the final order is provided.	<i>SUBST. RULES §26.408 (d)</i> Any ILEC awarded AFA support pursuant to this section through a commission proceeding shall provide the TUSF administrator with a copy of the final order indicating the amount of support.	Interview Solix staff as to if any ILEC was awarded AFA. No ILEC Requested AFA.	Hurlbert
30	Solix is to verify information to support USF reimbursements for Certain IntraLATA Service.	<i>SUBST. RULES § 26.410 (d) (1)</i> An ILEC awarded support under this section shall provide the TUSF administrator: (A) the number of lines eligible for support; and (B) the ILEC's tariffed rate, as of January 1, 1998, for the service; and (C) the lowest rate offered for the service by any local exchange company	Inspect and test on-line system for IntraLATA reimbursements.	Hurlbert

		electing incentive regulation under PURA Chapter 58.		
31	Solix is to verify the required information supporting any amounts to be distributed for Lifeline Services.	<i>SUBST. RULES</i> ¶ §26.412 (g) (2) (C) (i) - (iii) Lifeline providers shall provide the commission and the TUSF administrator with information demonstrating that it meets the requirements of this section	Inspect and test on-line system.	Hurlbert

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
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Task	Task Description	Detail Task	Action	Task Assigned
32	Solix reviews other reports required to be reported by ETP's.	<i>SUBST. RULES</i> §§ 26.412 (g)(2)(C) (iv) Lifeline providers shall report any other information that is required by the commission of the TUSF administrator, including any information necessary to assess contributions to and disbursements from the TUSF.	Interview the Solix manager responsible for TUSF.	Hurlbert
33	Solix verifies that the vendor or service provider has registered with Solix.	<i>SUBST. RULES</i> §26.415 (c)(1) Vendor and service provider registration. A vendor or service provider who accepts STAP vouchers shall register with the commission and agree to comply with this section and the commission's STAP procedures as posted and periodically updated on the commission's web site.	Verify registration.	Robison

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
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Task	Task Description	Detail Task	Action	Task Assigned
34	Solix verifies if a vendor or service provider is suspended or barred from doing business with the State of Texas or the federal government.	<i>SUBST. RULES §26.415 (c)(2)</i> Vendor and service provider in good standing. A vendor or service provider that is suspended or barred from doing business with the State of Texas or with the federal government is not eligible to participate in this program.	Vendors are self-reporting their good standing in Texas.	Robison
35	Solix verifies compliance with PUCT STAP procedures and identifies parties not eligible for reimbursement.	<i>SUBST. RULES §26.415 (c)(3)</i> Any vendor or service provider not in compliance with the commission's STAP procedures as posted on the commission's web site, within 30 days of the commission's posting of any new or amended procedures, is not eligible to receive voucher reimbursements under the STAP.	Compare the notifications to the vouchers selected for rejections. Also, check the non-compliant list to the vendors selected to make sure they were not on the list.	Robison
36	Solix inspects copies of DHHS vouchers signed by vendors or representative prior to disbursement.	<i>SUBST. RULES §26.415 (c)(4) (A)(i)</i> TUSF disbursements shall be made only upon receipt from the vendor or service provider of: (i) The vendor's copy of the voucher signed by the vendor, or an authorized representative, in the space provided thereon.	Observe the process to select the representative by a drop down menu of approved representatives. Also observe Solix's 3% verification every month to ensure that the signatures match the signature page provided.	Robison
37	Solix inspects receipts from a vendor or service provider showing proof of delivery prior to disbursement.	<i>SUBST. RULES §26.415 (c)(4) (A)(ii)</i> The vendor's proof of delivery of the device or service to the voucher recipient. For proof of delivery, the vendor should seek the voucher recipient's signature on the voucher in the space provided thereon.	Vouchers were review for customer signature. Vouchers with shipped product must include the shippers' proof of delivery.	Robison
38	Solix inspects invoices containing a description and the price charged for the device or service exchanged for the STAP voucher or service provider prior to disbursement.	<i>SUBST. RULES §26.415 (c)(4) (A)(iii)</i> A receipt that contains a description of the device or service exchanged for the STAP voucher and the price charged to the customer for the device or service exchanged.	Inspect invoices for the description of the device or service exchanged for the STAP voucher and the price charged.	Robison

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
39	Solix investigates whether the presentation of a STAP voucher represents a valid transaction for equipment or service under the STAP.	<i>SUBST. RULES §26.415 (c) (4) (B)</i> TUSF disbursements may also be subject to such other limitations or conditions as determined by the commission to be just and reasonable, including investigation of whether the presentation of a STAP voucher represents a valid transaction for equipment or service under the STAP.	Reviewed Solix's determination as to the transactions.	Robison
40	Solix will present evidence of disputes to the DARS for the commission's final determination.	<i>SUBST. RULES §26.415 (c) (4) (C)</i> If a dispute arises as to whether the submitted documentation is sufficient to create a presumption of a valid STAP sales transaction, the commission will be the sole judge of the sufficiency of the documentation.	Reviewed disputed items. Copies of emails to DARS were attached for their final determination.	Robison
41	Solix provides reimbursement to vendors within 45 days after the STAP voucher and other documentation required is received by Solix.	<i>SUBST. RULES §26.415 (c) (4) (D)</i> The TUSF administrator shall ensure that reimbursement to vendors for STAP vouchers shall be issued within 45 days after the STAP voucher and other documentation required under subparagraph (A) of this paragraph is received by the TUSF administrator.	Inspected the query of receive date versus paid date and reviewed voucher processing and compliance with payment date requirements. Compared the received date on voucher to the check (Apr, May and June).	Robison

TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
42	Solix sends disputed items to DARS for their consideration to delay a payment to a vendor or service provider or whether the device or service is appropriate.	<i>SUBST. RULES §26.415 (c) (4) (E)</i> The commission may delay payment of a voucher to a vendor or service provider if there is a dispute regarding the amount or propriety of the	Inspect disputed actions causing a delay in payments.	Robison
43	Solix processes vouchers no sooner than ten working days from the date the customer received the device or service.	<i>SUBST. RULES §26.415 (c) (4) (F)</i> The commission shall process a voucher for payment no sooner than ten working days from the date the STAP customer received the device or service.	Inspect the STAP vouchers and review voucher processing	Robison
44	Solix verifies refunds made by the vendor or service provider.	<i>SUBST. RULES §26.415 (c) (4) (G)</i> The vendor or service provider shall refund a reimbursement.	Inspect refunds and compliance with payment date requirements.	Robison
45	Solix verifies reimbursements on	<i>SUBST. RULES §26.415 (c) (4) (H)</i> A STAP vendor or service provider must submit voucher reimbursement requests, along with	Inspect vouchers for date compliance.	Robison

	expired vouchers were not made.	sufficient and accurate supporting documentation.		
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TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
46	Solix has an employee dishonesty policy included in its insurance coverage.	<i>SUBST. RULES ¶ §26.420 (d) (1) (C) Solix must be bonded or bondable.</i>	Inspected the Solix Certificate of Liability Insurance. The Employee Dishonesty had a \$10 million limit with a \$100,000 deductible.	Curry & Mason
47	Through the on-line system, Solix cross checks carriers authorized for disbursements to a list of ETPs supplied by the commission. Solix will not disburse funds to any carrier not on the authorized list.	<i>SUBST. RULES ¶ §26.420 (d) (2) (B & D) The TUSF administrator will administer the TUSF in accordance with the rules set forth in this section and in accordance with the guidelines established by the commission in its contract with the TUSF administrator.</i>	Inspected and tested disbursements to carriers authorized in accordance with the PUCT ETP listing and the calculation of TUSF Gross Assessment Amount.	Hurlbert
48	CRWs submitted on-line by providers are calculated by Solix software.	<i>SUBST. RULES ¶ §26.420 (d) (2) (C) Calculate and collect the proper assessment amount from every provider and verify all providers are in compliance with the Public Utility Regulatory Act §56.022.</i>	Inspected and tested CRWs for calculation of TUSF Net Remittance Amount.	Hurlbert
49	The on line TUSF system electronically verifies each CRW for completeness. Also, Solix considers any adverse information that result from carrier audits prescribed by the commission.	<i>SUBST. RULES §26.420 (d) (2) (E & F) Take steps, including audits, to ensure all providers subject to TUSF assessment and TUSF recipients accurately report required information.</i>	Verify if carrier audits were done during the fiscal year.	Hurlbert
50	Solix is to provide monthly reports to the CA of the PUCT. Solix is to email notifications to the PUCT on ETPs receiving funds.	<i>SUBST. RULES §26.420 (d) (2) (G & H) Submitting periodic summary reports to the commission regarding the administration of the TUSF</i>	Reviewed monthly reports made by Solix to the CA. Received monthly reports in an excel file.	Hurlbert
51	Solix uses the approved rate from the latest PUCT order in its recalculation of assessments on	<i>SUBST. RULES §26.420 (e) (2) Determine an assessment rate to be</i>	Inspected and tested disbursements using the approved assessment rate.	Hurlbert

	CRWs for the period that they cover.	applied to all telecommunications providers on a periodic.	Inspected the notification sent to carriers.	
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TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
52	Solix to maintain a reserve for late payments and un-collectibles.	<i>SUBST. RULES § 26.420 (e) (C)</i> Reserve for contingencies. The TUSF administrator shall establish a reserve for such contingencies as late payments and un-collectibles in an amount authorized by the commission.	Inspect the TUSF balance sheet.	Hurlbert
53	Payments are to be made no later than 45 days from due date.	<i>SUBST. RULES §26.420 (g) (3) (A)</i> The TUSF administrator shall verify that the appropriate information has been provided by each ETP, local exchange company (LEC), other entities or agencies and shall issue disbursements to ETPs, LECs, other entities and agencies within 45 days of the due date of their reports except as otherwise provided.	Review participant listed by carrier type to find late payments.	Hurlbert
54	Solix reviews all CRWs for the "primary communications business" designation indicated on each CRW and cross references with the payphone providers listed in the PUCT website.	<i>SUBST. RULES ¶ §26.420 (f) (2) (E) (i)</i> Pay telephone service providers are exempt from the TUSF assessment.	Inspect and test CRWs. Solix stated no pay phone providers are reporting to TUSF.	Curry & Mason
55	The PUCT submits updated listings of qualified entities to Solix in order to update their database. Disbursements are only made to qualified entities approved by the commission.	<i>SUBST. RULES ¶ §26.420 (g) (1) (A - C)</i> Qualification of entities to receive funds from TUSF is determined by PUCT. The administrator relies on PUCT qualification to determine whether to disburse funds to each entity.	Inspect approval documentation provided by the PUCT to Solix.	Hurlbert
56	Disbursements are reviewed and are only allowed for authorized entities.	<i>SUBST. RULES ¶ §26.420 (g) (1) (D)</i> PUCT, Texas Department of Human Services, Texas Department of Assistance and Rehabilitative Services (formerly Texas Commission for the	Inspect invoices from authorized entities approved by the PUCT.	Hurlbert

		Deaf and Hard of Hearing). Technology and Inclusion, Inc. (Austin School),.		
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TUSF
INTERNAL CONTROL – PUCT SUBSTANTIVE RULES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
57	Solix receives and reviews reports from ETPs to qualify for TUSF funding	<i>SUBST. RULES §26.420 (g)(2)(A)</i> Reporting requirements. ETPs. An ETP shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.	Review annual support form – High Cost and Small & Rural support	Hurlbert
58	Solix obtains the list from the PUCT of qualifying entities for various funds the entity is entitled to receive.	<i>SUBST. RULES §26.420 (g)(2)(B)</i> Other entities. A qualifying entity shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.	Inspect the list of qualifying entities.	Hurlbert
59	Solix reviews expenses from qualifying agencies on a monthly basis.	<i>SUBST. RULES §26.420 (g)(2)(C)</i> Agencies. A qualifying agency shall report its qualifying expenses to the TUSF administrator each month.	Inspect monthly invoices from qualifying agencies.	Hurlbert
60	Solix limits true-ups to a 3 year period for under-reporting and a one year period for over-reporting.	<i>SUBST. RULES §26.420 (h)</i> - The assessment amount determined pursuant to subsections (e) and (f) of this section shall be subject to true-up as determined by the TUSF administrator and approved by the commission. True-ups shall be limited to a three year period for under-reporting and a one year period for over-reporting.	Interview TUSF manager as to the treatment of true-ups. Also, review true-ups provided by the TUSF manager via a demonstration of actual forms in the system.	Hurlbert
61	All documentation related to TUSF is stored in a separate locked file and in the Solix server.	<i>SUBST. RULES § 26.420 (j) (1-3)</i> PUCT and Solix are subject to the Texas Open Records Act.	Interviewed TUSF project manager to determine if TUSF data was locked in desks and	Curry & Mason

			how proprietary data was treated.	
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TUSF
INTERNAL CONTROL – SOLIX CONTROLS & COLLECTION PROCEDURES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
62	Solix will review the PUCT website to search for companies that have been approved with a Service Provider Certificate of Operating Authority and contact for reporting. Solix also monitors the FCC locator list for new carriers.	Solix TUSF Collection Procedures 2.a.	Inspect Solix documentation of monitoring FCC and PUCT web sites.	Curry & Mason
63	Solix will notify all contributors of any change to the approved assessment factor via e-mailings.	Solix TUSF Collection Procedures 2.b.	Inspect Solix notifications to contributors.	Curry & Mason
64	Solix TUSF staff will accumulate and store carrier data, including revenue data and TUSF telecommunications service provider information, in a separate and distinct database.	Solix TUSF Collection Procedures 2.c.	Inspect data base documentation.	Curry & Mason
65	Companies required to pay into the fund will enter data online and send payments to Solix TXUSF lockbox on the 25 th day of each month, or the closest business day. Solix will send payments to qualified carriers on the 10 th day of the following month, or the closest business day.	Solix TUSF Collection Procedures 2.d.	Inspect payments made to carriers.	Hurlbert
66	Carriers remit payments to the TUSF monthly.	Solix TUSF Collection Procedures 2.e.	Inspect receipts from CRW submissions of payments from Texas entities in the "Test of Controls – Receipts" audit procedures.	Hurlbert
67	Solix Accounts Receivable department receives copies of checks and electronic fund transfer confirmations from the bank. Carrier	Solix TUSF Collection Procedures 2.f.	Inspect receipts from CRW submissions of payments from Texas entities in the "Test of	Hurlbert

	remittance worksheets and vouchers are attached when they have been submitted with the payment.		Controls – Receipts” audit procedures.	
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TUSF
INTERNAL CONTROL – SOLIX CONTROLS & PROCEDURES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
68	Solix Accounts Receivable staff will compare payments received with the TUSF Carrier Remittance worksheets and vouchers when submitted at time of payment.	Solix TUSF Collection Procedures 2.g.	Inspected and tested TUSF payments versus submitted CRWs.	Hurlbert.
69	Carriers enter the TUSF remittance worksheets into an on-line database. Customer addresses and phone numbers are updated and changed in the database by the carrier if necessary.	Solix TUSF Collection Procedures 2.h.	Inspected on-line data base by accessing database and took screenshots.	Curry & Mason
70	The Accounts Receivable Handoff Control Report is generated and approved by the Manager-Billing and Collections and reconciled to the Epicor Import Manager Validation report, prior to posting to Epicor.	Solix TUSF Collection Procedures 2.i.	Inspected Handoff Control reports.	Hurlbert
71	Separate responsibility codes in the general ledger are maintained for revenue and expenses for the Solix TUSF activity.	Solix TUSF Collection Procedures 2j.	Inspect the Solix chart of Accounts.	Curry & Mason
72	A Solix Treasury employee reconciles the monthly bank statement to the deposit amounts entered by Solix Accounts Receivable into Epicor and the disbursement amounts entered by Solix Accounts Payable into Epicor every month.	Solix TUSF Collection Procedures 2k.	Inspect reconciliations as part of the financial audit.	Hurlbert

73	Once each quarter, an initial late notice for non-filers is mailed via regular mail to each delinquent carrier. This mailing is sent 45 days after the due date of each quarter. No late payment charges will be applied.	Solix TUSF Collection Procedures 21.	Inspect late notices.	Curry & Mason
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TUSF
INTERNAL CONTROL – SOLIX CONTROLS & COLLECTION PROCEDURES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
74	Accounts that are more than 60 days delinquent in paying the TUSF are reported to the PUCT each month for further action.	Solix TUSF Collection Procedures 2m.	Inspect report of the delinquent accounts and aging reports.	Curry & Mason
75	After cash is applied and worksheets are uploaded, Accounts Receivable produces monthly statements for each customer with non-zero balance. Manager-Billing and Collections reviews the statements for accuracy before mailing to the customers.	Solix TUSF Collection Procedures 2n.	Inspect monthly statements.	Curry & Mason
76	Monthly account statements are sent to all carriers that have a balance greater than \$1.00.	Solix TUSF Collection Procedures 2o.	Inspect monthly statements.	Curry & Mason
77	Procedures for the preparation, review and approval of TUSF settlements are established and maintained in accordance with management's criteria (Desk Procedures) and the Contract.	Solix TUSF Disbursement Procedures 3.a.	Inspect desk procedures.	Curry & Mason
78	Solix Accounts Payable staff will ensure that funds are distributed from the TUSF, as authorized by the PUCT, in the following order: contractors, Solix, Texas Relay System Provider (TRS), STAP vendors, administrative costs to DARS, PUC and ETP's.	Solix TUSF Disbursement Procedures 3.b.	Inspect monthly disbursements to entities in the ordered process.	Hurlbert

79	Solix administrative expenses are transferred from the TUSF in accordance with the procedures detailed in the contract.	Solix TUSF Disbursement Procedures 3.c.	Inspect Solix administrative expenses as per contract.	Hurlbert
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TUSF
INTERNAL CONTROL – SOLIX CONTROLS & DISBURSEMENT PROCEDURES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
80	Solix State Fund Operations will monitor fund levels to ensure they do not fall below the level necessary to pay all amounts due. If a shortfall occurs, that shortfall will be applied equally against each fund and the administrative costs for DARS and the PUC	Solix TUSF Disbursement Procedures 3.d.	Inspect monthly reports to ascertain if fund levels fell to unacceptable levels.	Curry & Mason
81	TUSF support payments to carriers will be made via check or ACH on the 10 th day of every month, or the closest working day. TUSF payments to TRS and DARS are paid via ACH within 30 days and Specialized Equipment Vendors are paid via ACH within 45 days. ACH transactions are prepared and executed by authorized Solix staff in a secure environment.	Solix TUSF Disbursement Procedures 3.e.	Inspect monthly disbursements to carriers and qualified recipients identified by PUCT.	Hurlbert
82	Solix tracks disbursements paid to individual programs as separate and unique accounts.	Solix TUSF Disbursement Procedures 3.f.	Inspect disbursements were paid and accounted for as separate and unique accounts.	Curry & Mason
83	Solix will monitor the PUCT website to find companies that have been approved with a Service Provider Certificate of Operating Authority and contact them for reporting Solix also monitors the FCC locator list for new carriers.	Solix TUSF Disbursement Procedures 4.a.	Inspect Solix documentation showing approval by PUCT and FCC locator list.	Curry & Mason
84	Solix TUSF staff will assist in developing the assessment factor, as needed, based upon TUSF ordered methodology and submit to the TUSF for approval. The PUCT may use the Solix recommended rate or approve an alternate assessment rate.	Solix TUSF Disbursement Procedures 4.b.	Inspect documentation related to the development of the assessment factor.	Hurlbert

85	Solix TUSF staff prepares monthly financial status reports for the PUCT which include an analysis of the current TUSF receipts, disbursements, investment result and fund balance.	Solix TUSF Disbursement Procedures 4.c.	Inspect Solix monthly reports.	Curry & Mason

TUSF
INTERNAL CONTROL – SOLIX CONTROLS & DISBURSEMENT PROCEDURES
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
86	Texas payment vouchers are handled by Accounts Receivable who processes the forms in a separate and distinct area from other Solix functions to ensure proprietary protection.	Solix TUSF Disbursement Procedures 5.a.	Inspect the work area of TUSF personnel at Solix.	Curry & Mason
87	Solix uses a card key system to limit access to the building to only authorized individuals. User ID security with password is necessary to access the LAN where all data is stored and to access the accounting software.	Solix TUSF Disbursement Procedures 5.b.	Observe card key system used by Solix. Inspected list of user ids.	Curry & Mason
88	All Solix staff working with TUSF data are required to sign a "non-disclosure agreement"	Solix TUSF Disbursement Procedures 5.c.	Inspect the Solix NDA by employee.	Curry & Mason
89	The General Accounting group will maintain all supporting	Solix TUSF Disbursement Procedures 6.a.	Inspect the lease for the off-site location.	Curry & Mason
90	The database maintained for TUSF information is backed up nightly.	Solix TUSF Disbursement Procedures 6.b.	Inspect nightly backup report.	Robison

91	A formal Disaster Recovery Plan is established and tested periodically to ensure processing would continue in the event of a disaster.	Solix TUSF Disbursement Procedures 6.c.	Inspect the Solix Disaster Recovery Plan.	Robison
92	Solix will maintain insurance coverage in the amounts specified in Article 18 of the contract between the PUCT and Solix throughout the effective dates of the contract.	Solix TUSF Disbursement Procedures 7.a	Inspect the Solix insurance policy.	Curry & Mason

TUSF
INTERNAL CONTROL – SOLIX DATA CENTER CONTROLS
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
93	General access to data center in the Solix facility is provided using approved card keys. Visitor access is monitored 24x7 by reception personnel or security guard and a visitor log is maintained.	Solix Physical Security & Environmental Controls– 12.1.	Obtained a picture of our tour from the security camera in the data center and reception area. Witnessed a guard at the reception area.	Robison
93a	Access to the Data Center is controlled by the use of a card key.	Solix Physical Security & Environmental Controls– 12.2	Conducted a site visit to the data center and witnessed a card key being used for entry. .	Robison
93b	Only authorized individuals are provided with a card key for physical access to the Solix Data Center. Approved job positions are identified in Data Center Procedures. New requests must be approved by the CIO. Requests/approvals are kept in the Spiceworks ticketing system.	Solix Physical Security & Environmental Controls–12.3	Observed the list of individuals who had access to the data center.	Robison.
94	Closed Circuit Television cameras are installed within the Data Center and throughout the Solix facility. Surveillance camera images are monitored by Manager – Facilities and/or the reception personnel or security guard and retained for 90 days.	Solix Physical Security & Environmental Controls– 12.4	Reviewed video of our visit to the data center. Also reviewed images taken at the front desk reception area.	Robison

95	The Solix data center is equipped with Uninterrupted Power Supply units and generators, which provide backup for critical servers, Computer Room Air Conditioning units and fire detection and FM200 based fire suppression system.	Solix Physical Security & Environmental Controls- 12.5	Reviewed emergency documentation.	Robison
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TUSF
INTERNAL CONTROL – SOLIX DATA CENTER CONTROLS
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
96	Current maintenance contracts exist for the CCTV units, generators, UPS units, CRAC units, fire detection and fire suppression systems and periodic inspections and preventative maintenance are performed.	Solix Physical Security & Environmental Controls– 12.6	Review current maintenance contracts.	Robison
97	Access rights to the Solix network are granted in accordance with job-related needs and follow documented processes. Internal users must be assigned both a unique network user ID and a password. Requests are approved by the Director responsible for the fund.	Solix Logical Security – 13.1	Review list of internal user IDs with respective access rights.	Robison
98	Solix Network User IDs and passwords are subject to the following logical security controls where possible.	Solix Logical Security – 13.2	Review Network User IDs and interviewed personnel about password requirements.	Robison

TUSF
INTERNAL CONTROL – SOLIX DATA CENTER CONTROLS
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
99	Remote access to the Solix network is provided only to authorize users using Remote Desktop Protocol (RDP) over an encrypted channel. Users are authenticated using a two-factor authentication token.	Solix Logical Security – 13.3	Review the list of authorized users with RDP devices.	Robison
100	Network accounts for terminated users are deleted / disabled / rendered inaccessible from the Solix network upon notification from Management as per corporate policy.	Solix Logical Security – 13.4	Review list of terminated users. There were no terminated users during the period.	Robison
101	Antivirus software is installed on Microsoft Windows servers and workstations on the Solix network, to provide protection against virus threats. The virus definition file updates occur automatically and the software has been configured to perform real time protection.	Solix Logical Security – 13.5	Review screenshots of the antivirus software that is installed on each Solix workstation and Windows server.	Robison

TUSF
INTERNAL CONTROL – SOLIX DATA CENTER CONTROLS
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
102	Firewalls segregate trusted and non-trusted Solix network segments and connections across the environment. Network traffic is analyzed by stateful inspection firewalls.	Solix Logical Security – 13.6	Review firewall schematic.	Robison
103	Firewall configuration settings are used to help ensure that the Solix network internal addresses are not available on the Internet	Solix Logical Security – 13.7	Review firewall schematic.	Robison
104	Intrusion Detection System (IDS) monitors the in-coming network traffic at Solix to identify network attacks / threats and alert the network team to take corrective actions.	Solix Logical Security – 13.8	Review IDS reports.	Robison
105	Security Awareness Training is provided to Solix staff on an annual basis.	Solix Logical Security – 13.9	Interview employees and review security training emails.	Robison
106	The database maintained for TUSF information is to be backed up nightly and retained for 10 days.	Solix Data Backup & Retention – 14.1	Review a backup report for the TUSF database.	Robison

106a	Backup job failures are monitored, escalated, investigated and problems resolved to ensure successful backup in the next cycle.	Solix Data Backup & Retention - 14.2	Review a backup report for various processes.	Robison
107	Backups are written to the Cloud on a daily basis. Information stored on Internet accessible or cloud systems is encrypted at rest and the encryption is FIPS 140-2 compliant.	Solix Data Backup & Retention - 14.3	Review Cloud backup reports.	Robison

TUSF
INTERNAL CONTROL – SOLIX CHANGE MANAGEMENT
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
108	A Change Request is received by IT from the Business Unit. An Estimate is provided to Business Unit Process Owner – Director for the requested change.	Solix Change Control Process – 15.1	Examine a change request.	Robison
109	Business Unit Process Director approves the Estimate and priorities are discussed to understand the importance of the current requested change as compared to the changes currently being worked on. If the Estimate is not accepted, the Change Request is cancelled.	Solix Change Control Process – 15.2	Examine emails approving the estimate.	Robison
110	Development is completed and the Developer tests that the change meets the need described in the change request.	Solix Change Control Process – 15.3	Examine emails indicating the change meets the described in the change request.	Robison
111	Changed components are migrated to the QA environment where the Business Analyst tests the change meets the need described in the change request. Any issues are reviewed and if a change is required, the components are returned to the Developer to repeat step 15.3	Solix Change Control Process – 15.4	Examine emails indicating the change components are properly migrated and the analyst tests that the change meets the change request.	Robison
112	Upon Business Analyst verification of the change, the changed components are migrated to the UAT environment where the Business Unit tests the change meets the need described in the change request. Any issues are reviewed and if a change is required, the components are returned to the Developer to repeat step	Solix Change Control Process – 15.5	Examine emails showing migration was completed.	Robison

	15.3 and 15.4. Upon successful completion of testing, the Business Unit would confirm their test results and recommend a Production Migration.			
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TUSF
INTERNAL CONTROL – SOLIX CHANGE MANAGEMENT
August 31, 2017

Task	Task Description	Detail Task	Action	Task Assigned
113	The IT manager of the project would request approval to migrate the changed components to the Production environment via email. Upon approval of the Business Unit Director, the migration would be scheduled.	Solix Change Control Process – 15.6	Examine emails showing migration was completed.	Robison
114	When verification that the changed components have been successfully migrated to the Production Environment, the IT Manager of the project would request verification of the changed functionality in Production from the Business Unit. Upon the verification of success, the Change Request is complete.	Solix Change Control Process – 15.7	Examine an uploaded .pdf file showing the verification of changed components that were migrated to the Production Environment.	Robison
115	Solix CYBER SECURITY	Obtain new procedures	Test and Evaluate	Robison

CONTRACT NO. 473-18-0001
BETWEEN
THE PUBLIC UTILITY COMMISSION OF TEXAS
AND
THE LIBERTY CONSULTING GROUP

The parties to this contract are The Public Utility Commission of Texas, an agency of the State of Texas, located at 1701 N. Congress, Ave., Austin, Texas 78701 and The Liberty Consulting Group, located at 1451 Quentin Rd, Suite 400, #343, Lebanon, PA 17042.

Article 1. DEFINITIONS

When used in this Contract, the following terms shall have the following meanings:

1.1 “Public Utility Commission,” “PUCT,” or “Commission” means the Public Utility Commission of Texas acting through its Executive Director and the agency’s designated Contract Administrator.

1.2 “Contractor” includes **The Liberty Consulting Group**, and any successors, heirs, and assigns.

1.3 “Services” means any and all services performed and any and all goods and products delivered by Contractor as specified in Attachment A, Statement of Work (SOW).

Article 2. COMPENSATION

2.1 Compensation. Contractor agrees to provide all Services (including labor, expenses, and any other services) described in Attachment A, SOW, as follows: Contractor will be paid monthly at the rates described in Table 1 below for the services described in Attachment A, SOW. The number of hours dedicated to each task described in Table 1 is an estimate. The overall total compensation for this contract will not exceed \$230,680. Contractor understands that the PUCT is not responsible for payment of any costs or expenses exceeding this amount.

Table 1.

Task	J. Antonuk	R. Vickroy	M. Antonuk	Total
Task 1: Review and Evaluate the EFH/Oncor Change in Control Filing	12	16		28
Task 2: Evaluate Existing and NextEra “Ring Fencing” Commitments	12	16	12	40
Task 3: Determine Effects of EFH Bankruptcy Emergence, Legal Entity and Unregulated Business Separation, and Management Separation	40	40	16	96
Task 4: Evaluate Financial Independence and Access to Capital and Liquidity	12	24	16	52
Task Five: Report Findings, Conclusions and Recommendations	72	60	16	148
Task Six: Contested Case Services (provided as an estimate)	280	160	24	464
Hours	428	316	84	828
Hourly Rate	\$ 295	\$ 265	\$ 145	
Fees	\$ 126,260	\$ 83,740	\$ 12,180	
Total Fees	\$222,180			
Expenses	\$14,500			
Best and Final Offer Reduction	\$6,000			
Project Cost with Estimates for Contested Case Services	\$230,680			

If Contractor believes that changes in the scope of Services to be performed will require

Contractor to increase its fee, it must request the PUCT's written authorization to increase its fee. The Contractor must document the changes in the scope of Services and why they will require additional effort. The PUCT must approve the increase in fee by written amendment to this Contract before the Contractor performs any Services or may invoice the increased fee.

2.2 Payment Process. Contractor shall submit a statement for services or invoice to the PUCT Contract Administrator no later than the 15th day of the month after the month that the Services were performed. The invoice must contain the name of the person performing Services and a brief description of work performed. No payment will be made for administrative overhead, overtime, etc.

On the statement or invoice, Contractor must include a statement that the invoice accurately describes the Services performed and the Services were performed in compliance with the Contract. The statement or invoice must include the vendor identification number issued by the Texas Comptroller or Contractor's federal taxpayer identification number, a description of the Services provided, and the name and division of the PUCT Contract Administrator.

Contractor shall submit the statement or invoice to the PUCT as follows:

By email to: Payables@puc.texas.gov

Or by mail to: Accounts Payable
Public Utility Commission of Texas
P.O. Box 13326
Austin, TX 78711-3326

2.3 Payment for Services. Contractor's acceptance of payment releases the PUCT of all claims for compensation owed in connection with this Contract.

2.4 Payments made to Subcontractors. Contractor shall pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Contractor receives the payment. The subcontractor's payment shall be overdue on the 11th day after the date Contractor receives the payment. The PUCT must approve Contractor's use of any subcontractor before Contractor engages the subcontractor (see Sec. 5.1).

2.5 Records. Contractor and its subcontractors, if any, shall maintain records and books of account relating to Services provided under this Contract. Contractor shall, for a period of seven (7) years following the expiration or termination of this Contract, maintain its records (electronic and paper) of the work performed under this Contract. Records include, but are not limited to correspondence concerning the subject of this Contract between Contractor and the PUCT; Contractor's internal correspondence; and correspondence between Contractor and any third party. Contractor shall make all records that support the performance of Services and payment available to PUCT and/or its designees or the State Auditor during normal business hours with reasonable notice, upon the request of the PUCT Contract Administrator.

2.6 Sole Compensation. Payments under this Article are Contractor's sole compensation under this Contract. Contractor shall not incur expenses with the expectation that the PUCT or any other agency of the state of Texas will directly pay the expense to a third-party vendor irrespective of the reason for incurring those expenses.

Article 3. CONTRACT ADMINISTRATION

3.1 PUCT Contract Administration. The PUCT designates **Margaret Pemberton** to serve as its primary point of contact and Contract Administrator throughout the term of this Contract. Contractor acknowledges that the PUCT Contract Administrator does not have any authority to amend this Contract on behalf of the PUCT, except as expressly provided herein. Contractor further acknowledges that such authority is exclusively held by the Commission or its authorized designee, Executive Director Brian H. Lloyd.

3.2 Contractor Contract Administration. Contractor designates its Contract Administrator as follows: John Antonuk

3.3 Reporting. Contractor shall report directly to the PUCT Contract Administrator and shall perform all activities in accordance with reasonable instructions, directions, requests, rules, and regulations issued during the term of this Contract as conveyed to Contractor by the PUCT Contract Administrator.

3.4 Cooperation. The Parties' Contract Administrators shall handle all communications between them in a timely and cooperative manner. The Parties shall timely notify each other by email or other written communication of any change in designee or contact information.

3.5 Inquiries and Prompt Referral. Contractor understands that the PUCT does not endorse any vendor, commodity, or service. Contractor, its employees, representatives, other agents, or subcontractors may not issue any media release, advertisement, publication, or public pronouncement which pertains to this Contract or the Services or project to which this Contract relates or which mentions the PUCT without the prior approval of the PUCT. Contractor will promptly refer all inquiries regarding this Contract received from state legislators, other public officials, the media, or non-Parties to the PUCT Contract Administrator.

Article 4. REPORTS AND RECORDS

4.1 Written Reports. Contractor will provide written reports to the PUCT in the form and with the frequency specified in Attachment A, SOW, or as otherwise agreed in writing between the Parties.

4.2 Distribution of Consultant Reports. PUCT shall have the right to distribute any consultant report associated with this contract, or to allow another Texas state agency or the Texas legislature to distribute it. PUCT shall also have the right to post any consultant report associated with this contract to the PUCT's website or to the website of a standing committee of the legislature. This provision does not waive any right to confidentiality that PUCT may assert for the report or any portion thereof.

Article 5. SUBCONTRACTING PARTIES

5.1 Use of Subcontractors. The Parties acknowledge and agree that at the time of execution of this Contract, Contractor intends to perform the Services required under this Contract using its own employees. Contractor will notify the PUCT Contract Administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any such other subcontract or subsequent substitution of a subcontractor must be approved according to the terms of Article 7.

5.2 Sole Responsibility. Contractor is solely responsible for the quality and timeliness of the work produced by all subcontractors that Contractor may engage to provide Services hereunder and for the timely payment for all such work produced by all subcontractors that the PUCT accepts and pays for in accordance with the terms of this Contract.

5.3 Prime Vendor Contract. The Parties expressly agree that this Contract is intended to constitute a prime vendor contract, with Contractor serving as the prime vendor for delivery of the Services made the subject hereof. Contractor acknowledges and agrees that it is fully liable and responsible for timely, complete delivery of the Services described in this Contract, notwithstanding the engagement of any subcontractor to perform an obligation under this Contract.

Article 6. TERM, SUSPENSION, AND TERMINATION

6.1 Term. The term of this Contract shall begin on January 1, 2018 or the date signed by the last party to sign, the latter of the two and shall continue in effect until December 31, 2020 unless sooner terminated under Sections 6.3 and 6.4 of this Contract.

6.2 Termination for Cause by the PUCT. If Contractor is in default of any material term of this Contract, the PUCT may serve upon Contractor written notice requiring Contractor to cure such default. Unless within thirty (30) days after receipt of said notice by Contractor, said default is corrected or arrangements satisfactory to the PUCT, as applicable, for correcting the default have been made by Contractor, the PUCT may terminate this Contract for default and shall have all rights and remedies provided by law and under this Contract. If PUCT terminates Contractor under Article 18.12, PUCT need not provide any notice or opportunity for curing the default.

6.3 Termination for the Convenience of the PUCT. The PUCT may, upon thirty (30) days written notice to Contractor, terminate this Contract whenever the interests of the PUCT so require. The PUCT will only reimburse those expenses already incurred at the time the notice is provided. The PUCT shall not be liable for any damages and/or loss to Contractor as a result of termination for convenience.

6.4 Transfer of Duties. In the event of termination, Contractor will provide reasonable cooperation to transfer its duties under the Contract to another entity without disruption to the provision of Services.

6.5 Remedies for Breach. All remedies available to PUCT for breach or anticipatory breach of this Contract by Contractor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunction relief, and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

6.6 Survival. In the event that this Contract expires or is terminated pursuant to its terms, the rights and obligations of the Parties under it shall end; provided that the provisions of Sections 2.5, 2.6, 3.5, 4.2, 6.5, 7.5, 9.2, 9.4, 9.5, 9.6, 17.2, 19.1, 19.2, 19.3, 19.4, 19.5, 19.7, and 19.9 and Articles 1, 10, 12, 14, 15, 16, 20, 21, 23, and 28 shall survive in their entirety.

Article 7. ASSIGNMENT, AMENDMENTS, AND MODIFICATIONS

7.1 Material Change Requests. PUCT may propose changes to Attachment A, SOW. Upon receipt of a written request from the PUCT for a change to Attachment A, SOW, Contractor shall, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this Contract. No changes to Attachment A, SOW, will occur without the Parties' written consent as provided in accordance with the terms stated in this Contract.

7.2 Changes in Law, Rules, or Rulings. Subsequent changes in federal or state legislation, rules and regulations or rulings by the PUCT may require modification of the terms of this Contract, including an increase or decrease in Contractor's duties or compensation. In the event of such subsequent changes to statutes, rules, and/or regulations, the PUCT and Contractor shall negotiate the terms of a contract modification in good faith and incorporate such modification into this Contract by written amendment.

7.3 No Assignment of Duties. This Contract shall be binding upon and inure to the benefit of the permitted successors and assigns of any Party (including by merger of Contractor or otherwise by operation of law); provided however that Contractor shall not otherwise, without the prior written consent of the PUCT, assign or transfer this Contract or any obligation incurred under this Contract. Any attempt by Contractor to assign or transfer this Contract or any obligation incurred under this Contract, in contravention of this paragraph, shall be void and of no force and effect.

7.4 Amendments and Modifications. This Contract may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this Contract.

7.5 Binding on Successors. The terms of this Contract shall be binding on any successor organization of any of the Parties.

Article 8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Warranty of Performance. Contractor represents, warrants, and covenants that it will perform the Services outlined in Attachment A, SOW, in a professional and workmanlike manner, consistent with professional standards of practice in the professional industry.

8.2 Warranty of Services. Contractor warrants that the Services shall be rendered by the qualified personnel named in Section 19.8 of this Contract. If Services provided under this Contract require a professional license, then Contractor represents, warrants, and covenants that the activity will be performed only by duly licensed personnel.

Article 9. RISK OF LOSS AND PROPERTY RIGHTS

9.1 Risk of Loss. The risk of loss for all items to be furnished hereunder shall remain with Contractor until the items are delivered to and accepted by the PUCT, at which time the risk of loss shall pass to the PUCT.

9.2 Ownership. Except for materials where any intellectual property rights are vested in a third party, such as software or hardware, in which case such rights shall remain the property of the third party, all finished materials, conceptions, or products created and/or prepared for on behalf of the PUCT and purchased by the PUCT, or on behalf of the PUCT, that the PUCT has accepted as part of the performance of Services hereunder, shall be the PUCT's property exclusively and

will be given to the PUCT either at the PUCT's request during the term of the Contract or upon termination or expiration of the Contract. Notwithstanding the foregoing, materials created, prepared for, or purchased exclusively by the PUCT or on behalf of the PUCT are the PUCT's exclusive property regardless of whether delivery to the PUCT is effectuated during or upon termination or expiration of this Contract.

9.3 Licensed Software. With PUCT's advanced written consent, contractor may obtain software licenses as an agent of the PUCT for software that is used by Contractor solely for the purpose of providing Services under this Contract. Contractor shall provide the PUCT with a copy of any software license obtained by Contractor as an agent for the PUCT for the purpose of providing Services under this Contract.

9.4 Prior Works. Except as provided herein, all previously owned materials, conceptions, or products shall remain the property of Contractor and nothing contained in this Contract will be construed to require Contractor to transfer ownership of such materials to the PUCT.

9.5 Trademarks. The Parties agree that no rights to any trademark or service mark belonging to another Party or to any non-Party are granted to any other Party by this Contract, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Contractor under this Contract does not give the PUCT any rights of ownership in the trademark or the software.

9.6 Program Information. Program information, data, and details relating to Contractor's Services under this Contract shall be maintained separately from Contractor's other activities. Contractor shall undertake all reasonable care and precaution in the handling and storing of this information.

9.7 Provision to be Inserted in Subcontracts. Contractor shall insert an article containing paragraphs 9.2 and 9.6 of this Contract in all subcontracts hereunder except altered as necessary for proper identification of the contracting Parties and the PUCT under this Contract.

Article 10. PUBLIC INFORMATION

10.1 Texas Public Information Act. (Texas Government Code Chapter 552). The Parties acknowledge that notwithstanding any other provisions of this Contract, the Texas Public Information Act ("PIA") governs the treatment of all information held by or under the control of the Commission. The Commission will notify Contractor of requests for Contractor's information as provided under the PIA.

10.2 Agreement Not Confidential. Contractor acknowledges that a copy of this Contract shall be posted on the PUC's public-facing website. Additionally, Contractor acknowledges that not all information provided with the proposal may be confidential pursuant to the Texas Public Information Act, regardless of whether those terms are marked "Proprietary," "Trade Secret," or "Confidential." Contractor further acknowledges that in the event of a dispute over the release of a proposal or part of a proposal the PUCT is bound by the decision made by the Office of the Attorney General of Texas.

10.3 Contractor's Duty to Provide Public Information. Contractor is required, at no additional cost to the state, to make available in a format that is accessible by the public any information created or exchanged with the state pursuant to this contract. For the purpose of Section 10.3 of this contract, paper documents, Adobe Portable Document Format files (.pdf), Microsoft Excel spreadsheets (.xls), Microsoft Word documents (.docx), and Hypertext Markup

Language (.html) files shall be considered "accessible by the public," unless another format is specified by the PUCT, at the PUCT's sole discretion. If information created or exchanged with the state pursuant to this contract is excepted from disclosure under the Texas Public Information Act, Contractor will not be required to make the information available to the public, but may be required to facilitate the PUCT's provision of the information to the Texas Attorney General for a decision on the information's confidentiality. The PUCT has no duty or responsibility to argue a defense of confidentiality to Contractor's information or data; it shall be Contractor's sole responsibility to do so.

Article 11. CONFLICTS OF INTEREST AND EMPLOYMENT RESTRICTION

11.1 No Conflicting Relationships. Contractor certifies to the Commission that no existing or contemplated relationship exists between Contractor and the Commission that interferes with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Contractor and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Contractor with respect to the Commission.

11.2 Prohibition on Transactions with Parties Adverse to Commission. Contractor agrees that during the term of this Contract and any extensions or renewals thereof, it will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests that are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if, in the Commission's sole judgment, such activities of the Contractor will not be adverse to the interests of the Commission.

11.3 Notice of Conflict. Contractor agrees to promptly notify the PUCT of any circumstance that may create a real or perceived conflict of interest, whether arising prior to or during the term of the contract. Contractor agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Contractor's failure to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.3.

Article 12. INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless the PUCT, the State of Texas, and its officers, agents, employees, representatives, contractors, assignees, and designees from any and all liabilities, claims, suits, assessments, penalties, losses, damages, demands or causes of action, and all related costs, attorney fees and expenses of whatever kind or nature asserted by a third party and occurring in any way incident to, arising out of, or in connection with acts or omissions of Contractor, its agents, employees and subcontractors, committed in the conduct of this Contract. Contractor shall have the obligation to undertake the defense of any such claim, process, or legal proceeding at Contractor's expense; provided, however, that the PUCT may participate in the defense with counsel of its own choosing. Any defense shall be coordinated by contractor with the Office of the Attorney General when Texas State Agencies are named defendants in any lawsuit. Contractor may not agree to any settlement without first obtaining the concurrence from the Office of the Attorney General. Contractor and the PUCT agree to furnish timely written notice to each other of any such claim.

If all or any part of the Deliverables is the subject of any claim, suit, or proceeding for infringement or misappropriation of any Intellectual Property Right, Contractor may, and in the event of any adjudication that the Deliverables or any part thereof infringes or misappropriates

any patent, trademark, copyright, or trade secret, or if the licensing or use of any of the Deliverables or any part thereof is enjoined, Contractor shall, at its expense do one of the following things: (i) procure for PUCT the right under such patent, trademark, copyright or trade secret to fully use the Deliverables or the affected part thereof; or (ii) replace the Deliverable or affected part thereof with another non-infringing Deliverable; or (iii) suitably modify the Deliverable or affected part thereof to make it non-infringing.

Article 13. INSURANCE

Contractor agrees to comply with all state and federal laws applicable to the liability and payment of Contractor and Contractor's employees, including laws regarding wages, taxes, insurances, and workers' compensation. Neither the PUCT nor the State of Texas shall be liable to the Contractor, its employees, agents, or others for the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee.

13.1 Minimum Insurance. Contractor shall, at its sole cost and expense, secure and maintain as a minimum, from the Effective Date and thereafter during the term of this Contract and any renewals or extensions thereof, for its own protection and the protection of the PUCT and the State of Texas:

(a) commercial liability insurance, covering, at a minimum, the following categories of liability within the following limits: (i) bodily injury and property damage - \$1,000,000 limit per occurrence, \$2,000,000 aggregate, (ii) medical expense - \$5,000 limit per person, (iii) personal injury and advertising liability - \$1,000,000 limit, (iv) products/completed operations - \$2,000,000 aggregate, (v) damage to premises rented - \$50,000 limit;

(b) automobile liability coverage for vehicles driven by Contractor's employees (\$500,000 per occurrence); and

(c) workers' compensation insurance in accordance with the statutory limits, as follows: (i) employer's liability - \$1,000,000 each incident, (ii) disease - \$1,000,000 each employee and \$1,000,000 policy limit.

The PUCT and the State of Texas shall be named an additional insured on the commercial liability and automobile policies.

Insurance coverage shall be from companies licensed by the State of Texas to provide insurance with an "A" rating from A.M. Best and authorized to provide the corresponding coverage.

13.2 Certificates of Insurance. Contractor shall furnish to the PUCT certificates of insurance and any applicable endorsements, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten (10) days of the Effective Date of this Contract, and upon request thereafter. Contractor shall provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates or endorsements promptly, shall constitute a material breach of this Contract. Contractor shall provide thirty (30) days written notice of any notice for renewal and/or cancellation of insurance.

Article 14. DISPUTE RESOLUTION

The Parties agree to resolve disputes arising under this Contract through the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and Subchapter C of the PUCT Rules for Administrative Services.

Article 15. SOVEREIGN IMMUNITY

The State of Texas and the PUCT do not waive sovereign immunity by entering into this Contract and specifically retain immunity and all defenses available to them under the Constitution, the laws of the State of Texas, or the common law.

Article 16. GOVERNING LAW

Notwithstanding anything to the contrary in this Contract, this Contract shall be deemed entered into in the State of Texas and shall be governed by, construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of the State of Texas. The Parties hereby submit to the jurisdiction of the courts located in, and venue is hereby stipulated to, the state courts located in Travis County, Texas. Each Party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Contract. Further, each Party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Contract.

Article 17. COMPLIANCE WITH LAW

17.1 General. Contractor shall comply with all federal, state, and local laws, executive orders, regulations, and rules applicable at the time of performance. Contractor warrants that all Services sold hereunder shall have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations to which they are subject, including, but not limited to, Equal Employment Opportunity laws. All laws and regulations required in agreements of this character are hereby incorporated by this reference.

17.2 Taxes. Contractor agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as a result of any action taken as a result of this Contract.

17.3 Workers' Compensation. Contractor agrees that it shall be in compliance with applicable state workers' compensation laws throughout the term of this Contract and any renewals or extensions thereof.

17.4 Conflicts. Contractor agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the Commission. In the event that Contractor becomes aware of inconsistencies between this Contract and a Texas statute or PUCT rule, Contractor will so advise the PUCT immediately and will cooperate fully to revise applicable provisions of this Contract as necessary.

17.5 Compliance with Deceptive Trade Practices Act. Contractor shall comply with Texas Business and Commerce Code Chapter 17.

17.6 Compliance with Americans with Disabilities Act. Contractor shall Comply with the Americans with Disabilities Act, 42 U.S.C. Chapter 126.

17.7 Prohibited Use of Appropriated/Other Funds. Contractor shall comply with Texas Government Code Sections 556.005 and 556.0055 related to prohibited uses of appropriated and other funds.

17.8 Certificate of Interested Parties Form. At the time Contractor submits a signed contract to the PUCT, Contractor shall submit a "Certificate of Interested Parties" form to the PUCT and file the form with the Texas Ethics Commission. The form and instructions for filing the form can be found at: <https://www.ethics.state.tx.us/tec/1295-Info.htm>. Contractor shall not perform any work under the contract, nor receive any compensation prior to filing the form with the Texas Ethics Commission.

Article 18. CONTRACTOR'S CERTIFICATION

By accepting the terms of this Contract, Contractor certifies that, to the extent applicable, it is in compliance with the following requirements and prohibitions. Contractor understands and agrees that a false certification may lead to termination of this Contract for cause.

18.1 Prohibitions on Gifts. Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

18.2 Delinquent Obligations. Contractor is not currently delinquent in the payment of any franchise or sales tax owed to the State of Texas, and is not delinquent in the payment of any child support obligations under applicable state law.

18.3 Terrorist Financing. The PUCT is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it, via cross referencing proposers/vendors with the Federal General Services Administration's System for Award Management (SAM), <https://www.sam.gov/>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

Contractor certifies that the Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at: <https://www.sam.gov/>

18.4 Antitrust. Neither Contractor nor anyone acting for Contractor has violated the antitrust laws of this State, codified in Section 15.01, et seq. of the Texas Business and Commerce Code or the Federal Antitrust Laws, nor has communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.

18.5 Family Code. Contractor has no principal who is ineligible to receive funds under Texas Family Code Section 231.006 and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

18.6 Prohibited Compensation. Contractor has not received compensation from the PUCT, or

any agent, employee, or person acting on the PUCT's behalf for participation in the preparation of this Contract.

18.7 Government Code. Under Texas Government Code Section 2155.004, Contractor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

18.8 Outstanding Obligations. Payments due under the contract will be applied towards any debt that is owed to the State of Texas, including but not limited to delinquent taxes and child support.

18.9 Contracting with Executive Head of State Agency. Contractor certifies this Contract is in compliance with Texas Government Code Section 669.003 relating to contracting with the executive head of a State agency. If Texas Government Code Section 669.003 applies, bidder will provide the following information in order for the bid to be evaluated: Name of Former Executive; Name of State Agency; Date of Separation from State Agency; Position with Bidder; and Date of Employment with Bidder.

18.10 Buy Texas. Contractor will comply with Texas Government Code Section 2155.4441, pertaining to service contracts regarding the use of products produced in the State of Texas.

18.11 Hurricane Recovery. Under Texas Government Code Section 2155.006, Contractor certifies that the individual or business entity named in this proposal is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

18.12 E-Verify. Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

1. All persons hired to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) hired by the proposer to perform work pursuant to the Contract, within the United States of America.

The Contractor shall provide, upon request of PUCT, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

This term should not be construed to require Contractor to utilize E-Verify to determine the eligibility of existing employees, or otherwise use E-Verify in violation of the law.

18.13 Debarred Vendors List. Contractor certifies that it is not on the Debarred Vendors List located at http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.

18.14 Does not Boycott Israel. As required by Texas Government Code section 2270.002,

Contractor certifies that Contractor does not, and will not during the term of this Contract, boycott Israel. Contractor further certifies that no subcontractor of Contractor boycotts Israel, or will boycott Israel during the term of this Contract. Contractor agrees to take all necessary steps to ensure this certification remains true during the term of this Contract.

Article 19. GENERAL PROVISIONS

19.1 Relationship of Parties. Contractor is and shall remain at all times an independent contractor, and nothing in this Contract shall be deemed to create a joint venture, partnership, employment, franchise, master-servant, or agency relationship between the Parties. Except as expressly provided to the contrary elsewhere in this Contract, no Party has any right or authority to act on behalf of another Party, nor to assume or create any obligation, liability or responsibility on behalf of another Party. Under no circumstances shall the relationship of employer and employee be deemed to arise between the PUCT and Contractor's personnel. Contractor shall be solely responsible for achieving the results contemplated by this Contract, whether performed by Contractor, its agents, employees or subcontractors.

19.2 Non-Exclusivity. Nothing in this Contract is intended nor shall be construed as creating any exclusive arrangement between Contractor and PUCT. This Contract shall not restrict PUCT from acquiring similar, equal, or like goods and/or services from other entities or sources.

19.3 Taxes and Statutory Withholdings. Contractor acknowledges that it is not a PUCT employee, but is an independent contractor. Accordingly, it is Contractor's sole obligation to report as income all compensation received by Contractor under the terms of this Contract. Contractor is solely responsible for all taxes (federal, state, or local), withholdings, social security, unemployment, Medicare, Workers' Compensation insurance, and other similar statutory obligations (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this contract. Contractor shall defend, indemnify and hold the PUCT harmless to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, or local), withholding, social security, unemployment, Medicare, Workers' Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Contractor under this Contract. Further, Contractor understands that neither it nor any of its individual employees is eligible for any PUCT employee benefit, including but not limited to holiday, vacation, sick pay, withholding taxes (federal, state, local), social security, Medicare, unemployment or disability insurance, Workers' Compensation, health and welfare benefits, profit sharing, 401(k) or any employee stock option or stock purchase plans. Contractor hereby waives any and all rights to any such PUCT employment benefit.

19.4 Notice. Except as otherwise stated in this Contract, all notices provided for in this Contract shall be (a) in writing, (b) addressed to a Party at the address set forth below (or as expressly designated by such Party in a subsequent effective written notice referring specifically to this Contract), (c) sent by FedEx, with proper postage affixed and (d) deemed effective upon the third business day after deposit of the notice in the U.S. Mail.

IF TO THE PUCT:

ATTENTION: Brian H. Lloyd, Executive Director
1701 N. Congress Ave., 7th Floor
Austin, TX 78701

With copies to the PUCT Contract Administrator, and Jay Stone, CTPM, CTCM, at the same address.

IF TO CONTRACTOR:

ATTENTION: John Antonuk
1451 Quentin Rd., Suite 400, #343
Lebanon, PA 17042

19.5 Headings. Titles and headings of paragraphs and sections within this Contract are provided merely for convenience and shall not be used or relied upon in construing this Contract or the Parties' intentions with respect thereto.

19.6 Export Laws. Contractor represents, warrants, agrees and certifies that it (a) shall comply with the United States Foreign Corrupt Practices Act (regarding, among other things, payments to government officials) and all export laws and rules and regulations of the United States Department of Commerce or other United States or foreign agency or authority and (b) shall not knowingly permit any non-Party to directly or indirectly, import, export, re-export, or transship any intellectual property or any third Party materials accessed by Contractor during the course of this Contract in violation of any such laws, rules or regulations.

19.7 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Contract is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. The terms of this Contract cannot be amended, modified, or altered by any conflicting terms, provisions, or conditions contained in a proposal or a preprinted form, such as purchase orders or acknowledgements. If any conflict exists between this Contract and any terms and conditions on a proposal, purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Contract will govern.

19.8 Specific Personnel. Contractor has identified the personnel for this assignment ("Team"), as follows: **John Antonuk, Randy Vickroy, Michael Antonuk.**

Contractor warrants that it shall use its best efforts to avoid any changes to the Team during the course of this Contract. Should personnel changes occur during the term of this Contract or any extensions or renewals thereof, Contractor will recommend to the PUCT personnel with comparable experience and required qualifications and training. The PUCT must approve any change in personnel on this project in writing. Contractor shall provide individuals qualified to perform the tasks assigned to such individual. At the PUCT's request, Contractor shall remove from the project any individual whom the PUCT finds unacceptable for any reason in the PUCT's sole discretion. Contractor shall replace such individual with another individual satisfactory to the PUCT as soon as practicable.

19.9 Publicity. Contractor understands and agrees that no public disclosures or news releases pertaining to this Contract or any results or findings based on information provided, created, or obtained to fulfill the requirements of this Contract shall be made without the prior written approval of the PUCT.

Article 20. NO IMPLIED WAIVER

The failure of any party, at any time, to enforce a provision of this contract will not constitute a waiver of that provision; will not affect the validity of this contract or any part of it; and will not

affect the right of any party to enforce each and every provision.

Article 21. ORDER OF PRECEDENCE

In the event of conflicts or inconsistencies between the provisions of this contract and its attachment(s), the following are given preference in the order listed below:

- 1) The terms and conditions of this Contract;
- 2) Attachment A, SOW, including any exhibits;
- 3) The contractor's proposal.

Article 22. FORCE MAJEURE

Neither the PUCT nor Contractor will be considered in default in the performance of its obligations under this contract to the extent that the performance of such obligations is prevented or delayed by any cause beyond the reasonable control of the affected party, which such party could not, by due diligence have avoided, including but not limited to acts of God, severe weather, explosions, riots, acts of war, or orders of legal authority. Such causes will not relieve either party of liability in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner, with all reasonable dispatch, and to give notice and full particulars of the same in writing to the other party as soon as possible after the occurrence of the cause that prevented or delayed performance of the obligations. If the event of Force Majeure continues for a period of more than one hundred and eighty (180) days, either party thereafter may terminate this contract upon giving at least ten (10) days prior written notice to the other party.

Article 23. SEVERABILITY

If any provision of this contract is held unlawful or otherwise unenforceable, such provision will be severed and deemed deleted and the remainder of this contract will continue in full force and effect, as if such provision had never existed.

Article 24. FUNDING OUT CLAUSE

This contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations, provisions of the Termination Article shall apply. Any contract resulting from this solicitation is contingent upon the continued availability of lawful appropriations by the Texas Legislature. *See* Texas Constitution, Article III Section 49, State Debts; and Texas General Appropriations Act for the 2014-2015 Biennium, Article IX, Section 6.03, Excess Obligations Prohibited.

Article 25. DRUG FREE WORKPLACE POLICY

The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988, 41 U.S.C. § 8102, et seq., and 48 CFR § 52.223-6 Drug-Free Workplace) and maintain a drug-free work environment. The requirements of the Drug Free Workplace Act and the rules interpreting it are incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments that may hereafter be issued.

Article 26. SUBSTITUTIONS

Substitutions are not permitted without written approval of the PUCT.

Article 27. RIGHT TO AUDIT

Pursuant to Section 2262.003 of the Texas Government Code, the State Auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this contract. The acceptance of funds by Contractor or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Contractor or any other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract awards.

Article 28. ENTIRE AGREEMENT

This contract, including Attachment A, SOW, constitutes the entire agreement and understanding between the parties with regard to its subject matter and supersedes and merges all prior discussions, writings, negotiations, understandings, and agreements concerning the provision of these Services. Any terms and conditions attached to a solicitation will not be considered unless incorporated into this Contract by specific reference.

In WITNESS WHEREOF both parties by their duly authorized representatives have executed this contract effective as of **December 7, 2017**

The Public Utility Commission of Texas

By: 

Brian H. Lloyd
Executive Director

Date Signed: 12/9/17

The Liberty Consulting Group

By: 

John Antonuk
President

Date Signed: 12-12-17

ATTACHMENT A

STATEMENT OF WORK

The contractor will provide technical consulting services related to any change in control filing that the PUCT expects Energy Future Holdings Corporation (EFH) may file, as well as any related proceedings that may be necessary as determined by the Commission. The contractor will participate in the contested case proceedings as necessary, including evaluating the proposed EFH transaction, submitting pre-filed written testimony, responding to discovery, testifying at hearings, and assisting Commission Staff with its general litigation activities in connection with the EFH transaction. Contractor's participation as an expert in contested case proceedings will be at the discretion of the PUCT Contract Administrator. The contractor shall also provide technical support and evaluation services described below.

An understanding of the PUCT's order in PUCT Docket No. 34077, including the "ring fence" provisions of that order and the related stipulation described below, Commission orders relating to Oncor's recent change of control applications, Oncor's governance structures, financial relationships, and operations, the financial relationships, governance structures, and operations within the Energy Future Holdings Corporation and affiliates, shall be necessary to analyze and evaluate properly the proposed EFH transaction.

The contractor should anticipate and understand the potential liabilities, including but not limited to, adverse tax consequences, if any, resulting from the separation of TXU Energy and Luminant from EFH. The contractor should understand what effects these developments may have on Oncor's financial stability and be able to suggest ways to protect Oncor from such effects.

The contractor should be familiar with the likely corporate and ownership structures that Oncor may take, as well as the related tax attributes of each structure. The contractor should also be able to identify the financial and operational costs and benefits associated with each of the likely corporate and ownership structures.

Consulting Expert Services

As part of the technical consulting services related to the proceedings associated with the EFH transaction described above, the contractor will undertake, but is not limited to, the following tasks as deemed necessary by the Commission Staff:

- review and evaluate EFH's change in control filing(s) and the proposed EFH transaction's potential impact on the public interest, Oncor, Oncor's parent company and Oncor's retail customers in Texas and provide a written evaluation with conclusions and recommendations on modifications that may be needed to protect the public interest;
- review and evaluate the change in control filing(s) to determine the need for continuation, modification or additions to the existing "ring fence" provisions applicable to Oncor;

- review and evaluate the need for any commitments made by the new owners of Oncor concerning, among others, financing and reorganization;
- review the effect, if any, the proposed transaction will have on Oncor as a separate legal entity from EFH, and EFH affiliates including Energy Future Intermediate Holding Company (EFIH);
- review the effect, if any, of the sale of TXU Energy and Luminant , as well as the resulting effect on Oncor of any tax or other liabilities remaining at EFH;
- review the separation of management and staff of Oncor from the management and staff of EFH and any proposed holding companies and affiliates;
- review the proposed transaction(s) to ensure Oncor's continued financial independence from EFH and any proposed holding companies and affiliates;
- make a determination whether the proposed transaction(s) provides reasonable assurance that Oncor will be in compliance with PURA and the PUCT's rules relating to, among other things, the separation of competitive and regulated businesses that are under common ownership and the Commission's code of conduct rules (*see* <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>)
- make a determination whether Oncor will be sufficiently capitalized based on the capital needs for providing transmission and distribution service in its service area and managing the risks associated with providing such service; and
- make a determination whether Oncor will have sufficient access to capital to permit it to provide adequate service to customers, taking into account the growth expectations for the Oncor service area and other factors that may result in future capital needs.

The contractor will provide PUCT Staff a written evaluation and analysis of the EFH transaction.

Contested Case Services

The contractor may also, at the discretion of the PUCT Contract Administrator, participate in the EFH change in control contested case proceeding(s) and any related proceedings at the PUCT. Work in the contested case(s) and subsequent compliance proceedings related to the EFH transaction will include, but is not limited to:

- attending Open Meetings at which the Commissioners consider matters related to the EFH transaction;
- propounding and responding to discovery requests;
- preparing and presenting direct testimony;
- testifying at contested case hearings and in depositions;
- attending hearings, prehearing conferences, technical conferences and other meetings as deemed necessary in the course of the proceeding(s);
- assisting Commission Staff during the proceeding with its general litigation preparation and other matters as necessary;
- providing other technical consulting services as necessary to support Commission Staff in the proceeding(s); and

- assisting in preparing post-hearing briefs, exceptions and replies to proposals for decision, motions, and other written pleadings as necessary.
- If required, the contested case services will be provided under the direction of a Commission Staff attorney, who will review proposed testimony, conduct direct and re-direct examination of the contractor's witness, and generally manage the Commission Staff case during the hearing.

CONTRACT NO. 473-18-00006
BETWEEN
THE PUBLIC UTILITY COMMISSION OF TEXAS
AND
NATIONAL FEDERATION OF THE BLIND OF TEXAS

The parties to this contract are the Public Utility Commission of Texas, an agency of the State of Texas, located at 1701 N. Congress Ave., Austin, Texas 78701 and the National Federation of the Blind of Texas, a Texas non-profit corporation with offices at 1600 E HWY 6, Suite 215, Alvin, Texas 77511.

Article 1. DEFINITIONS

When used in this contract, the following terms have the following meanings:

1.1 “PUCT,” means the Public Utility Commission of Texas, an agency of the state of Texas, acting through its Executive Director and the agency’s designated Contract Administrator.

1.2 “Commission” means the governing body of the PUCT.

1.3 “Contractor” includes the National Federation of the Blind of Texas (NFBTX), and any successors, heirs, and assigns.

1.4 “Services” means any and all services performed and any and all goods and products delivered by Contractor as specified in the Statement of Work.

1.5 “Statement of Work” means the description of goods and services to be provided under this contract found in Exhibit 1 to this contract.

1.6 “Parties” means PUCT and Contractor. **“Any Party”** means PUCT or Contractor.

1.7 “May” means “is authorized to.”

1.8 “National newspaper” means “a serial publication that contains news about current events of special or general interest that is widely distributed in all fifty states.”

1.9 “Texas newspaper” means “a serial publication that contains news about current events of special or general interest published within the state of Texas.”

Article 2. COMPENSATION

2.1 Compensation. Contractor agrees to provide all Services (including labor, expenses, and any other services) described in the Statement of Work, for a yearly firm fixed price, invoiced in monthly increments, of: \$468,275 for Fiscal Year (FY) 2019; \$465,775 for FY 2020; \$469,275 for FY 2021; and \$476,173 for FY 2022; with a total contract price of \$1,879,498.

Contractor understands that the PUCT is not responsible for payment of any costs or expenses exceeding this amount.

If Contractor believes that changes in the scope of Services to be performed will require Contractor to increase its fee, it must request the PUCT’s written authorization to increase its fee.

Contractor must document the changes in the scope of Services and why they will require additional effort. The PUCT must approve the increase in fee by written amendment to this contract before Contractor performs any Services or may invoice the increased fee.

2.2 Payment Process. Contractor must submit an invoice to the PUCT Contract Administrator no later than the 15th day of the month after the month that the Services were performed. The invoice must contain the name of the person performing Services and a brief description of work performed. No payment will be made for administrative overhead, overtime, etc.

On the invoice, Contractor must include a statement that the invoice accurately describes the Services performed and the Services were performed in compliance with the contract. The invoice must include the vendor identification number issued by the Texas Comptroller or Contractor's federal taxpayer identification number, a description of the Services provided, and the name and division of the PUCT Contract Administrator.

Contractor must submit the invoice to the PUCT as follows:

By email to: Payables@puc.texas.gov

Or by mail to: Accounts Payable
Public Utility Commission of Texas
P.O. Box 13326
Austin, TX 78711-3326

2.3 Release of Claims. Contractor's acceptance of payment releases the PUCT of all claims for compensation owed in connection with this contract.

2.4 Payments Made to Subcontractors. Contractor must pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Contractor receives the payment. The subcontractor's payment is overdue on the 11th day after the date Contractor receives the payment. The PUCT must approve Contractor's use of any subcontractor before Contractor engages the subcontractor (see Section 5.1 of this contract).

2.5 Records. Contractor and its subcontractors, if any, must maintain records and books of account relating to Services provided under this contract. Contractor must, for a period of seven (7) years following the expiration or termination of this contract, maintain its records (electronic and paper) of the work performed under this contract. Records include, but are not limited to correspondence concerning the subject of this contract between Contractor and the PUCT; Contractor's internal correspondence; and correspondence between Contractor and any third party. Contractor must make all records that support the performance of Services and payment available to PUCT and/or its designees or the State Auditor during normal business hours with reasonable notice, upon the request of the PUCT Contract Administrator. Contractor must provide the PUCT with a description of its business continuity and disaster recovery plans with regard to the protection of records relating to this contract.

2.6 Sole Compensation. Payments under this Article are Contractor's sole compensation under this contract. Contractor must not incur expenses not contemplated under the Statement of

Work, with the expectation that the PUCT or any other agency of the state of Texas will pay the expense.

Article 3. CONTRACT ADMINISTRATION

3.1 PUCT Contract Administration. The PUCT designates Jay Stone to serve as its primary point of contact and contract administrator throughout the term of this contract. Contractor acknowledges that the PUCT contract administrator does not have any authority to amend this contract on behalf of the PUCT, except as expressly provided herein. Contractor further acknowledges that such authority is exclusively held by the Commission exercising its authority through a vote in an open meeting, or the Executive Director of the PUCT as the Commission's authorized designee.

3.2 Contractor Contract Administration. Contractor designates its contract administrator as follows: Elizabeth Wisecarver

3.3 Reporting. Contractor must report directly to the PUCT contract administrator and must perform all activities in accordance with the reasonable instructions, directions, and requests conveyed to Contractor by the PUCT contract administrator.

3.4 Cooperation. The Parties' contract administrators must handle all communications between them in a timely and cooperative manner. The Parties must timely notify each other by email or other written communication of any change in designee or contact information.

3.5 Inquiries and Prompt Referral. Contractor understands that the PUCT does not endorse any vendor, commodity, or service. Contractor, its employees, representatives, other agents, or subcontractors may not issue any media release, advertisement, publication, or public pronouncement which pertains to this contract or the Services or project to which this contract relates or which mentions the PUCT without the prior approval of the PUCT. Contractor will promptly refer all inquiries regarding this contract received from state legislators, other public officials, the media, or anyone else not a Party to this contract to the PUCT contract administrator.

Article 4. REPORTS AND RECORDS

4.1 Written Reports. Contractor will provide written reports to the PUCT in the form and with the frequency specified in the Statement of Work, or as otherwise agreed in writing between the Parties.

4.2 Distribution of Consultant Reports. Contractor agrees the PUCT has the right to distribute any consultant report associated with this contract, or to allow another Texas state agency or the Texas legislature to distribute it. The PUCT will also have the right to post any consultant report associated with this contract to the PUCT's website or to the website of a standing committee of the legislature. This provision does not waive any right to confidentiality that the PUCT may assert for the report or any portion thereof.

Article 5. SUBCONTRACTING PARTIES

5.1 Use of Subcontractors. The Parties acknowledge and agree that, at the time of execution of this contract, Contractor intends to perform the Services required under this Contract using its own employees. Contractor will notify the PUCT contract administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any subcontract not contemplated at the initiation of this contract and any subsequent substitution of a subcontractor must be approved by an amendment according to the terms of Article 7.

5.2 Sole Responsibility. Contractor is solely responsible for the quality and timeliness of the work produced by all subcontractors that Contractor may engage to provide Services hereunder and for the timely payment for all work produced by all subcontractors that the PUCT accepts and pays for in accordance with the terms of this contract.

5.3 Prime Vendor Contract. The Parties expressly agree that this Contract is intended to constitute a prime vendor contract, with Contractor serving as the prime vendor for delivery of the Services made the subject hereof. Contractor acknowledges and agrees that it is fully liable and responsible for timely, complete delivery of the Services described in this Contract, notwithstanding the engagement of any subcontractor to perform an obligation under this Contract.

Article 6. TERM, SUSPENSION, AND TERMINATION

6.1 Term. The term of this Contract will begin on September 1, 2018 and will continue in effect until August 31, 2022 unless sooner terminated under Sections 6.2 or 6.3 of this Contract.

6.2 Termination for Cause by the PUCT. If Contractor fails to provide the goods or services contracted for according to the provisions of the contract, or fails to comply with any terms or conditions of the Contract, the PUCT may serve upon Contractor written notice requiring Contractor to cure such default. Unless within thirty (30) days after receipt of said notice by Contractor, said default is corrected or arrangements satisfactory to the PUCT, as applicable, for correcting the default have been made by Contractor, the PUCT may terminate this contract for default and will have all rights and remedies provided by law and under this contract. If the PUCT terminates Contractor for a violation of Section 18.12, of this contract, the PUCT need not provide any notice or opportunity for curing the default.

6.3 Termination for the Convenience of the PUCT. The PUCT may, upon thirty (30) days written notice to Contractor, terminate this contract whenever the interests of the PUCT so require. The PUCT will only reimburse those expenses already incurred at the time the notice is provided or expenses approved in writing, prior to Contractor incurring those expenses, for the purpose of wrapping up the contract. The PUCT will not be liable for any damages and/or loss to Contractor as a result of termination for convenience.

6.4 Transfer of Duties. In the event of termination, Contractor will provide reasonable cooperation to transfer its duties under the contract to another entity without disruption to the provision of Services.

6.5 Remedies for Breach. All remedies available to the PUCT for breach or anticipatory breach of this contract by Contractor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy will not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunctive relief, and performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

6.6 Survival. In the event that this Contract expires or is terminated pursuant to its terms, the rights and obligations of the Parties under it will end; provided that the provisions of Sections 2.3 through 2.6, 3.5, 4.2, 6.5, 6.6, 7.5, 9.2, 9.4 through 9.6, 17.2 and 19.1 through 19.5, 19.9 and Articles 1, 10, 11, 12, 14, 15, 16, 20, 21, 23, 28, and 29 will survive in their entirety.

Article 7. ASSIGNMENT, AMENDMENTS, AND MODIFICATIONS

7.1 Material Change Requests. The PUCT may propose changes to the Statement of Work. Upon receipt of a written request from the PUCT for a change to the Statement of Work, Contractor must, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this contract. No changes to the Statement of Work, will occur without the Parties' written consent as provided in accordance with the terms stated in this contract.

7.2 Changes in Law, Rules, or Rulings. Changes in federal or state legislation, rules and regulations or rulings by the PUCT after the effective date of this contract may require modification of the terms of this contract, including an increase or decrease in Contractor's duties or compensation. In the event of changes to statutes, rules, and/or regulations affecting the terms of this contract, the PUCT and Contractor must negotiate the terms of a contract modification in good faith and incorporate the modification into this Contract by written amendment.

7.3 No Assignment of Duties. This contract will be binding upon and inure to the benefit of the permitted successors and assigns of any Party (including by merger of Contractor or otherwise by operation of law); provided, however, that Contractor may not otherwise, without the prior written consent of the PUCT, assign or transfer this contract or any obligation incurred under this contract. Any attempt by Contractor to assign or transfer this contract or any obligation incurred under this contract, in contravention of this article, will be voidable at the PUCT's sole discretion.

7.4 Amendments and Modifications. This contract may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this contract.

7.5 Binding on Successors. The terms of this contract will be binding on any successor organization of any of the Parties.

Article 8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Warranty of Performance. Contractor represents, warrants, and covenants that it will perform the Services outlined in the Statement of Work, in a professional and workmanlike manner, consistent with professional standards of practice in the professional industry.

8.2 Warranty of Services. Contractor warrants that the Services will be rendered by the qualified personnel named in Section 19.8 of this contract. If Services provided under this contract require a professional license, then Contractor represents, warrants, and covenants that the activity will be performed only by duly licensed personnel.

Article 9. RISK OF LOSS AND PROPERTY RIGHTS

9.1 Risk of Loss. The risk of loss for all items to be furnished hereunder will remain with Contractor until the items are delivered to and accepted by the PUCT, at which time the risk of loss will pass to the PUCT.

9.2 Ownership. Except for materials where any intellectual property rights are vested in a third party, such as software or hardware, in which case such rights remain the property of the third party, all finished materials, conceptions, or products created and/or prepared for on behalf of the PUCT and purchased by the PUCT, or on behalf of the PUCT, that the PUCT has accepted as part of the performance of Services hereunder, will be the PUCT's property exclusively and will be given to the PUCT either at the PUCT's request during the term of the Contract or upon termination or expiration of the contract. Notwithstanding the foregoing, materials created, prepared for, or purchased exclusively by the PUCT or on behalf of the PUCT are the PUCT's exclusive property regardless of whether delivery to the PUCT is effectuated during or upon termination or expiration of this contract.

9.3 Licensed Software. With PUCT's advanced written consent, Contractor may obtain software licenses as an agent of the PUCT for software that is used by Contractor solely for the purpose of providing Services under this contract. Contractor must provide the PUCT with a copy of any software license obtained by Contractor as an agent for the PUCT for the purpose of providing Services under this contract.

9.4 Prior Works. Except as provided herein, all previously owned materials, conceptions, or products remain the property of Contractor and nothing contained in this contract will be construed to require Contractor to transfer ownership of such materials to the PUCT.

9.5 Trademarks. The Parties agree that no rights to any trademark or service mark belonging to another Party or to any non-Party are granted to any other Party by this contract, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Contractor under this contract does not give the PUCT any rights of ownership in the trademark or the software.

9.6 Program Information. Program information, data, and details relating to Contractor's Services under this contract must be maintained separately from Contractor's other activities. Contractor must undertake all reasonable care and precaution in the handling and storing of this information.

9.7 Provision to be Inserted in Subcontracts. Contractor must insert a provision containing Sections 9.2 and 9.6 of this contract in all subcontracts hereunder except altered as necessary for proper identification of the contracting Parties and the PUCT under this contract.

Article 10. PUBLIC INFORMATION

10.1 Texas Public Information Act. (Texas Government Code Chapter 552). The Parties acknowledge that notwithstanding any other provisions of this contract, the Texas Public Information Act ("PIA") governs the treatment of all information held by or under the control of the PUCT. The PUCT will notify Contractor of requests for Contractor's information as required under the PIA.

10.2 Agreement Not Confidential. The Parties acknowledge that not all terms of this contract may be confidential under the PIA, regardless of whether those terms are marked "Proprietary," "Trade Secret," or "Confidential." Contractor further acknowledges that in the event of a dispute over the release of a proposal or part of a proposal the PUCT is bound by the decision made by the Office of the Attorney General of Texas.

10.3 Contractor's Duty to Provide Public Information. Contractor is required, at no additional cost to the state, to make available in a format that is accessible by the public any information created or exchanged with the state pursuant to this contract. For the purpose of Section 10.3 of this contract, paper documents, Adobe Portable Document Format files (.pdf), Microsoft Excel spreadsheets (.xls), Microsoft Word documents (.docx), and Hypertext Markup Language (.html) files will be considered "accessible by the public," unless another format is specified by the PUCT, at the PUCT's sole discretion. If information created or exchanged with the state pursuant to this contract is excepted from disclosure under the PIA, Contractor will not be required to make the information available to the public, but may be required to facilitate the PUCT's provision of the information to the Texas Attorney General for a decision on the information's confidentiality. The PUCT has no duty or responsibility to argue a defense of confidentiality to Contractor's information or data; it will be Contractor's sole responsibility to do so.

Article 11. CONFLICTS OF INTEREST AND EMPLOYMENT RESTRICTION

11.1 No Conflicting Relationships. Contractor certifies to the PUCT that no existing or contemplated relationship exists between Contractor and the PUCT that interferes with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Contractor and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Contractor with respect to the PUCT.

11.2 Prohibition on Transactions with Parties Adverse to the PUCT. Contractor agrees that during the term of this contract and any extensions or renewals thereof, it will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the PUCT or that has interests that are directly or indirectly adverse to those of the PUCT. The PUCT may waive this provision in writing if, in the

PUCT's sole judgment, such activities of the Contractor will not be adverse to the interests of the PUCT.

11.3 Notice of Conflict. Contractor agrees to promptly notify the PUCT of any circumstance that may create a real or perceived conflict of interest, whether arising prior to or during the term of the contract. Contractor agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. If Contractor fails to do so, it will be grounds for termination of this contract for cause, pursuant to Section 6.2 of this contract.

11.4 Revolving Door. Contractor agrees that it will not hire current or former PUCT employees whose employment with Contractor would violate any of the revolving door provisions in the Texas Government Code or the Public Utility Regulatory Act (Title II, Texas Utilities Code.).

Article 12. INDEMNIFICATION

Contractor must indemnify, defend and hold harmless the PUCT, the State of Texas, and their officers, agents, employees, representatives, contractors, assignees, and designees from any and all liabilities, claims, suits, assessments, penalties, losses, damages, demands or causes of action, and all related costs, attorney fees and expenses of whatever kind or nature asserted by a third party and occurring in any way incident to, arising out of, or in connection with acts or omissions of Contractor, its agents, employees and subcontractors, committed in the conduct of this contract. Contractor will have the obligation to undertake the defense of any such claim, process, or legal proceeding at Contractor's expense; provided, however, that the PUCT may participate in the defense with counsel of its own choosing. Any defense must be coordinated by Contractor with the Office of the Attorney General when Texas State Agencies are named defendants in any lawsuit. Contractor may not agree to any settlement without first obtaining concurrence from the Office of the Attorney General. Contractor and the PUCT agree to furnish timely written notice to each other of any claim.

If all or any part of the deliverables of this contract is the subject of any claim, suit, or proceeding for infringement or misappropriation of any intellectual property right, Contractor may, and in the event of any adjudication that the deliverables or any part thereof infringes or misappropriates any patent, trademark, copyright, or trade secret, or if the licensing or use of any of the deliverables or any part thereof is enjoined, Contractor must, at its expense do one of the following things: (i) procure for PUCT the right under such patent, trademark, copyright or trade secret to fully use the deliverables or the affected part thereof; or (ii) replace the deliverable or affected part thereof with another non-infringing deliverable; or (iii) suitably modify the deliverable or affected part thereof to make it non-infringing.

Article 13. INSURANCE

13.1 Contractor Responsibility. Contractor agrees to comply with all state and federal laws applicable to the liability and payment of Contractor and Contractor's employees, including laws regarding wages, taxes, insurances, and workers' compensation. Neither the PUCT nor the State of Texas will be liable to the Contractor, its employees, agents, or others for the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee.

13.2 Minimum Insurance. Contractor must, at its sole cost and expense, secure and maintain as a minimum, from the effective date of this contract and thereafter during the term of this contract and any renewals or extensions thereof, for its own protection and the protection of the PUCT and the State of Texas:

- a) commercial liability insurance, covering, at a minimum, the following categories of liability within the following limits: (i) bodily injury and property damage - \$1,000,000 limit per occurrence, \$2,000,000 aggregate, (ii) medical expense - \$5,000 limit per person, (iii) personal injury and advertising liability - \$1,000,000 limit, (iv) products/completed operations – \$2,000,000 aggregate, (v) damage to premises rented - \$50,000 limit;
- b) automobile liability coverage for vehicles driven by Contractor's employees (\$500,000 per occurrence);
- c) workers' compensation insurance in accordance with the statutory limits, as follows: (i) employer's liability - \$1,000,000 each incident, (ii) disease - \$1,000,000 each employee and \$1,000,000 policy limit;
- d) coverage for breach of confidential information.

The PUCT and the State of Texas must be named an additional insured on the commercial liability and automobile policies.

Insurance coverage must be from companies licensed by the State of Texas to provide insurance with an "A" rating from A.M. Best and authorized to provide the corresponding coverage.

13.3 Certificates of Insurance. Contractor must furnish to the PUCT certificates of insurance and any applicable endorsements, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten (10) days of the effective date of this contract, and upon request thereafter. Contractor must provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates or endorsements promptly, will constitute a material breach of this Contract. Contractor must provide thirty (30) days written notice of any notice for renewal and/or cancellation of insurance.

Article 14. DISPUTE RESOLUTION

The Parties agree to resolve disputes arising under this contract through the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and Subchapter C of the PUCT Rules for Administrative Services.

Article 15. SOVEREIGN IMMUNITY

The State of Texas and the PUCT do not waive sovereign immunity by entering into this contract and specifically retain immunity and all defenses available to them under the Constitution, the laws of the State of Texas, or the common law.

Article 16. GOVERNING LAW

Notwithstanding anything to the contrary in this contract, this contract will be deemed entered into in the State of Texas and will be governed by, construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of the State of Texas. The Parties hereby submit to the jurisdiction of the courts located in, and venue is hereby stipulated to, the state courts located in Travis County, Texas. Each Party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this contract. Further, each Party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this contract.

Article 17. COMPLIANCE WITH LAW

17.1 General. Contractor must comply with all federal, state, and local laws, executive orders, regulations, and rules applicable at the time of performance. Contractor warrants that all Services sold hereunder will have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations to which they are subject, including, but not limited to, Equal Employment Opportunity laws. All laws and regulations required in agreements of this character are hereby incorporated by this reference.

17.2 Taxes. Contractor agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as a result of any action taken as a result of this contract.

17.3 Workers' Compensation. Contractor agrees that it will be in compliance with applicable state workers' compensation laws throughout the term of this contract and any renewals or extensions thereof.

17.4 Conflicts. Contractor agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the PUCT. In the event that Contractor becomes aware of inconsistencies between this Contract and a Texas statute or PUCT rule, Contractor will so advise the PUCT immediately and will cooperate fully to revise applicable provisions of this contract as necessary.

17.5 Compliance with Deceptive Trade Practices Act. Contractor must comply with Texas Business and Commerce Code Chapter 17.

17.6 Compliance with Americans with Disabilities Act. Contractor must comply with the Americans with Disabilities Act, 42 U.S.C. Chapter 126.

17.7 Prohibited Use of Appropriated/Other Funds. Contractor must comply with Texas Government Code Sections 556.005 and 556.0055 related to prohibited uses of appropriated and other funds.