

STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES
CONTRACT FOR PRODUCTS AND RELATED SERVICES
AGULAR SYSTEMS, INC.

1. Introduction

A. Parties

This Contract for Products and Related Services is entered into between the State of Texas, acting by and through the Department of Information Resources (“DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Agular Systems, Inc. (hereinafter “Vendor”), with its principal place of business at 6611 Hillcrest Suite 416, Dallas, Texas 75205.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-221, on February 28, 2014, for Enterprise Resource Planning (ERP) Products, Supplemental Modules, and Related Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-221 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Agular Software License and Support Agreement; Appendix E, Agular Order Form, Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-221, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-221, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E, then Exhibit 1 and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The term of this Contract shall be one (1) year commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR may extend the Contract, by amendment for up to three (3) optional one-year terms. Protracted contract negotiations may, in DIR’s sole discretion, result in fewer optional renewal terms.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of the RFO and products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services

Services available under this Contract are limited to as specified in the RFO and Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is insert number percent (0.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated by Vendor in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Dana L. Collins, CTPM, CTCM
Manager, Contract and Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: dana.collins@dir.texas.gov

If sent to the Vendor:

Paul Luibel
Aguilar Systems, Inc.
6611 Hillcrest, Suite 416
Dallas, Texas 75205
Phone: (847) 275-9366
Facsimile: (888) 784-0398
Email: pluibel@agularsystems.com

7. Shrink/Click-wrap and Agreements

A. Customer Agreement

1) Customers acquiring software licenses under the Contract shall hold use and operate such software subject to compliance with the Aguilar Software License and Support Agreement set forth in Appendix D of this Contract. No changes to the Aguilar Software License and Support Agreement terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D. Order Fulfiller shall make the Aguilar Software License and Support Agreement terms and conditions available to all Customers at all times.

2) Compliance with the Aguilar Software License and Support Agreement is the responsibility of the Customer. DIR shall not be responsible for any Customer's compliance with the Aguilar Software License and Support Agreement. If DIR purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the Aguilar Software License and Support Agreement terms and conditions.

B. Order Form

1) Customers acquiring software licenses under the Contract shall hold use and operate such software subject to compliance with the Aguilar Order Form set forth in Appendix E of this Contract. No changes to the Aguilar Order Form terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix E. Order Fulfiller shall make the Aguilar Order Form terms and conditions available to all Customers at all times.

2) Compliance with the Aguilar Order Form is the responsibility of the Customer. DIR shall not be responsible for any Customer's compliance with the Aguilar Order Form. If DIR purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the Aguilar Order Form terms and conditions.

C. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for

products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.**

D. Conflicting or Additional Terms

In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Customer Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

8. Authorized Exceptions to Contract or any Appendices.

No exceptions have been agreed to by DIR and Vendor.

(Intentionally Left Blank)

This Contract is executed to be effective as of the date of last signature.

Agular Systems, Inc.

Authorized By: __Signature on file_____

Name: ____ Paul Luibel _____

Title: __ Executive Vice President _____

Date: ____ 6/28/14 _____

The State of Texas, acting by and through the Department of Information Resources

Authorized By: __Signature on file_____

Name: ____ Karen Robinson _____

Title: ____ Executive Director _____

Date: ____ 7/16/14 _____

Office of General Counsel: ____ 7/16/14 _____