

TFC Contract No. 17-020-000
American Constructors Holding Company
Amendment No. 2
RFQ No. 303-6-02164
Project No. 15-015-6071

**AMENDMENT NO. 2
TO THE
CONSTRUCTION MANAGER-AT-RISK CONTRACT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
AMERICAN CONSTRUCTORS HOLDING COMPANY**

THIS AMENDMENT NO. 2 is entered into by and between the Texas Facilities Commission, a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 (hereinafter referred to as "TFC"), as Owner (as defined in UGC, Section 1.28) and American Constructors Holding Company, located at 11900 West Parmer Lane, Suite 200, Cedar Park, Texas (hereinafter referred to as "CMR"), for the purpose of amending that one certain *Construction Manager-At-Risk Contract Between The Texas Facilities Commission and American Constructors, Inc.* known as TFC Contract No. 17-020-000 (hereinafter referred to as the "Contract").

RECITALS

WHEREAS, on November 21, 2016, the parties entered into that one certain *Contract Manager-At-Risk Contract Between the Texas Facilities Commission and American Constructors Holding Company* (hereinafter referred to as the "Contract"); and

WHEREAS, on April 7, 2017, the parties entered into Amendment No. 1 to the Contract; and

WHEREAS, the parties now desire to amend the Contract, as amended, to extend the term of the Contract; and

WHEREAS, subject to Section 12.26, Entire Agreement and Modification, of the Contract such modifications may only be effected by a written amendment to the Contract; and

WHEREAS, the Texas Legislature in the 85th Regular Legislative Session, enacted House Bill 89 effective September 1, 2017, relating to prohibiting contracts with companies boycotting Israel; and

WHEREAS, the Texas Legislature in the 85th Regular Legislative Session, enacted Senate Bill 252 effective September 1, 2017, relating to prohibiting governmental contracts with a company doing business with Iran, Sudan, or a foreign terrorist organization; and

WHEREAS, TFC has determined to modify the Contract so that it reflects these prohibitions;

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NOW THEREFORE, the parties hereby agree as follows:

1. The Parties agree to modify ARTICLE III – TERM, SUSPENSION, AND TERMINATION, SECTION 3.1 – CONTRACT TERM, by deleting the paragraph in its entirety and replacing it with the following:

“This Contract shall be effective as of the Effective Date and shall terminate on January 30, 2019, unless extended by the parties by amendment to this Contract or terminated earlier, as provided below.”

2. The parties agree to modify VII – WARRANTIES AND REPRESENTATIONS BY CMR, by adding Sections 7.1.16, and 7.1.17, respectively, which shall read in their entirety, as follows:

“7.1.16. **PROHIBITION AGAINST BOYCOTTING ISRAEL.** In accordance with Section 2270.002 of the Texas Government Code, by signature hereon, CMR certifies that it does not boycott Israel and will not boycott Israel during the term of this Contract.

7.1.17. **PROHIBITION AGAINST CONTRACTING WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATIONS.** In accordance with Section 2251.152 of the Texas Government Code, TFC is prohibited from entering into a governmental contract (as defined in Texas Government Code Section 2252.151(3)) with a company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807.051, or 2252.153. If CMR is on the above-referenced list the Contract will be considered void or voidable and TFC will not be responsible to pay CMR for any work performed.”

3. All other terms and conditions of the Contract not otherwise amended herein shall remain in full force and effect, and shall apply to the Project.

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IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment No. 2 to be effective as of the date of the last party to sign.

TEXAS FACILITIES COMMISSION

AMERICAN CONSTRUCTORS HOLDING COMPANY

By: DocuSigned by:
JOHN RAFF
C28F1F24A758A711...

By: DocuSigned by:
Martin A. Burger
DE36A8F8FDB041E...

John S. Raff

Martin A. Burger

Interim Executive Director

Vice President

Date of Execution: 07/25/2018 | 8:55 AM CDT

Date of Execution: 07/24/2018 | 8:32 AM CDT

G.C. NRK

Dir. MW

D.E.D. [Signature]