

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

**COUNTY ADDENDUM
FOR PURCHASE OF
GOODS AND SERVICES
DURING COVID-19 OPERATIONS
(Federal Emergency Management
Agency “FEMA” Requirements)**

Important Notice: County Purchase Orders and Agreements constitute expenditures of public funds, and all vendors are hereby placed on notice that such procurement is subject to the extent authorized by Federal and Texas law, including but not limited to Federal Emergency Management Agency Rules and Regulations, Tex. Const. art. XI, § 7, the Texas Government Code, the Texas Local Government Code, the Texas Transportation Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

THIS AGREEMENT is made and entered into by and between **Williamson County, Texas** (hereinafter “Customer” or “The County” or “Williamson County”), a political subdivision of the State of Texas, acting herein by and through its governing body, and Gartner Inc. (hereinafter “Vendor”). Customer agrees to engage Vendor as an independent Contractor, to assist in providing certain goods or operational services pursuant to the following terms, conditions, and restrictions:

I.

Incorporated Documents: This Agreement constitutes the entire Agreement between the parties and may not be modified or amended other than by a written instrument executed by both parties. Documents expressly incorporated (as if copied in full) into this Agreement include the following:

- A. Vendor Quote dated _____;
- B. Vendor Sales Agreement;
- C. Williamson County Agreement Addendum; and
- D. Any necessary insurance certificates.

Where there is any conflict between this Addendum and any of the above-referenced Agreement documents or incorporated documents, the terms of this Addendum shall control.

II.

No Waiver of Sovereign Immunity or Powers: Nothing in this Agreement will be deemed to constitute a waiver of sovereign immunity or powers of Customer, the Williamson County Commissioners Court, or the Williamson County Judge.

III.

Compliance with All Laws: Vendor agrees and will comply with any and all local, state or federal requirements with respect to the goods or services rendered.

IV.

Good Faith: Vendor agrees to act in good faith in the performance of the Agreement relevant to this Agreement.

V.

Relationship of the Parties: Each party to this Agreement, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

VI.

Texas Law Applicable to Indemnification and Limitation of Liability: All indemnifications or limitations of liability shall be to the extent authorized under Texas law.

VII.

Payment: Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

VIII.

Termination for Convenience: This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving thirty (30) days written notice thereof. **In the event of termination, The County will only be liable for its pro rata share of services rendered and goods received.**

IX.

Right to Audit: Vendor agrees that Customer or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Vendor which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Vendor agrees that Customer shall have access during normal working hours to all necessary Vendor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Customer shall give Vendor reasonable advance notice of intended audits. In no circumstances will Vendor be required to create or maintain documents not kept in the ordinary course of Vendor's business operations, nor will Vendor be required to disclose any information, including but not limited to product cost data, which it considers confidential or proprietary.

X.

Mediation: The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on the Agreements relevant to this Agreement.

XI.

Venue and Governing Law: Venue of this Agreement shall be Williamson County, Texas, and the law of the State of Texas shall govern.

XII.

No Assignment: This agreement may not be assigned by either party without prior written consent.

ADDITIONAL REQUIREMENTS FOR FEDERAL EMERGENCY MANAGEMENT AGENCY (“FEMA”) COMPLIANCE:

XIII.

Clean Air Act and The Federal Water Pollution Control Act Compliance:

Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and Vendor agrees to report each violation to the Customer and understands and agrees that the Customer will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. If applicable, Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

XIV.

Suspension and Debarment: (1) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Vendor is required to verify that none of the Vendor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by Customer. If it is later determined that the Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Customer, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The Vendor, bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any agreement that may arise from this offer. The Vendor, bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

XV.

Recovered Materials: (1) In the performance of this Agreement, the Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— (a) Competitively within a timeframe

providing for compliance with the contract performance schedule; (b) Meeting contract performance requirements; or (c) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

XVI.

Access to Records: The following access to records requirements apply to this Agreement:

(1) The Vendor agrees to provide Customer, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the Customer and the Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

XVII.

Use of DHS Seals and Related Items: The Vendor shall not use Department of Homeland Security (“DHS”) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

XVIII.

Compliance with Federal Law and FEMA Rules: This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the agreement. The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA

policies, procedures, and directives.

XIX.

Compliance with Byrd Anti-Lobbying Act, 31 U.S.C. § 1352 (as amended):

Vendors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

XX.

No Federal Government Obligations: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from this Agreement.

XXI.

False Claims Act Compliance and Program Fraud Prevention: The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this Agreement.

XXII.

County Judge or Presiding Officer Authorized to Sign Agreement: The presiding officer of Customer's governing body who is authorized to execute this instrument by order duly recorded may execute this addendum on behalf of Customer.

WITNESS the signatures of all parties in duplicate originals to be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:

Vendor: Gartner Inc.

Judge Bill Gravell Jr.
Judge Bill Gravell Jr. (Sep 29, 2020 17:25 CDT)

Authorized Signature

Date: Sep 29, 2020, 2020

Phillip A. Cummings
Authorized Signature

Date: 21 September, 2020

APPENDIX D to DIR Contract No. DIR-TSO-4099

Gartner, Inc. Services Agreement for Williamson County ("Customer")

This Service Agreement ("SA") and DIR Contract No. DIR-TSO-4099 constitutes the complete agreement between **Gartner, Inc.** of 56 Top Gallant Road, Stamford, CT 06904 ("**Gartner**") and Customer for the Services (as defined below). The SA is based upon and governed by the Contract for Services with the State of Texas Department of Information Services ("DIR") Contract No. DIR-TSO-4099, between Gartner and DIR, the terms of which are incorporated by reference for use by the Customer. The General Terms contained herein and all applicable Vendor Services Descriptions shall apply to this SA and shall be effective when signed by both parties. Customer agrees to subscribe to the following Services for the term and fees set forth below. All fees shall be as set forth in Appendix C of DIR Contract No. DIR-TSO-4099.

1. DEFINITIONS AND ORDER SCHEDULE

a. Services are the subscription-based research and related services purchased by Customer in the Order Schedule below and described in the Service Descriptions.

b. Service Descriptions, the terms of which are incorporated by reference, are attached to this SA and describe each Service purchased, specify the deliverables for each Service, and set forth any additional terms unique to a specific Service.

Service Names and Levels of Access are defined in the Service Descriptions. Gartner may periodically update the names and the deliverables for each Service. If Customer adds Services or upgrades the level of service or access, an additional Service Agreement will be required.

Summary of Services for WILLIAMSON COUNTY

<u>Service Name</u>	<u>Level of Access</u>	<u>Quantity</u>	<u>Name of User to be Licensed</u>	<u>Contract Term Start Date</u>	<u>Contract Term End Date</u>	<u>Annual Fee USD</u>	<u>Total Fee USD</u>
Gartner for Technical Professionals	Advisor Small and Midsize Business Enterprise Access	1	Access for	01-OCT-2020	30-SEP-2021	\$61,159.00	\$61,159.00
Gartner for IT Leaders	Individual Access Advisor	1	Richard Semple	01-OCT-2020	30-SEP-2021	\$29,806.00	\$29,806.00
				Term Total	(Excluding applicable taxes)		\$90,965.00
				Total Services:	(Excluding applicable taxes)		\$90,965.00

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<u>Service Name/ Level of Access</u>	<u>Service Description URL</u>
Gartner for IT Leaders Individual Access Advisor	http://sd.gartner.com/sd_itl_individual_advisor.pdf
Gartner for Technical Professionals Advisor Small and Midsize Business Enterprise Access	http://sd.gartner.com/sd_techpro_advisor_smb.pdf

2. PAYMENT TERMS

Gartner will invoice Customer in advance for all Services. Payment shall be in accordance with Section 7 of Appendix A of the DIR Contract DIR-TSO-4099.

Please attach any required Purchase Order ("PO") to this SA and enter the PO number below. If an annual PO is required for multi-year contracts, Customer will issue the new PO at least 30 days prior to the beginning of each subsequent contract year. Any pre-printed or additional contract terms included on the PO shall be inapplicable and of no force or effect.

Notwithstanding language that may appear in attached Addendum(s) payment will be made in accordance with Article Two of the SA entitled "Payment Terms."

3. CUSTOMER BILLING INFORMATION

Purchase Order Number

Billing Address

Invoice Recipient Name

Invoice Recipient Email

Invoice Recipient Tel. No.

4. AUTHORIZATION

State of Texas Customer:

Judge Bill Gravell Jr. Sep 29, 2020
Judge Bill Gravell Jr. (Sep 29, 2020 17:25 CDT)

Signature/Date

Judge Bill Gravell Jr.

Print Name and Title

Gartner, Inc.

Phillip A. Cummings 9/21/2020
Signature/Date

Phillip A. Cummings - Contracts Counsel

Print Name and Title

General Terms and Guidelines for Vendor's Services

1. This SA for subscription-based research and related services (the "**Services**") is subject to Section 8.B. of Appendix A of the DIR Contract No. DIR-TSO-4099.
2. **Services** are the subscription-based research and related services described herein. Service Descriptions, Names and Levels of Access are as detailed for each product offering. Vendor may periodically update the names and the deliverables for each Service.
3. **Modification of Services by Vendor.** In order to remain current and timely in its Service offerings, Vendor may make minor modifications from time to time in the content of any Service. If Vendor discontinues any Service in its entirety, Customer may, at its option, receive a substitute Service, or obtain a pro rata refund of the fees paid for the discontinued Service.
4. **Licensed User** is the individual named in the Customer Purchase Order who is licensed to use the Services. Customer will limit access to the Services to the agreed upon number of Licensed Users.
5. **Ownership and Use of the Services.** Vendor owns and retains all rights to the Services not expressly granted to Customer. Only the individuals named in the Customer Purchase Order (each a "**Licensed User**") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Customer agrees to review and comply with the **Usage Guidelines for Gartner Services** ("**Guidelines**"), which are accessible to all Licensed Users via the "Policies" section of www.gartner.com. Among other things, these Guidelines describe how Customer may substitute Licensed Users, excerpt from and/or share Vendor research documents within the Customer organization, and quote or excerpt from the Services externally. Customer may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users without Vendor's prior written permission. Licensed Users may not reproduce or distribute the Services externally without Vendor's prior written permission, except for external distribution, in their entirety only, of reprints of individual documents purchased by Customer.

Customer may excerpt from the Services for external use only if Customer obtains the prior written approval of Gartner Quote Requests, at quote.requests@gartner.com. Any approved external use of the Services must comply with Vendor's *Copyright and Quote Policy* which may be viewed on the Gartner Vendor Relations section of www.gartner.com. Services may not be stored by Customer on any information storage and retrieval system.

6. **Access to the Services.** ID's for access to Vendor Core Research and Analyst Inquiry may not be shared. Access to the Services is restricted to the number of named individuals (each a "Licensed User") as identified in the Customer Purchase Order.
7. **Monitoring of Usage.** Customer acknowledges and agrees to inform all Licensed Users that Vendor may monitor activity on Vendor's web site, including access to, and use of, the Services by individuals. Upon request, Customer agrees to provide Vendor with assurance from a responsible party (or other relevant evidence) of compliance with these usage terms.
8. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND VENDOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. CUSTOMER RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. VENDOR SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CUSTOMER MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CUSTOMER UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.
9. **Applicable Law.** This SA shall be governed by and construed in accordance with the procedural and substantive laws of the State of Texas, without reference to its conflict of law principles, venue for disputes shall be Travis County, Texas.
10. **Customer Confidential Information.** To the extent allowable under the Texas Public Information Act, Vendor agrees to keep confidential any Customer-specific information communicated by Customer to Vendor that is (i) clearly marked confidential if provided in written form, or (ii) preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 15 days of its initial disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by Vendor; (3) entered the public domain through no fault of Vendor subsequent to Customer's communication to Vendor; (4) is in Vendor's possession free of any obligation of confidence at the time of Customer's communication to Vendor; or (5) is communicated by the Customer to a third party free of any obligation of confidence. Additionally, Vendor may disclose such information to the extent required by legal process. Customer acknowledges that Vendor is in the business of researching and analyzing information technology and this obligation of confidence shall not apply to information obtained by Vendor's research, analysis or consulting organization(s) from other sources.







Agenda Item #27, 09.29.2020, Research Advisory Services, Gartner. Inc.

Final Audit Report

2020-09-29

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