

CITY OF SAN ANTONIO
INFORMATION TECHNOLOGY SERVICES DEPARTMENT
CONTRACT OVERLAY DOCUMENT FOR TIPS CONTRACT 230105

1. Incorporation of Attachments and Parties

Each of the attachments listed below is an essential part of this contract, which governs the rights and duties of the parties, incorporated herein by reference, and shall be interpreted in the order of priority as appears below, with this document taking priority over all attachments:

Attachment A – TIPS CONTRACT 230105
Attachment B – LyncVerse Empyra Domestic Violence Case Management SOW
Attachment C – LyncVerse Empyra Domestic Violence Case Management Quotation
Attachment D – Business Associate Agreement
Attachment E – Empyra Response Cloud Security Questionnaire
Attachment F – Empyra Technical Requirements
Attachment G – Information Technology Standards Version 2023v2
Attachment H – Experience Design Standard 1.0
Attachment I – Disability Access Office Contract Language
Attachment J– Empyra Master Services Agreement 2024

It is the City of San Antonio's (City's) understanding and this contract is made in reliance thereon, that Lyncverse Technologies, Inc. (Lyncverse) intends to use Empyra.com, as a subcontractor in the performance of this Agreement. Lyncverse is responsible for the delivery of the Domestic Violence Case Management System and ensuring all subcontractors perform all necessary work.

2. Term of Contract

Original Contract Term. This Contract shall begin on the effective date of the ordinance awarding the contract. The license period shall begin upon acceptance of Milestone 6, and this Contract shall remain in full force and effect annually for a three (3) year period from that acceptance period.

Renewals. At City's option, this Contract may be renewed under the same terms and conditions for TWO additional ONE-year period(s) throughout and past the duration of TIPS CONTRACT 230105, without further action by the San Antonio City Council, subject to and contingent upon appropriation of funding therefor.

3. Venue

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between City and Lyncverse arising out of or relating to this Contract or its breach will be decided in a court of competent jurisdiction. Venue of any court action brought directly or indirectly by reason of this contract shall be in Bexar County, Texas. This contract is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

4. Amendments

Except where the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Lyncverse. The Director of the Finance Department, or Director's designee, shall have authority to execute amendments on behalf of City without further action by the San Antonio City Council, subject to and contingent upon appropriation of funds for any increase in expenditures by City.

5. Accessibility

Lyncverse shall ensure all services are provided in accordance with the accessibility provisions set forth in Attachment I – Disability Access Office Contract Language, which is attached hereto and incorporated by reference herein. Lyncverse understands and agrees that Attachment I is a part of this Agreement, as though fully set out

herein, and that all obligations, conditions, tasks, products, and representations set forth in said documents are required to be fulfilled by Lyncverse as completely and fully as are the obligations, conditions, tasks, products, and representations imposed by this Agreement.

6. Assignment

Except as otherwise stated herein, Lyncverse may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Lyncverse shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void ab initio and shall confer no rights upon any third person.

7. State Prohibition on Contracts

A. This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

Prohibition on Contracts with Companies Boycotting Israel.

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

By signing this Contract, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

By signing this Contract, Company hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

By signing this Contract, Company hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

B. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited.

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. By signing this Contract, Lyncverse hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on Lyncverse's certification. If found to be false, or if Lyncverse is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

C. Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, Lyncverse acknowledges that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, contractor, potential vendor, or potential contractor, may apply to this contract. Lyncverse agrees that the contract can be terminated if Lyncverse knowingly or intentionally fails to comply with a requirement of that subchapter.

By signing this contract, Lyncverse warrants and certifies, and a contract awarded pursuant to this contract is made in reliance thereon, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous offer or contract. City hereby relies on Lyncverse's certification, and if found to be false, City may terminate the Contract for material breach.

8. Insurance

Prior to the commencement of any work and/or service under this contract, Lyncverse must provide a completed Certificate(s) of Insurance to City's Information Technology Services Department. The certificate must be:

- clearly labeled with the name of the contract in the Description of Operations block;
- completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance); and
- properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City's Information Technology Services Department. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.

If the City does not receive copies of insurance endorsement, then by executing this Agreement, Lyncverse certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for this contract.

The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

Lyncverse shall obtain and maintain in full force and effect for the duration of this Agreement, at Lyncverse's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the Lyncverse claims to be self-insured, they must provide a copy of their declaration page so the City can review their deductibles:

| INSURANCE TYPE | LIMITS |
|---|---|
| 1. Workers' Compensation 2. Employers' Liability | Statutory \$1,000,000/\$1,000,000/\$1,000,000 |
| 3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors* | For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella Liability Coverage. |
| 4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles | Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence. |
| 5. Professional Liability | \$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service. |
| 6. Cyber Liability | \$1,000,000 per claim \$1,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage. |
| *If Applicable | |

Lyncverse must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of Lyncverse and provide a certificate of insurance and endorsement that names Lyncverse and City as additional insureds. Lyncverse shall provide City with subcontractor certificates and endorsements before the subcontractor starts work.

If a loss results in litigation, then the City is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. Lyncverse must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio
Attn: Information Technology Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Lyncverse's insurance policies must contain or be endorsed to contain the following provisions:

- Name City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City. The endorsement requirement is not applicable for workers' compensation and professional liability policies.

- Endorsement that the “other insurance” clause shall not apply to City where City is an additional insured shown on the policy. City’s insurance is not applicable in the event of a claim.
- Lyncverse shall submit a waiver of subrogation to include, workers’ compensation, employers’ liability, general liability and auto liability policies in favor of City; and
- Provide 30 days advance written notice directly to City of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Lyncverse shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lyncverse’s performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies City may have upon Lyncverse’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City may order Lyncverse to stop work and/or withhold any payment(s) which become due to Lyncverse under this Agreement until Lyncverse demonstrates compliance with requirements.

Nothing contained in this Agreement shall be construed as limiting the extent to which Lyncverse may be held responsible for payments of damages to persons or property resulting from Lyncverse’s or its subcontractors’ performance of the work covered under this Agreement.

Lyncverse’s insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.

The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.

Lyncverse and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

9. Click Through Terms

Regardless of any other provision or other license terms which may be issued by Provider 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/click-through), the terms and conditions set forth herein shall supersede and govern the license terms between City and Provider.

In the event that conflicting or additional terms in Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of City, such conflicting or additional terms shall not take precedence over these terms.

10. Federal Grant Funding Provisions

By signing this Contract, Lyncverse hereby agrees that the U.S. Department of Health and Human Services (HHS), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Rules), set forth at 2 CFR Part 200, with HHS-specific amendments in 45 CFR part 75 are hereby incorporated by reference:

Clean Air Act & Federal Water Pollution Control Act Contract Clause

Clean Air Act & Federal Water Pollution Control Act - (1) Lyncverse agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended. Lyncverse agrees to report each violation to the City and understands that the City will, in turn, report each violation as required to the federal agency providing funds

for this contract and the appropriate EPA Regional Office. (2) Lyncverse agrees to include these requirements in each subcontract to this contract exceeding \$150,000 financed in whole or in part with federal funds.

Suspension and Debarment Contract Clause

This contract is a covered transaction for purposes of 2 CFR Part 200. As such, the contractor is required to verify that neither the contractor, nor its principals, as defined at 2 CFR 180.995, are excluded or disqualified as defined at 2 CFR 180.940 and 2 CFR 180.935, respectively.

The contractor is required to comply with 2 CFR 200 and must include the requirement to comply with 2 CFR 200 in any lower tier covered transaction it enters into.

By signing the Contract Overlay Document for TIPS Contract 230105, Lyncverse certifies that:

- Neither it nor its principals are presently debarred, suspended for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program;
- Lyncverse shall provide immediate written notice to City if, at any time during the term of this contract, including any renewals hereof, Lyncverse learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that Lyncverse knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Lyncverse agrees to comply with the requirements of 2 CFR 200 while this offer is valid and throughout the period of any contract that may arise from this offer. Lyncverse further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Certification Regarding Lobbying Contract Clause.

By signing the Contract Overlay Document for TIPS Contract 230105, Lyncverse certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) Lyncverse shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Procurement Of Recovered Materials Contract Clause

Lyncverse and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Termination. In the event of termination, City shall pay Lyncverse for conforming goods delivered and services provided prior to the date of termination, offset by any amounts due and owing from Lyncverse to City.

Signature Page

Lyncverse represents that:

(s)he is authorized to bind Lyncverse to fully comply with the terms and conditions of this contract for the prices stated;

(s)he has read the entire document and agreed to the terms;

Lyncverse is in good standing with the Texas State Comptroller's Office; and

to the best of his/her knowledge, all information is true and correct.

Lyncverse understands and agrees a written award of acceptance, manifested by a City Ordinance, and a purchase order furnished to Lyncverse results in a binding contract without further action by either party.

Complete the following and sign on the signature line below.

Offeror Information

Please Print or Type

Vendor ID No. _____

Signer's Name Julie Clark

Name of Business LyncVerse Technologies, Inc.

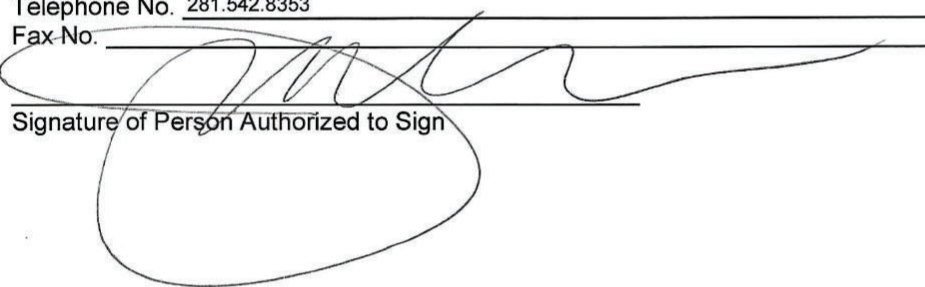
Street Address 8203 Willow Place Drive South, Suite 315

City, State, Zip Code Houston, TX 77070

Email Address jclark@lyncverse.com

Telephone No. 281.542.8353

Fax No. _____


Signature of Person Authorized to Sign