**HOW TO CUSTOMIZE THIS CONTRACT TEMPLATE**

The first two pages of this document provide step-by-step instructions on how to customize this PVL Contract template; these instructions should **not** be included with the final contract.

Please complete these steps in the order they are listed. If you have any questions, please contact Lance Fulcher, Director of the Office of Statewide Strategic Sourcing, at Lance.Fulcher@dfa.ms.gov. Consult with your legal counsel for agency-specific requirements.

**1.** Complete the form below:

|  |  |
| --- | --- |
| Agency: | [Agency] |
| Contract #: | [Contract #] |
| Contractor: | [Contractor] |
| Region(s): | [Region(s)] |
| Agency Contact: | [Agency Contact] |
| Agency Contact Title: | [Agency Contact Title] |
| Agency Signatory: | [Signatory Name] |
| Agency Signatory Title: | [Signatory Title] |
| Contractor Contact: | [Contractor Contact] |
| Contractor Contact Title: | [Contractor Contact Title] |
| Contractor Signatory: | [Contractor Signatory] |
| Contractor Signatory Title: | [Contractor Signatory Title] |

**2.** Enter the contract dates in [“#6. Period of Performance”](#Clause6) using the drop-down calendars.

**3.** Enter the final invoice date in [“#7. Method of Payment”](#Clause7) using the drop-down calendars.

**4.** Agencies may require greater, but not lower, limits of insurance than those specified in the IFB.  If any such limits are required, edit [“#14. Insurance”](#Insurance) accordingly.

**5.** Enter addresses for the agency and the contractor in [“Exhibit B, #21. Notices.”](#B21)

**6.** Enter the numbers that match your renewal terms in [“Exhibit B, #28. Renewal of Contract.”](#B28)

**7.** Remove any clauses **in the green section** of Exhibit A (page 12-13) as needed.

**8.** Add/remove any clauses in [Exhibit B](#ExhibitB) as needed. *Keep in mind that Exhibit “B” includes various clauses which are available for use. These clauses are optional and you are neither required to use them nor prohibited from using others which are not included in Exhibit “B”.*

**9.** Complete all compensation charts in Exhibit C. Rates for the PVL can be found on the DFA website: (https://www.dfa.ms.gov/dfa-offices/personal-service-contract-review/preapproved-vendor-information/). *Be sure to use pricing for the correct region(s).*

**10.** Enter the maximum contract amount (in dollars) in [Exhibit C](#ExhibitC). *If you do not wish to use the Optional Price Adjustment Clause, remove it.*

**11.** Save/print the new, customized document!

**If you make any changes other than those included in these instructions, you must submit the final contract AND a redline version of the contract to OPSCR.**

**CONTRACT FOR JANITORIAL SERVICES**

1. Parties. The parties to this contract are the [Agency] (hereinafter “Agency”) and [Contractor] (hereinafter “Contractor”).

2. Purpose. The purpose of this contract is for the Agency to engage Contractor to provide janitorial services for the Agency.

3. Scope of Services. Contractor will perform and complete in a timely and satisfactory manner the services described in Exhibit “A”, captioned “Scope of Services”, which is attached hereto and made a part hereof by reference. The scope of services is from IFB No. 2023-02, Preapproved List of Vendors for Janitorial Services, which is incorporated herein by reference. Contractor is one of the preapproved vendors selected through the above referenced IFB for the [Region(s)] Region(s).

4. General Terms and Conditions. This contract is hereby made subject to the terms and conditions included in Exhibit “B”, captioned “Additional Terms and Conditions”, which is attached hereto and made a part hereof by reference.

5. Consideration. As consideration for the performance of the services referenced in Exhibit “A”, the Agency agrees to compensate Contractor as provided in Exhibit “C”, captioned “Compensation”, which is attached hereto and made a part hereof by reference.

6. Period of Performance. This contract will become effective for the period beginning [DATE] and ending on [DATE], upon the approval and signature of the parties hereto. The Agency has the option to renew the contract as long as the contract was entered into on or before December 31, 2026 and the period of performance ends no later than December 31, 2028, as set by IFB No. 2023-02, Preapproved List of Vendors for Janitorial Services. Renewals must be approved by the PPRB.

7. Method of Payment. Contractor agrees to accept payments referenced in Paragraph 5, “Consideration”, to be paid as billed by Contractor, upon review and approval by Agency. Contractor agrees to submit invoices to the Agency that contain a detailed account of each billing. The final invoice is to be submitted no later than [DATE]. Contractor is classified as an independent contractor and not a contractual employee of the Agency. As such, any compensation due and payable to Contractor will be paid as gross amounts. Contractor invoices shall be submitted to the Agency as set forth in Paragraph 22.

8. Approval. It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

9. Applicable Law. The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.

10. Availability of Funds. It is expressly understood and agreed that the obligation of the [Agency] to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing time fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the [Agency], the [Agency] shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the [Agency] of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

11. Representation Regarding Contingent Fees. Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor’s bid or proposal.

12. Representation Regarding Gratuities. The bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board office of Personal Service Contract Rules and Regulations*.

13. Compliance with Laws. Contractor understands that the [Agency] is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

14. Insurance.

a. Contractor shall maintain insurance which, at a minimum, shall include the following types of insurance and coverage limits:

* **Workers’ Compensation** as required by the State of Mississippi; and,
* **Comprehensive General Liability or Professional General Liability** with minimal limits of $1,000,000.00 per occurrence; and,
* **Employee Dishonesty Insurance or Fidelity Bond Insurance** with third party liability coverage and with minimal limits of $1,000,000.00.

b. All insurance policies will list the State of Mississippi as an additional insured and upon request, the Contractor will provide copies of any insurance documentation to the Agency.

c. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.

d. The [Agency] reserves the right to request from carriers, certificates of insurance regarding the required coverage.

15. Stop Work Order.

a. *Order to Stop Work:* The Chief Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:

i. cancel the stop work order; or,

ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

i. the stop work order results in an increase in the time required for, or in Contractor’s cost properly allocable to, the performance of any part of this contract; and,

ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

c. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

16. Termination for Convenience.

a. Termination. The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.

b. Contractor's Obligations. Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct Contractor to assign Contractor’s right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

17. Termination for Default.

a. Default. If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor’s right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services

b. Contractor's Duties. Notwithstanding termination of the contract and subject to any directions from the Chief Procurement Officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.

c. Compensation. Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

d. Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor’s progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, “Termination for Convenience,” in cost-reimbursement contracts, “Termination”).

(As used in this Paragraph of this clause, the term “subcontractor” means subcontractor at any tier).

e. Erroneous Termination for Default. If, after notice of termination of Contractor’s right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to a termination for convenience.

f. Additional Rights and Remedies. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

18. Termination Upon Bankruptcy. This contract may be terminated in whole or in part by the [Agency] upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.

19. E-Payment. Contractor agrees to accept all payments in United States currency via the State of Mississippi’s electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on “Timely Payments for Purchases by Public Bodies,” which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 et seq..

20. E-Verification. If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 et seq. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;

b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,

c. both.

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

21. Transparency. This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Mississippi Code Annotated §§ 25-61-1 et seq. and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 et seq. Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration’s independent agency contract website for public access at http://www.transparency.mississippi.gov. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

22. Paymode. Payments by state agencies using the State’s accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor’s choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

23. Procurement Regulations. The contract shall be governed by the applicable provisions of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations, a copy of which is available at 501 North West Street, Suite 1300 Jackson, Mississippi 39201 for inspection, or downloadable at http://www.DFA.ms.gov.

24. Trade Secrets, Commercial and Financial Information. It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

25. Requirements Contract. During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the [Agency] shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the [Agency] for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the [Agency] is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the [Agency] may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

In witness whereof, the parties hereto have affixed, on duplicate originals, their signatures on the date indicated below, after first being authorized so to do.

|  |  |  |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_DATE | By: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[Contractor Signatory][Contractor Signatory Title][Contractor] |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_DATE | By: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[Signatory Name] [Signatory Title][Agency] |

**EXHIBIT A: SCOPE OF SERVICES**

The Contractor will perform the following services upon request of the Agency in fulfillment of the purposes of this contract:

1. The Contractor will coordinate all communications with the Agency through [Agency Contact].

2. The Contractor will provide janitorial services as requested by the Agency. Janitorial services are to be provided in three categories: (a) after business hours only; (b) after business hours with on-site worker during business hours; and, (c) during business hours only. The janitorial worker(s) shall provide the following minimum duties:

|  |  |
| --- | --- |
| **Daily** | Janitorial personnel must be able provide the following: * Dust and/or spot clean furniture and furnishings
* Empty wastebaskets, trash cans and recycling bins and install new liners as needed
* Vacuum and spot clean all carpeting
* Clean glass doors
* Spot clean walls and light switch covers
* Dust mop and wet mop non-carpeted floors
* Clean and disinfect water fountains
* Wipe chairs and tables and straighten magazines
* Dry mop all wood floors
* Clean and sanitize conference and breakroom countertops, sinks and cabinet faces
* Perform other like tasks as required by the agency

Janitorial personnel must be able to provide the following service in Restrooms:* Clean and disinfect commodes, urinals, and water basins
* Empty wastebaskets and install new liners as needed
* Clean all glass and mirrors
* Spot clean walls, partitions, and doors
* Sweep and wet mop floors with disinfectant
* Replenish supplies as needed
* Refill all dispensers
* Clean and polish bright metal works
* Perform other like tasks as required by the agency

Janitorial personnel must be able to provide the following service in Kitchens and/or Breakrooms:* Empty wastebaskets and install new liners
* Clean all chairs and tables
* Sweep and wet mop floors
* Spot clean walls and doors
* Clean and disinfect water fountains
* Clean tops of trash barrels
* Replenish napkin holders
* Clean appliances and fixtures
* Perform other like tasks as required by the agency
 |
| **Weekly**  | Janitorial personnel must be able provide the following:* Polish all wood surfaces (desktops, credenzas, tables, bookcases, etc.)
* Vacuum upholstered furniture and spot clean all carpeting
* Dust wall decor
* Damp wipe stairwell railings
* Wet mop stairwells, stair treads, and landings
* Clean elevator handrails and switch panels
* Wet mop all wood floors
* Perform other like tasks as required by the agency
 |
| **Monthly** | Janitorial personnel must be able provide the following:* Clean window sills, frames, walls, doors, and windows on cubicles
* Clean the interior and exterior (if possible) of all windows
* Dust low and high ledges, tops of door frames as well as window sills, moldings, shelves, and blinds
* Dust mop and vacuum vents and grills
* Remove spider webs
* Spot clean exterior entrance walls
* Buff and polish all non-carpeted floors
* Perform other like tasks as required by the agency
 |
| **Semi-Annually** | Janitorial personnel must be able provide the following:* Deep clean (strip, wax, seal, buff, steam clean as appropriate to floor type) all non-carpeted flooring
 |
| **Annually** | Janitorial personnel must be able provide the following:* Deep clean/shampoo carpet
 |

The contractor shall supply all equipment in good and proper working condition, such as vacuum cleaners, janitorial carts, cleaning supplies, and chemicals.

The agency shall supply all toilet paper, paper towels, soap, plastic liners, and other items not mentioned above, but the contractor is responsible for replenishing.

3. The Contractor shall, with respect to all janitorial workers provided to the Agency:

a. Accurately describe the required job duties to all janitorial employees;

b. Maintain a sufficient pool of qualified janitorial workers large enough that if, for any reason, the scheduled worker does not report for duty or must be replaced, the janitorial company can **provide a replacement janitorial worker within two (2) hours after notification**;

c. Assign an Account Representative to work directly with the designated Agency Representative managing the contract;

d. Designate a contact person available twenty-four (24) hours daily for communication with the Agency, if required;

e. Ensure that the contract janitorial worker reports to work at the time and place specified by the Agency;

f. Ensure all janitorial services are provided during the hours specified by the Agency;

g. Provide the required number of qualified, competent, well-trained, drug-free, and appropriately dressed janitorial workers to perform the duties required during the shifts required, seven days a week, including weekends and holidays as needed;

h. Replace any contract worker(s) or employee(s) not performing to the satisfaction of the Agency within forty-eight (48) hours of a request to do so by the Agency and at no additional expense to the Agency;

i. Ensure that janitorial worker(s) are in complete uniform and well-groomed at all times;

j. Provide all janitorial cleaning supplies (such as, but not limited to toilet paper, disinfecting cleaner, etc.) and materials (such as, but not limited to brooms, mops, vacuums, etc.) in good working order and clean.

k. Ensure that no contract janitorial worker or supervisor work more than twelve (12) hours including any and all breaks, in a twenty-four (24) hour period; the Agency, in an emergency situation, can waive this requirement when the circumstances are beyond the control of the Contractor;

l. If requested by the Agency, arrange for contract janitorial employees to complete an orientation specific to the Agency at the time required by the Agency;

m. Ensure that contract janitorial employees fully comply with the Agency's policies and procedures, the applicable standards of care, Joint Commission standards, and all applicable regulations as now existing or as may be modified;

n. Administer and maintain all employment and payroll records, payroll processing, and payment of payroll checks and taxes, including the deductions required by the state, federal, and local laws, such as social security and withholding taxes. It is the sole responsibility of the Contractor to comply with laws or regulations requiring an employer to withhold and/or pay employment-related taxes or other withholdings required by law;

o. Make all unemployment compensation contributions required by federal and State law and process claims as required;

p. Abide by all ordinances and laws pertaining to the Agency's operation and secure all required licenses and permits, certifications, trainings, background investigations, fingerprint checks, and drug tests;

q. Perform all services provided in the contract with the Agency per customary and reasonable industry standards as well as in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods, and procedures of all government boards, bureaus, offices, and other agencies;

r. Provide the information required for an Agency to perform a criminal background check or drug screening of a contract employee, if requested, or perform the criminal background check or drug screening and verify the results to the Agency.

1. If the Agency requests that the Contractor conduct the criminal background check or drug screening, the Agency and the Contractor may negotiate a fee for that service. The negotiated fee may not exceed the direct costs to the Contractor to perform the criminal background check or drug screening, including the cost of employee time required to schedule and process the check or screening. The Contractor must provide documentation to the satisfaction of the Agency of the direct costs, and the Agency and the Contractor must agree to a fixed price for the performance of the criminal background check or drug screening before implementation of any such check or screening.

s. At the request of the Agency, arrange for the Agency to interview any janitorial staff who may be placed at the Agency for up to one hour, at the Contractor's expense; and

t. Abide by all policies, procedures, and laws pertaining to the Agency's operation at all times, including but not limited to:

1. All state facilities are non-smoking; personnel must adhere to this requirement. The use of tobacco products is prohibited except within designated smoking areas.
2. Possessing any illegal drug or alcoholic beverage on state property is prohibited. Personnel shall not consume any unlawful or illegally obtained drug or alcoholic beverage while on duty.
3. Personnel should refrain from using foul, abusive, or profane language on state property.
4. Personnel shall not flirt or fraternize with Agency personnel or any visitor at the Agency.
5. Personnel shall not solicit or otherwise interfere with the work of Agency employees.
6. Personnel shall not engage in personal activities such as, but not limited to, texting, personal phone calls, or reading magazines while on the job and shall comply with the Agency's restrictions regarding visitation with friends, family members, or acquaintances while on the job.
7. Agency reserves the right to inspect and search all Contractor personnel or vehicles anytime while on facility grounds.
8. Personnel must sign in and out at most state facilities. Personnel must strictly observe security provisions for all state facilities.
9. Personnel may be required to provide photographic identification for inspection upon entering state facilities or grounds. Employees must wear clearly visible personnel identification badges, visitor badges, or personal identification of the individual employee.
10. Deviations from any of the policies in Section 3.t. may be considered grounds for contract termination.

4. The Agency may choose to include the following clauses in this contract if the Agency determines including such requirements is in the best interest of the State:

a. Contractor is prohibited from recruiting any janitorial staff at the Agency's facility for employment with the Contractor. The prohibition on recruiting applies whether the janitorial staff are employees of the Agency, contract workers, independent contractors, or employees assigned by another staffing agency providing janitorial staff at the Agency's facility.

b. A person assigned to a Agency's facility may only be assigned to that facility by the Contractor who initially placed the person with the Agency. That person may not be assigned to the particular facility by another Vendor providing janitorial services to the Agency. The Agency has the sole discretion to waive this requirement when the Agency determines that doing so is in the best interest of the State.

c. Contractors must require all janitorial staff assigned to the Agency to sign in and out of their shift using a standard timesheet provided by the Agency. It is the responsibility of the Contractor to ensure the timesheet is appropriately completed and approved by the shift supervisor at the Agency. The Agency may refuse to pay for hours where the Contractor failed to ensure the timesheet was appropriately completed by the janitorial staff and approved by the appropriate supervisor at the time the shift was worked.

d. Contractor must agree to cooperate with the Agency in any reasonable efforts to prevent fraud, waste, or abuse; in any investigations regarding alleged negligence or intentional misconduct by janitorial staff assigned to the Agency by the Contractor; or in any other endeavor the Agency may undertake to protect the integrity of the services requested, provided, and to be paid for under this contract.

e. The Agency has the right to refuse any individual janitorial staff assigned by the Contractor to the Agency. This right of refusal is in the sole discretion of the Agency and does not require that the Agency provide cause or justification for such refusal.

f. The Contractor must provide all reasonable information requested by the Agency on its invoices, including but not limited to the janitorial staff's name, position, dates worked, hours worked, and the applicable pay rate.

g. Throughout the life of the contract, the Contractor's Account Representative, as appointed under Section 3.c., or any person the Account Representative has appointed in writing to be their designee, is the only person authorized to approve or accept shifts requested by the Agency. Individual janitorial staff assigned to the Agency cannot accept shifts. Acceptance of any shifts by the Contractor shall be done in writing prior to the shift.

**EXHIBIT B: ADDITIONAL TERMS AND CONDITIONS**

1. Anti-assignment/Subcontracting. Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor’s special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

2. Attorney’s Fees and Expenses. Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney’s fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney’s fees or costs of legal action to Contractor.

3. Authority to Contract. Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

4. Information Designated by Contractor as Confidential. Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information. Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its subcontractor without the express written approval of the Agency shall result in the immediate termination of this agreement.

5. Confidentiality. Notwithstanding any provision to the contrary contained herein, it is recognized that the [Agency] is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 et seq. If a public records request is made for any information provided to the [Agency] pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, the [Agency] shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The [Agency] shall not be liable to the Contractor for disclosure of information required by court order or required by law.

6. Contractor Personnel. The [Agency] shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the [Agency] reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the [Agency] in a timely manner and at no additional cost to the [Agency]. The day-to-day supervision and control of Contractor’s employees and subcontractors is the sole responsibility of Contractor.

7. Debarment and Suspension. Contractor certifies to the best of its knowledge and belief, that it:

a. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;

b. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;

c. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

d. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,

e. has not, within a three year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.

8. Disclosure of Confidential Information. In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 et seq.

9. Exceptions to Confidential Information. Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party (“disclosing party”) which:

a. is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;

b. is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;

c. is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;

d. is independently developed by the recipient without any reliance on confidential information;

e. is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,

f. is disclosed with the disclosing party’s prior written consent.

10. Errors in Extension. If the unit price and the extension price are at variance, the unit price shall prevail.

11. Failure to Deliver. In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the [Agency], after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the [Agency] may have.

12. Failure to Enforce. Failure by the [Agency] at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the [Agency] to enforce any provision at any time in accordance with its terms.

13. Final Payment. Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the [Agency] a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State’s claims against Contractor under this contract.

14. Force Majeure. Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.

15. HIPAA Compliance. Contractor agrees to comply with the “Administrative Simplification” provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.

16. Indemnification. To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney’s fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State’s sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the State’s concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.

17. Independent Contractor Status. Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the [Agency], and the [Agency] shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The [Agency] shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the [Agency] shall not provide to Contractor any insurance coverage or other benefits, including Worker’s Compensation, normally provided by the State for its employees.

18. Integrated Agreement/Merger. This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

19. Modification or Renegotiation. This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.

20. No Limitation of Liability. Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages

21. Notices. All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

|  |  |
| --- | --- |
| **For the Agency:** | **For Contractor:** |
| [Agency Contact][Agency Contact Title] | [Contractor Contact][Contractor Contact Title] |
| [Agency] | [Contractor] |
| [ADDRESS] | [ADDRESS] |
| [CITY, STATE, ZIP] | [CITY, STATE, ZIP] |

22. Non-solicitation of Employees. Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.

23. Oral Statements. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the [Agency] and agreed to by Contractor.

24. Ownership of Documents and Work Papers. The [Agency] shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this agreement, except for Contractor’s internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to [Agency] upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from [Agency] and subject to any copyright protections.

26. Priority. The contract consists of this agreement, the Invitation for Bids (IFB No. 2023-02), and the bid submitted by [Contractor] as reflected on the Preapproved Vendor List resulting from that IFB. Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the IFB, and, if still unresolved, by reference to the PVL. Omission of any term or obligation from this agreement shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.

26. Quality Control. Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor’s staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the [Agency].

27. Record Retention and Access to Records. Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor’s books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

28. Renewal of Contract. The contract may be renewed at the discretion of the Agency upon written notice to Contractor at least [NUMBER] days prior to each contract anniversary date for a period of [NUMBER] successive one-year periods under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed [NUMBER], or extend past October 6, 2025.

29. Recovery of Money. Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the [Agency], the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the [Agency]. The rights of the [Agency] are in addition and without prejudice to any other right the [Agency] may have to claim the amount of any loss or damage suffered by the [Agency] on account of the acts or omissions of Contractor.

30. Right to Audit. Contractor shall maintain such financial records and other records as may be prescribed by the [Agency] or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the [Agency], whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor’s Office, its designees, or other authorized bodies.

31. Right to Inspect Facility. The State may, at reasonable times, inspect the place of business of a Contractor or any subcontractor which is related to the performance of any contract awarded by the State.

32. Severability. If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

33. State Property. Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor’s use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

34. Third Party Action Notification. Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.

35. Unsatisfactory Work. If, at any time during the contract term, the service performed or work done by Contractor is considered by the [Agency] to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the [Agency], immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the [Agency] shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

36. Waiver. No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

**EXHIBIT C: COMPENSATION**

The Contractor will charge the square footage rates per month listed below (as submitted in response to IFB No. 2023-02, Preapproved List of Vendors for Janitorial Services):

|  |  |
| --- | --- |
| **[Contractor]** | **Rate per Square Foot per Month for [Region(s)] Region(s)** |
| **Business Hours Only** |  |
| **After Business Hours Only** |  |
| **After Business Hours with On-site Worker During Business Hours** |  |

In consideration of services provided, the [Agency] agrees to pay to the Contractor the specific sums shown in Exhibit C, and in no event will the total paid to the Contractor exceed the amount of [MAX CONTRACT AMOUNT].

**Optional Price Adjustment Clause**

The per-square-foot rates stated herein shall remain firm, valid, and renewable for five years following the effective date of the PVL, except a price adjustment may be allowed in the event unanticipated market disruptions occur such that the per-square-foot rates bid by the Contractor in response to Invitation for Bids 2023-02, Preapproved List of Vendors for Janitorial Services, are no longer viable for the provision of services required by the Agency. The Contractor must provide a market analysis regarding the viability of the originally bid rates and rates the Contractor contends would be viable under the current market conditions. The Contractor must also provide cost or pricing data as required by Section 3-401 of the *Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*. The Contractor shall provide any other documentation or other information required by the Agency to support the request for a price adjustment. The Agency has the sole discretion to determine whether a price adjustment will be allowed, the amount of the price adjustment, and the duration of the price adjustment. Any price adjustment made under this provision should be limited to only that which is required to accommodate the precipitating market disruption. Under no circumstances shall a price adjustment result in the adjusted per-square-foot rate exceeding 110% of the original bid per-square-foot rate. (For example, an originally bid per-square-foot rate of $0.10 could increase to, but not exceed, $0.11 under this clause.)