

GREENVILLE ELECTRIC UTILITY SYSTEM STANDARD TERMS AND CONDITIONS

1. **ENTIRE AGREEMENT:** These standard terms and conditions, plus all specifications, drawings, and other requirements included in GEUS's Request for Bid/Proposals (RFx) apply to all contracts and purchase orders issued by GEUS ("Buyer") to any Seller (including "Vendor", "Contractor", "Consultant", "Vendor", "Supplier" (individually also referred to as "Party" and collectively as "Parties") unless a type of Seller is expressly excluded. The term "Vendor" is used to apply to all types of Sellers in these terms and conditions. The terms and conditions stated herein, along with the RFx, the Purchase Order ("PO"), and any response to GEUS' RFx that is ultimately accepted (collectively referred to as this "Agreement"), are intended to be read and interpreted collectively as the complete and exclusive record of the agreement between the Parties.
2. **ORDER OF PRECEDENCE:** In the event of an express conflict between these Standard Terms and Conditions, the RFx (if any), the Purchase Order, and the Response to the RFx (or quote/invoice/proposal), the order of precedence is as follows: (i) the RFx (if any), (ii) the Purchase Order, (iii) these Standard Terms and Conditions, and (iv) the Response to the RFx, proposal, quote, or invoice. Neither party may modify or add to these terms and conditions unless such changes are expressly agreed upon in writing and executed by both parties. Any deviations must be in writing and signed by an authorized representative of both GEUS and the Vendor. All terms and conditions contained in the Vendor's bid/proposal, quote, invoice, statement of acceptance, or any other applicable document are hereby expressly rejected.
3. **ADDITIONAL TERMS:** No browse-wrap, shrink-wrap, click-wrap, pre-printed terms on a purchase order or delivery receipt, or any other non-negotiated terms and conditions not expressly identified in this Agreement will constitute a part or an amendment of this Agreement or have any force and effect and are deemed rejected by the Buyer, even if access to or use of such service or data requires affirmative acceptance of such additional terms and conditions.
4. **OFFICIAL BID NOTIFICATION:** GEUS utilizes the following for official notifications of bid opportunities: geus.ionwave.net and the Greenville Herald Banner. These are the only forms of notification authorized by GEUS. GEUS is not responsible for the receipt of notifications or information from any source other than those listed. It shall be the Vendor's responsibility to verify the validity of all bid information received from any source other than GEUS. There will be no cost to the Vendor for using Euna Procurement for its bids/ proposals.
5. **PARAGRAPH HEADINGS & CONSTRUCTION:** The paragraph headings contained in this Agreement are for convenience only and should not enlarge or limit the scope or meaning of the various and several paragraphs hereof. The parties acknowledge that they have read and participated in the preparation of this Agreement so that this Agreement shall not be construed either more or less strongly in favor of or against either party.
6. **RIGHT TO AUDIT:** GEUS shall have the right to examine and audit after reasonable notice any and all books and records of the Vendor that may relate to this Agreement, including, without limitation, the performance of the Vendor, its employees, agents, and subcontractors. All applicable books and records will be maintained in accordance with generally accepted accounting principles (GAAP) and shall, upon prior reasonable notice to Vendor, be provided to GEUS, during normal business hours and for a reasonable period of time. The Vendor shall, except for copying costs, bear all costs of producing such records for examination and copying by GEUS. The provisions of this paragraph shall survive the termination of this Agreement.
7. **AMENDMENT AND WAIVER:** This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both Parties. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other Party.
8. **RISK OF LOSS:** Until the time of the delivery and acceptance of the Bill of Sale for the purchase and sale of goods, if any, the risk of loss or damage to any of the goods, by fire or other casualty, shall be borne by the Vendor.
9. **SEVERABILITY:** Should any provision of this Agreement be unenforceable or invalid, the other provisions hereof shall remain in full force and effect.
10. **CORRESPONDENCE:** The bid number must appear on all correspondence and inquiries pertaining to the RFx. The purchase order number must appear on all invoices or other correspondence relating to the Agreement.
11. **INDEMNIFICATION:** The Vendor agrees to indemnify, hold harmless, and defend GEUS, its officers, agents, and employees, both past and present, from and against liability for any and all claims, liens, suits, demands, and actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses (including court costs, attorney's fees, and other reasonable costs of litigation) arising out of or resulting from Vendor's work and activities conducted in connection with or incidental to this contract and from any liability arising out of or resulting from intentional acts or negligence of the Vendor, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of Vendor, including but not limited to its

officers, agents, employees, subcontractors, licensees, invitees, and other persons. The Vendor further agrees that it shall at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, subcontractors, licensees, invitees, and other persons, as well as their property, while in the vicinity where the work is being performed. It is expressly understood and agreed that GEUS shall not be liable or responsible for the negligence or other fault of the Vendor, its officers, agents, employees, subcontractors, licensees, invitees, or other persons associated with the Vendor. The Vendor agrees to indemnify and save GEUS harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, material men, and furnishers of supplies, equipment, financing, or any other goods or services, tangible or intangible. When GEUS so desires, the Vendor shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged, or waived.

12. **THIRD PARTY INDEMNIFICATIONS:** Notwithstanding anything to the contrary, the parties expressly acknowledge that GEUS' authority to Indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification in contravention to this State provision by GEUS is invalid.
13. **CONFIDENTIALITY:** In order to provide the Deliverables to GEUS, Vendor may require access to certain of GEUS' and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which GEUS or its licensors consider confidential) (collectively, "Confidential Information"). Vendor acknowledges and agrees that Confidential Information is the valuable property of GEUS and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure GEUS and/or its licensors. The Vendor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of GEUS or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Vendor promptly notifies GEUS before disclosing such information so as to permit GEUS reasonable time to seek an appropriate protective order. The Vendor agrees to use protective measures no less stringent than the Vendor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
14. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Vendor to GEUS in response to a Request for Bid/ Proposal shall become property of GEUS upon receipt. Any portions of such material claimed by the Vendor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
15. **DELIVERY:** All goods shall be delivered free on board (F.O.B) destination unless otherwise authorized herein. Cash on delivery (C.O.D.) shipments or deliveries are not permitted.
16. **SPECIFICATIONS SAMPLES:** If bidding on other than the item requested, the bid must identify the trade name, manufacturer's name and/or catalog number, and certify the item offered is equivalent. Descriptive literature must be submitted with alternate brands. Samples shall be furnished free of expense to GEUS and if requested, may be returned at Vendor's expense.
17. **TIE BIDS:** In the event of tie bids, preference will be given to the Vendor who offers the best value to GEUS in accordance with state law.
18. **ERROR QUANTITY:** Bids must be submitted in units of quantity specified, extended, and totaled. In the event of discrepancies in extension, the unit prices shall govern.
19. **ACCEPTANCE:** The right is reserved to accept or reject all or part of the bid, and to accept the offer considered most advantageous to GEUS by line item or total bid.
20. **OEM PARTS:** All vehicle options are to be OEM factory installed unless otherwise identified on this bid.
21. **SUBSTITUTION:** Every delivery of goods by the Vendor must comply with all provisions of this Agreement including the specifications, delivery schedule, quantity and quality. Any delivery which does not conform to the requirements of the Agreement shall constitute a breach of contract. The successful Vendor does not have authorization to make a substitution unless it is agreed to by the GEUS.
22. **BID LIST REMOVAL:** GEUS reserves the right to remove a supplier from any bid list for:
 1. Continued failure to be responsive to GEUS,
 2. Failure to deliver merchandise within promised time,
 3. Delivery of substandard merchandise or
 4. Failure to comply with the requirements of the Agreement.
23. **DELIVERY TIMES:** Deliveries to the GEUS Warehouse or other designated GEUS Buildings or Facilities will be accepted during pre-determined delivery hours, i.e. 8:00 a.m. to 3:00 p.m., Monday through Friday, unless other arrangements have been made. Deliveries being made

directly to GEUS work sites should be coordinated with the GEUS employee responsible for the work being performed at that site. Items with a lead time greater than 12 months shall have a 30-day notification prior to delivery.

24. **PACKAGING:** Unless otherwise indicated, items will be new, not rebuilt, in first-class condition, and in containers suitable for damage-free shipment.
25. **WARRANTY:** By accepting this Agreement, the Vendor warrants that the goods and services to be furnished will be free from defects in materials and workmanship, be of merchantable quality and fit for ordinary use, be in full conformance with GEUS' specifications, drawings and data, Seller's samples or models, and express warranties, and will be fit for any particular purpose expressly or impliedly known. These warranties are in addition to all others given to GEUS by the Seller or by law. Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of GEUS, and any such limitations or exclusions are void.
26. **TERM CONTRACTS:** Except as otherwise provided herein, prices must remain firm for the entire contract period, including any periods of extension or renewal. At the time of any renewal or extension of the contract, GEUS or the Vendor may request a price adjustment based upon the economy. All requests for a price adjustment must include detailed documentation and rationale to support the requested adjustment. The party to whom a request for price adjustment is made may, in its sole discretion, accept or reject the request. Any price adjustment must be mutually agreed upon in writing by the Parties and shall be effective for the applicable renewal term.
27. **TERM CONTRACT QUANTITIES:** The quantities in the request for bid are estimated requirements and GEUS reserves the right to increase or decrease the quantities or cancel any item to be furnished. The successful Vendor shall have no claim against GEUS for anticipated profits for quantities diminished or deleted.
28. **TERM CONTRACT SHIPMENTS:** The Vendor will make shipments under this Agreement only when requested and only in the quantities requested. If there are minimum shipments or standard packaging requirements, please note the items affected.
29. **CONTRACT RENEWAL OPTIONS:** In the event a clause for the option to renew for an additional period is included in the RFx, all renewals will be based solely upon the option and agreement between GEUS and the Vendor. Either party dissenting will terminate the Agreement in accordance with its initial specified term.
30. **TAXES-EXEMPTION:** All quotations are required to be submitted LESS Federal Excise and State Sales Taxes. A tax exemption certificate will be executed for the Vendor.
31. **ASSIGNMENT:** Vendor shall not assign this order or any interest herein, including any performance or any amount which may be due or become due hereunder, without GEUS' prior written consent.
32. **INVOICING:** Send ORIGINAL INVOICE to address indicated on the purchase order. If invoice is subject to cash discounts the discount period will begin on the day invoices are received. So that a proper cash discount may be computed, the invoice should show the amount of freight as a separate item, if applicable; otherwise, cash discount will be computed on total amount of the invoice.
33. **INSPECTION:** Goods purchased are subject to inspection and approval by GEUS. GEUS reserves the right to reject or refuse acceptance of goods which are not in accordance with GEUS' instructions, specifications, drawings and data, or the Vendor's warranties (expressed or implied). Goods not accepted will be returned to Vendor at Vendor's risk and expense. Payment for any goods shall not be deemed an acceptance thereof.
34. **ELECTRONIC SIGNATURE:** GEUS adopts TEXAS BUSINESS & COMMERCE CODE CHAPTER 43. UNIFORM ELECTRONIC TRANSACTION ACT, allowing individuals, companies, and governmental entities to lawfully use and rely on electronic signatures.
35. **FUNDING OUT CLAUSE:** This agreement is subject to annual appropriation by GEUS and the GEUS Board of Trustees. In the event sufficient funds are not appropriated for the payment of obligations under this agreement, GEUS may terminate the agreement without penalty with written notice. In the event of termination pursuant to this clause, GEUS shall be liable only for payments due through the effective date of termination. GEUS shall not be obligated or liable for any future payments or for any damages as a result of such termination.
36. **DISPUTE RESOLUTION:** Pursuant to subchapter I, Chapter 271, TEXAS LOCAL GOVERNMENT CODE, the Vendor and GEUS agree that, prior to instituting any lawsuit or other proceeding arising from any dispute or claim of breach under this Agreement (a "Claim"), the Parties will first attempt to resolve the claim by taking the following steps:
 1. A written notice substantially describing the factual and legal basis of the claim shall be delivered by the claimant to the other Party within one-hundred eighty (180) days after the date of the event giving rise to the claim, which notice shall request a written response to be delivered not less than fourteen (14) business days after receipt of the notice of claim;
 2. If the response does not resolve the claim, in the opinion of the Vendor, the Vendor shall give notice to that effect to GEUS whereupon each Party shall appoint a person having authority over the activities of the respective Parties who shall promptly meet, in person, in an effort to resolve the claim.
 3. If those persons cannot or do not resolve the claim, then the Parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the claim.

37. **DISCLOSURE OF CERTAIN RELATIONSHIPS:** Chapter 176 of the Texas Local Government Code requires that any supplier or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the supplier or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the Purchasing Agent of GEUS not later than the 7th business day after the date the supplier or person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. By submitting a response to this request, the supplier represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code.
38. **PERFORMANCE:** If the Vendor fails to comply with any provisions or terms of this Agreement or the bid specifications and/or supplemental terms and conditions, GEUS may cancel this Agreement and any other orders outstanding. In the event of cancellation GEUS retains all rights and remedies it may have under state law.
39. **NO WARRANTY BY GEUS AGAINST INFRINGEMENTS:** The Vendor represents and warrants to GEUS that:
- the Vendor shall provide GEUS good and indefeasible title to the Deliverables;
 - the Deliverables supplied by the Vendor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any third party; and
 - no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Vendor does not know of any valid basis for any such claims.

The Vendor shall, at its sole expense, defend, indemnify, and hold GEUS harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from:

- any claim that GEUS's use of the Deliverables infringes the intellectual property rights of any third party; or
- Vendor's breach of any of Vendor's representations or warranties stated in this Contract.

In the event of any such claim, GEUS shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on GEUS's behalf. Further, Vendor agrees that GEUS's specifications regarding the Deliverables shall in no way diminish Vendor's warranties or obligations under this paragraph and GEUS makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Vendor.

40. **APPLICABLE LAW:** Where applicable, this Agreement shall be governed by the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this Agreement.
41. **VENUE:** This Agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Hunt County, Texas.
42. **TERMINATION:** GEUS reserves the right to terminate this Agreement, in whole or in part, at any time and for any reason, by providing thirty (30) days' written notice to the Vendor. In the event of such termination, the Vendor shall be compensated only for services or goods provided and accepted by GEUS up to the effective date of termination.
- Additionally, GEUS may terminate this Agreement immediately for cause if the Vendor:
- Fails to meet performance obligations under this Agreement;
 - Violates any material provision of the Agreement;
 - Engages in fraud, misrepresentation, or other misconduct;
 - Becomes insolvent or files for bankruptcy.

Upon termination, the Vendor shall promptly return all GEUS property and provide all deliverables paid for or completed up to the termination date. Termination of this Agreement shall not waive any legal rights or remedies otherwise available to GEUS.

43. **FORCE MAJEURE:** To the extent either party of this Agreement shall be wholly or partially prevented from the performance of the term specified, or of any obligation or duty placed on such party by reason of or through work strikes, stoppage of labor, riot, fire, flood, pandemic, acts of war, insurrection, court judgment, act of God, or other specific cause reasonably beyond the party's control and not attributable to either party's malfeasance, neglect or nonfeasance, the time for performance of such obligation or duty shall be suspended until such disability to perform is removed. The sole remedy for any matter falling within this clause shall be additional time; the total contract price shall not be increased. Neither party shall consider economic events, including but not limited to inflation, as 'force majeure'.
44. **STATUTORILY MANDATED PROVISIONS:**
- Verification: Vendor Does Not Boycott Israel.**
Pursuant to Section 2271.002, Texas Government Code, to the extent this Agreement is a contract for goods or services, if Vendor has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid

wholly or partially by public funds, then Vendor hereby represents that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

2. **Verification: Vendor Does Not Discriminate Against Firearm and Ammunition Industries.**

Pursuant to Section 2274.002, Texas Government Code, if Vendor has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid wholly or partially by public funds, then Vendor hereby represents that it does not boycott firearm entities or firearm trade associations and will not boycott said firearm entities and trade associations during the term of this Agreement.

3. **Verification: Vendor Does Not Boycott Energy Companies.**

Pursuant to Section 2276.002, Texas Government Code, if Vendor has ten or more full-time employees and this Agreement is for goods and services valued at or above \$100,000 and is to be paid wholly or partially by public funds, then Vendor hereby represents that it does not boycott those energy companies identified in Section 809.001 of the Texas Government Code and will not boycott said energy companies during the term of this Agreement.

4. **Prohibition on Contracts with Certain Companies.**

Vendor and the person or persons executing this Agreement on behalf of Vendor, or representing themselves as executing this Agreement on behalf of Vendor (collectively, the "Signing Entities"), hereby acknowledge that

- i. The Signing Entities do not engage in business with Iran, Sudan or any foreign terrorist organization and
- ii. The Signing Entities are not named on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:
<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>

5. **Certificate Regarding Foreign Ownership of Companies Involved in Critical Infrastructure Projects.**

Pursuant to SB 1116 of the 87th Regular Session of the Tex. Legislature, enacted on June 18, 2021, and any relevant provisions of Texas law, Vendor, by executing the Agreement, certifies that it is not owned by nor is the majority of the Vendor's stock or other ownership interest held or controlled by the government or citizens of the following countries: China, Iran, North Korea, Russia, and any other country designated by the Governor of Texas as a threat to critical infrastructure under Section 113.003 of the Texas Business & Commerce Code (the "Prohibited Countries"). The term "critical infrastructure" shall have the same meaning as that set forth in Section 113.001(2) of the Texas Business and Commerce Code. Vendor further certifies that it is not owned, held, or controlled by any company or governmental entity controlled by or headquartered in the Prohibited Countries. The foregoing prohibitions apply regardless of whether the Vendor's securities are publicly traded or whether the Vendor is listed on a public stock exchange.

6. **Open Records Contracting Information.**

If this Agreement is a contract within the scope of Section 552.371, Government Code, then the following shall apply:

- i. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and Vendor agrees that this Agreement may be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter and without limiting the foregoing, Vendor agrees to comply with the requirements of Section 552.372, Government Code, including Section 552.372(a)(3)(B), Government Code.

7. **WORKING DAY OR DAYS: The following are legal holidays for GEUS:**

- i. New Year's Day
- ii. Martin Luther King, Jr. Day
- iii. Memorial Day
- iv. Juneteenth
- v. Independence Day
- vi. Labor Day
- vii. Veteran's Day
- viii. Thanksgiving (2 days)
- ix. Christmas (2 days)
- x. Business Hours: 8:00 a.m. to 5:00 p.m. Monday through Friday.

45. **DOING BUSINESS WITH DELINQUENT ACCOUNT HOLDERS:** It is the policy of the GEUS Board of Trustees that GEUS not do business with a person (including a business entity of any sort) who is delinquent on an account to GEUS. Examples of delinquent accounts include taxes, impact fees, special assessments, utility bills, and EMS fees. The General Manager shall cause the affected departments within GEUS (including Purchasing, Engineering, Warehouse, etc.) to be provided with sufficient information to enforce the provisions of this policy.
46. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No GEUS employee shall have a direct or indirect financial interest in any contract with GEUS or be directly or indirectly financially interested in the sale of land, materials, supplies or services to GEUS.
47. ***PREVAILING WAGE RATES:** Contractors shall comply with the requirements of Texas Government Code Chapter 2258 regarding the payment of prevailing wage rates. For all work performed as/on public works defined projects, the Contractor shall pay wages that are not less than the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. § 276a et seq.) and any subsequent amendments. GEUS has adopted the general prevailing rate of per diem wages for Hunt County, Texas, as established by the U.S. Department of Labor's Davis-Bacon Wage Determinations. These wage rates are subject to periodic updates and are available at the official federal wage determination website: <https://sam.gov>. Contractors are responsible for reviewing and applying the most current wage determinations applicable to the scope of work performed.
48. **PROMPT PAYMENT:** The State of Texas Prompt Payment Act, Texas Government Code, Chapter 2251, stipulates that for any contract executed by a municipality, the associated payment is due by the 30th calendar day after the latest of the following: The day the agency received the goods; The day the services were completed by the Vendor for the agency; or The day the agency received the invoice for the goods or services. Late payments will automatically have interest calculated and included with the payment. Payments for goods and services must be paid no later than 30 days after the latter of:
 1. the receipt of goods/services or
 2. receipt of a completed invoice.
49. **WASTE MINIMIZATION AND RECYCLING:** GEUS shall give preference in purchasing products made of recycled materials if the products meet the applicable specifications.
50. **IMMIGRATION REFORM AND CONTROL ACT:** Vendor declares and affirms that their company is in compliance with the Immigration Reform and Control Act of 1986 and all employees are legally eligible to work in the United States of America. Vendor further understands and acknowledges that any non-compliance with the Immigration Reform and Control Act of 1986 at any time during the term of this contract will render the contract voidable by the GEUS.
51. **VENDOR COMPLIANCE, RECIPROCITY ON NON-RESIDENT VENDORS:** Texas Government Code Section 2252.002 provides that in order for nonresident Vendors to be awarded a governmental contract, the Vendor must bid projects for construction, improvements, supplies, or services in Texas at an amount lower than the lowest Texas resident Vendor by the same amount that a Texas resident Vendor would be required to underbid the nonresident Vendor in order to obtain a comparable contract in the nonresident Vendor's state. A nonresident Vendor is a person, including a contractor, whose principal place of business or corporate office is outside of the state of Texas. This requirement does not apply to a contract involving Federal funds.
52. **DEBARRED VENDOR:** Vendor certifies that that they are not a debarred vendor on either the State of Texas Comptroller of Public Accounts "Debarred Vendor List" or the General Services Administration's System of Award Management "SAM" debarment list. If a successful Vendor becomes debarred during the course of this performance or agreement, GEUS will have the absolute right to exit the agreement or conclude performance without any liability.
53. **CONSULTING SERVICES:**
 1. Status of Consultant: Consultant acknowledges that Consultant is an independent contractor of GEUS and that Consultant is not an employee, agent, official or representative of GEUS. Consultant shall not represent, either expressly or through implication, that Consultant is an employee, agent, official or representative of the GEUS. Income taxes, self-employment taxes, social security taxes and similar fees are the sole responsibility of the Consultant.
 2. Standard of Care: Consultant will perform services under this Agreement with the degree of skill and diligence normally practiced by professional consultants performing the same or similar services.
 3. Ownership of Documents: Upon completion or termination of this Agreement, all documents prepared by the Consultant or furnished to the Consultant by GEUS shall be delivered to and become the property of GEUS.
 4. Information Provided by Others: GEUS shall provide Consultant, in a timely manner, any information reasonably necessary to perform the services contemplated by this Agreement. Consultant shall be able to rely on the accuracy of the information provided by GEUS and its representatives unless Consultant knows the information is inaccurate or its inaccuracy should have been apparent.
 5. Records: Consultant shall maintain records of all work done on behalf of GEUS.

54. ***PAYMENT & PERFORMANCE BOND REQUIREMENTS:** Sec. 2253.021 (1) & (2) of the Local Government Code states that all public works contracts in excess of \$50,000.00 require a Payment Bond and all public works contracts above \$100,000.00 require a Performance Bond.

1. Bonding Notes:

- i. Payment bonds are required on all contracts in excess of \$50,000.00 involving a contract for construction, alteration or repair of any public building or the completion of any public work.
- ii. Performance bonds are required on all contracts in excess of \$100,000.00 involving a contract for construction, alteration or repair of any public building or the completion of any public work.
- iii. Bonds must be payable to the awarding authority, GEUS (the Owner), as the named obligee, and must be approved as to form by such awarding authority.
- iv. Bonds must be furnished before any work commences.
- v. Surety must be a corporate surety duly authorized to do business in Texas, and acceptable to GEUS.
- vi. Each of the Bonds must be in the full amount (100%) of the contract value which they secure.
- vii. Power of Attorney for Corporate Surety must be attached to each of the Bonds.

55. ***HAZARDOUS OR UNKNOWN SUBSTANCES.**

1. Definition. For the purposes of this Section, a Hazardous Substance is defined as

- i. any asbestos or any material which contains any hydrated mineral silicate, including chrysotile, amosite, crocidolite, tremolite, anthophyllite, or actinolite, whether friable or non-friable;
- ii. any polychlorinated biphenyls (PCBs), or PCB-containing materials or fluids;
- iii. radon; any other hazardous, radioactive, toxic, or noxious substance, material, pollutant, or solid, liquid, or gaseous waste;
- iv. any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration, or area of release could have a significant effect on human health, the environment, or natural resources;
- v. any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;
- vi. any underground storage tanks, as defined in 42 U.S.C. Section 6901(1)(A)(i) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and
- vii. any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

2. Contractor responsibilities.

- i. The Contractor and its subcontractors are deemed to have made themselves familiar with and at all times shall comply with any and all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Clean Water Act, 33 U.S.C. § 1251, et seq., the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and the latest judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.
- ii. In the event the Contractor discovers or encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of work required under the contract documents, the Contractor shall immediately stop work in the affected area and report, both verbally and in writing, the facts of such encounter to GEUS. Work in the affected area shall not thereafter be resumed except by written order of GEUS unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. GEUS may choose to remediate the Hazardous Substance with a separate

Contractor or through a Change Order with the Contractor. If GEUS determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Contractor or any of its Subcontractors, the Contractor shall be responsible for remediating the condition at the sole expense of the Contractor in accordance with the Contractor's Spill Prevention and Response Plan. An extension of working time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by GEUS only if all remaining work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any claim or request for an extension of working time by the Contractor in connection with the discovery and remediation of a Hazardous Substance is subject to the provisions of this Contract.

- iii. The Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Contractor or any Subcontractor or supplier. The Contractor shall obtain all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify GEUS so that it may observe the activities of Contractor; provided, however, that it shall be the Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.
 - iv. The Contractor shall deposit surplus, or waste excavation, or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Contractor shall submit to GEUS for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Contractor's records for reference purposes, to be provided upon request to GEUS or any governmental regulatory agency with jurisdiction over the matter.
3. Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Contractor shall submit to GEUS for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of GEUS. The Contractor shall not commence any fieldwork prior to approval of such plan by GEUS.
- i. If there has been a spill or release at or adjacent to the Project Site, whether associated with this Contract or not, the Contractor shall immediately report the event to GEUS or other designated representative. Thereafter, within two working days after the occurrence of such event, the Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to GEUS. This clause shall be effective as to any spill of foreign chemical substances into any creek, stream, or other body of water, and as to any Hazardous Substance.
 - ii. The following additional rules shall apply with respect to spills caused by the Contractor or a Subcontractor:
 - A) The Contractor shall immediately respond in accordance with the SPRP in the event of a spill.
 - B) The Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Contractor shall use only those transporters and disposal facilities for which GEUS has given its prior written approval. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Contractor's records for reference purposes, to be provided upon request of GEUS or any governmental regulatory agency with jurisdiction over the matter. All costs of collection, containment, and disposal of spilled materials shall be the sole responsibility of the Contractor.
 - iii. The term "spill" includes any kind of environmental discharge or release.
56. **AMERICANS WITH DISABILITIES ACT.** GEUS does not discriminate against any qualified disabled person solely by reason of his or her disability, exclude from participation in, deny the benefits of, or subject individuals to discrimination, including discrimination of employment, under any program or activity that receives or benefits from federal financial assistance. GEUS ensures that its programs will

be conducted, and its facilities operated, in compliance with all nondiscriminatory practices and requirements imposed by or pursuant to 28 CFR Part 35, and 42 USC §§ 12101-122313. All Vendors shall abide by the provisions of the ADA with regard to individuals with disabilities.

57. **TITLE VI OF THE CIVIL RIGHTS ACT.** GEUS, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all Vendors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
58. **CRITICAL INFRASTRUCTURE SUBCONTRACTS.** For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Texas Business and Commercial Code, Vendor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Vendor will notify GEUS before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state.
59. **PERMITS, CERTIFICATIONS AND LICENSES.** Vendor represents and warrants that it has determined what licenses, certifications and permits are required under the contract and has acquired all applicable licenses, certifications, and permits.

**Applies to construction related purchase orders, RFx, and contracts only.*

EXHIBIT A: GEUS STANDARD INSURANCE REQUIREMENTS

Vendors providing goods, materials and services for the Greenville Electric Utility System (“GEUS”) shall, during the term of the contract with GEUS or any renewal or extension thereof, provide and maintain the types and amounts of insurance set forth herein. All certificate(s) of insurance shall contain the following provisions:

- 1) Name GEUS, its officers, representatives, and employees as additional insured as to all applicable coverage as noted.
- 2) Provide for at least thirty (30) days prior written notice to GEUS for cancellation, non-renewal, or material change or modification of any policies, evidenced by return receipt or United States Mail.
- 3) Provide for a waiver of subrogation in favor of GEUS.

Insurance Company Qualification: All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least “A- VII” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s).

Certificate of Insurance: A certificate of insurance evidencing the required insurance shall be submitted with the Contractor’s bid or response to proposal. A certificate of insurance shall also be provided to GEUS prior to the date the contract is executed, renewed or extended.

Insurance Types and Limits: Standard Insurance Terms under “All Contracts” apply unless a more specific Contract type is applicable and modifies the insurance limits.

<u>Type of Contract</u>	<u>Type and Amount of Insurance</u>
All Contracts	<p>General Liability for bodily injury, property damage, and advertising injury with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 aggregate, including a separate aggregate of \$2,000,000 for products and completed operations.</p> <p>Automobile Liability with a minimum limit of \$1,000,000 per occurrence or combined single limit.</p> <p>Texas Statutory Workers’ Compensation and Employers Liability with a minimum limit of \$1,000,000 for Each Accident/ Occurrence, Disease – Each Employee and Disease – Policy Limit. Non-Subscribers must provide proof of their non-subscriber status with the Texas Department of Insurance (Form – DWC 005)</p>
Construction	<p>Texas Statutory Workers’ Compensation and Employers Liability with a minimum limit of \$1,000,000 for Each Accident, Disease – Each Employee and Disease – Policy Limit. Non-Subscribers must provide proof of their non- subscriber status with the Texas Department of Insurance (Form – DWC 005)</p>
Professional Services	<p>Professional Liability Insurance with a minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate. Must be on an Occurrence Form. If coverage is provided on a Claims-Made Form, then it must have a retroactive date at least to the first date of the applicable contract for which coverage is provided.</p>
Software, SAAS and IT Services	<p>Errors & Omissions \$1,000,000</p> <p>Cyber Liability \$1,000,000</p> <p>Privacy & Network Security \$1,000,000</p>

The above limits are standard. GEUS reserves the right to amend these limits and coverages based on the exposures in the subject contract.

Certificate Holder Address: GEUS
 Attn: Purchasing
 6000 Joe Ramsey Blvd N
 Greenville, TX 75402