

**CONTRACT
FOR
REMEDATION SERVICES
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
BELFOR USA GROUP INC.
RENEWAL OF CONTRACT NO. 17-013-000**

The Texas Facilities Commission (hereinafter referred to as "TFC"), a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 and Belfor USA Group Inc. (hereinafter referred to as "Contractor"), located at 11525-B Stonehollow Drive, Suite 235, Austin, Texas enter into the following contract for water, fire and biohazard remediation services (hereinafter referred to as the "Contract") pursuant to Tex. Gov't Code Ann. Ch. 2165 (West 2016). (Renewal of Contract No. 17-013-000.)

I. STATEMENT OF WORK.

1.01. **SERVICE REQUIREMENTS.** (a) Contractor shall provide remediation services for TFC at various State-owned facilities and locations throughout Texas which include, but are not limited to, the following: (i) high and low rise commercial office buildings; (ii) warehouses; (iii) laboratories; (iv) parking structures; (v) child care facilities; and (vi) educational campuses. Contractor shall provide all, labor, materials, equipment, tools, and transportation required to perform these services. Services shall be available to TFC on an as needed basis, twenty four (24) hours a day, 365 days a year.

(b) No work is guaranteed under this Contract. For each project under this Contract, the TFC Contract Administrator, as defined in Section 1.02 below, will contact Contractor for an estimate. As time permits, Contractor will proceed with the work under the project only after the estimate is approved by the TFC Contract Administrator through the issuance of a delivery release (hereinafter referred to as a "DR"). Work performed without this DR will not be paid.

(c) In the event of an emergency service call, Contractor may proceed with the work upon a verbal approval from TFC Contract Administrator. Written confirmation will be provided within twenty four (24) hours of such authorization.

(d) Each DR will constitute an amendment to this Contract, subject to the terms and conditions set forth in this Contract, and shall include a description of the project, scope of services, schedule and term, and compensation specific to the DR which shall be negotiated at the time of such DR.

(e) Contractor shall respond to the initial request of the TFC Contract Administrator within fifteen (15) minutes of initial call, and arrive on-site within twenty four (24) hours, or within two (2) hours for emergencies.

(f) Contractor agrees to conduct services in accordance with the requirements and provisions specified in the Contract in more detail within Exhibit A – Section III, Proposed Methodology, from Contractor's response to Request for Proposal No. 303-5-00030 for Remediation Services (hereinafter referred to as "RFP"), attached hereto and incorporated herein for all purposes.

(g) Travel time to and from the job site is not reimbursable under this Contract. Contractor shall check in and out with the TFC Contract Administrator to ensure that the TFC Contract Administrator logs the start and completion times on the service ticket for the services performed. Contractor shall provide the following information on the service ticket: building name, floor, TFC work order number, name of personnel performing the work and hours worked. Contractor will match service ticket with approved DR's. Contractor material invoices shall be attached to final invoice.

(h) Contractor shall be responsible for examining all facilities in which the work will take place and to be familiar with the conditions under which the work will be accomplished. Contractor shall inspect existing conditions prior to commencing work, including elements subject to damage or movement during the project.

(i) This Contract includes callback service, as defined below in Section 1.11, at no additional cost to TFC, during normal working hours as defined below in Section 2.02 of this Contract and also during any overtime hours. Contractor shall respond to a callback by the TFC Contract Administrator and arrive on-site within one (1) hour during regular working hours and not more than two (2) hours outside of regular working hours. If a callback is not answered in the specified time, TFC may engage a third party to answer the call and charge the cost of the repairs to Contractor.

1.02. **CONTRACT ADMINISTRATOR.** TFC shall designate a "TFC Contract Administrator" for this Contract who will serve as the point of contact between TFC and Contractor. The instructions of the TFC Contract Administrator and/or the TFC Contract Administrator's designated representative (hereinafter collectively the "TFC Contract Administrator") are to be strictly and promptly followed by Contractor at all times. The TFC Contract Administrator is to have free access to Contractor's supplies, equipment, and work product at all times for inspection and audit. Contractor is to afford the TFC Contract Administrator all necessary assistance during those inspections and/or audits. The TFC Contract Administrator will decide any and all questions that may arise as to the quality and acceptability of work performed, and as to the manner of performance and rate of progress of the work. The TFC Contract Administrator will determine the amount of work performed and materials furnished which are to be paid under this Contract. Failure of the TFC Contract Administrator during the progress of the Contract, to: (i) discover or reject unacceptable work; (ii) discover work not in accordance with the Contract; or (iii) failure to exercise any remedies in connection therewith, shall not be deemed an acceptance thereof, nor a waiver, of TFC's right to full performance of the contract. The TFC Contract Administrator shall not have any express or implied authority to vary or amend the terms of the Contract or to waive performance of the terms or conditions of the Contract.

1.03. **PROJECT COMPLETION TIME.** Contractor must perform work within timeframe agreed upon by Contractor and TFC. If Contractor cannot perform work within timeframe stated, Contractor may be subject to liquidated damages up to twenty percent (20%) of total cost of the project.

1.04. **EXISTING UTILITIES AND STRUCTURES.** Contractor shall adequately protect the work, TFC's property, adjacent property and the public. In the event of damage to facilities as a result of Contractor's operations, Contractor shall take immediate steps to notify the TFC Contract Administrator and subsequently repair or restore all services and facilities to the satisfactory approval of the TFC Contract Administrator. Further, Contractor shall engage any additional outside services which may be necessary to facilitate repairs until services and facilities are restored. All costs involved in making repairs and restoring disrupted services and facilities shall be borne by Contractor, and Contractor shall be fully responsible for any and all claims resulting from the damage. The TFC Contract Administrator may elect to perform such repairs and deduct the cost of such repairs, replacements, and outside services from amounts due to Contractor.

1.05. **STORAGE/WASTE REMOVAL.** Contractor will be allowed to temporarily store materials and equipment in performance of this Contract during the project time period only if space is available in each building. Storage space will be arranged through the TFC Contract Administrator. Contractor shall keep premises clean on a continual basis and no trash or debris will be permitted to accumulate in work areas. Use of a dust barrier may be required and will be communicated to Contractor by the TFC Contract Administrator on a per project basis. Contractor shall be responsible for removal and disposal of all waste packaging material and excess materials purchased by Contractor associated with this project which may include, if applicable, the rental of a waste receptacle. If needed, site placement of the waste receptacle shall be approved by the TFC Contract Administrator. TFC is not responsible for the security of stored materials and equipment. TFC encourages the use of gang boxes for tool storage and securing the site when unoccupied by Contractor. Contractor shall maintain at all times clear access to fire lanes, and emergency and utility control facilities such as fire hydrants, fire alarm boxes, utility valves, manholes, junction boxes, fire extinguishers and emergency exits.

1.06. **SECURITY AND IDENTIFICATION.** Contractor shall abide by all procedures and rules as conveyed by the TFC Contract Administrator regarding security requirements of the building where work is to be performed. All Contractor's and subcontractor's personnel must wear uniform clothing to identify the company for which they work.

1.07. **SMOKING.** All facilities where work is to be performed are nonsmoking buildings. Contractor employees are prohibited from smoking in all areas except in areas designated for smoking.

1.08. **DISPOSAL OF SALVAGEABLE ITEMS.** The TFC Contract Administrator shall mark and/or otherwise inform Contractor of any material that will be salvaged by TFC. Disposal may include depositing in a central location for salvage by TFC or delivery to TFC's warehouse, located at 6506 Bolm Road, Austin, Texas, or other locations as determined by the TFC Contract Administrator.

1.09. **CHEMICALS.** Contractors and subcontractors shall provide TFC Risk Management and the TFC Contract Administrator a legible Material Safety Data Sheet (hereinafter referred to as "MSDS") for all chemicals to be used or brought onto TFC controlled property for each project. MSDS's shall be submitted prior to the start of work.

1.10. **DAMAGES.** Contractor shall be responsible for all damages to existing building or previously completed work incurred by his/her staff or subcontractors. Contractor is to protect adjacent areas from damage and debris. It is the intent of this Contract that any item affected by the work be restored to a state equal to or better than its original condition.

1.11. **CALLBACK.** For the purpose of evaluating performance under this Contract, a "Callback" is defined as a service call that requires Contractor to return to complete or repair a previously performed service due to Contractor's inability, negligence, or lack of knowledge to perform services. Contractor is to perform Callback Service at no additional cost to TFC, regardless of whether the work is performed during normal working hours or overtime hours. Contractor shall maintain a complete, orderly written report of all Callbacks. These "Callback Reports" shall indicate the time, date, name of personnel, problems reported and corrective measures taken to complete or repair all problems. A consolidated Callback Report is to be furnished to TFC as soon as the service is provided.

1.12. **EXAMINATION OF PREMISES.** Contractor shall be held to have examined all properties at which the work will take place and to be familiar with the conditions under which the work will be accomplished.

II. TERM.

2.01. **CONTRACT AWARD.** (a) This Contract shall be effective as of September 1, 2017 and shall expire on August 31, 2019, unless extended by the parties by amendment to this Contract or terminated earlier, as provided in Section 2.03 below. This Contract may be renewed for one (1) additional two (2) year period, provided that renewal is executed by written amendment to this Contract prior to expiration of the current contract term. Any renewals shall be at the same terms and conditions, plus any approved changes.

(b) Notwithstanding the termination or expiration of this Contract, the provisions of this Contract regarding confidentiality, indemnification, transition, records right to audit and independent audit, property rights, dispute resolution, invoice and fees verification, and default shall survive the termination or expiration dates of this Contract.

2.02. **WORKING HOURS.** Contractor work shall be performed during regular business hours of 7:30 AM - 5:30 PM, Monday through Friday, and after hours as required by the TFC Contract Administrator to meet required schedules and address emergency situations. No overtime will be paid without the prior written approval of the TFC Contract Administrator.

2.03. **TERMINATION.** (a) Termination with Default. TFC may terminate this Contract immediately for default by providing written notice to Contractor of such termination if Contractor fails to execute the work properly, performs work in an unsatisfactory manner, or fails to perform

any provision of the Contract. In the event of abandonment or default, Contractor will be responsible for paying damages to TFC, including but not limited to, the cost to re-solicit this Contract and any consequential damages to the State of Texas or TFC resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the scope of work is significantly changed.

(b) Termination without Default. TFC may, at its sole option and discretion, terminate this Contract at any time, for any reason whatsoever, in whole or in part, by giving written notice (hereinafter referred to as "Notice of Termination") to Contractor at least thirty (30) days prior to the effective date of termination or reduction in the scope of work. In the event of termination by TFC under this subsection, Contractor shall be governed by the terms and conditions, and shall perform the acts outlined in the following Section 2.03(c.)

(c) Implementation of Termination. Contractor shall terminate all work under the Contract to the extent and on the date specified in the Notice of Termination and until such date shall, to the extent stated in Notice of Termination, do such work as may be necessary and be compensated only for such work as may be necessary as determined by the TFC Contract Administrator to preserve the work in progress and to protect materials, properties, and equipment. TFC shall pay Contractor for all work satisfactorily performed up to the effective date of termination or reduction in the scope of work in accordance with the prices included in the scope of work.

(d) Termination by Contractor. Contractor may terminate the Contract upon providing sixty (60) days' written notice to TFC. In the event of termination by Contractor, Contractor shall be governed by the terms and conditions of this Contract, and shall perform the acts outlined in Section 2.03(c.) above. Contractor will be held responsible for additional cost incurred from the termination of this Contract.

2.04. **UNSATISFACTORY PERFORMANCE.** If Contractor fails to maintain an acceptable level of service, or if in the judgment of the TFC Contract Administrator, Contractor's methods are not adequate to ensure completion of all required services per the terms of this Contract, the TFC Contract Administrator may direct Contractor, at no additional cost to TFC, to revise work schedules or manpower/man-hours to ensure completion of the services. Failure to perform any of the obligations in this Contract may be considered nonperformance of services and may result in informal corrective actions, formal corrective action plans, withholding of payment and/or termination of this Contract. TFC may consider the following as unsatisfactory performance:

- (i) failure to respond to an emergency;
- (ii) improper use and/ or unsafe staging of equipment;
- (iii) improper safety procedures;
- (iv) inadequate supervision;

- (v) creating dangerous or unsafe work conditions;
- (vi) not following proper guide lines or standards;
- (vii) improper or inaccurate reporting of the job progress;
- (viii) inappropriate behavior, language, attire and/or appearance; and
- (ix) non-communication of building access to proper authorities (e.g. TFC Supervisor, property manager and/ or building security)

2.05 CORRECTIVE ACTION PLAN. (a) If TFC discovers issues of unsatisfactory performance as set forth in Section 2.3 above that need to be corrected or accomplished, TFC may request a "Corrective Action Plan" from Contractor. Upon request from the TFC Contract Administrator, Contractor shall deliver a Corrective Action Plan within ten (10) business days and it must be approved by the TFC Contract Administrator. The Corrective Action Plan must address and correct all unsatisfactory performance within thirty (30) days of implementation. Failure to correct the unsatisfactory performance within the allotted time shall be grounds for termination. Failure to correct all identified elements of unsatisfactory performance included in the notice requesting the Corrective Action Plan within the time as set forth in this paragraph, shall entitle TFC to avail itself of one or more of the following remedies at TFC's sole discretion:

(i) TFC's removal of services, or group of services, from the scope of this Contract; or

(ii) TFC's termination of this Contract, immediately without notice to Contractor, or otherwise with such notice as TFC elects to provide.

(b) If Contractor is required to deliver and perform more than one (1) Corrective Action Plan within any period of twelve (12) continuous months during the term of this Contract, and regardless of whether or not Contractor successfully completes such Correction Action Plan, TFC may consider such conduct to amount to Contractor's continuing material nonperformance of services under this Contract. In such an event, TFC shall be entitled to avail itself of one or more of the following remedies at TFC's sole discretion:

(i) TFC's removal of one or more buildings from the scope of this Contract;

(ii) TFC's imposition of liquidated damages on Contractor in an amount equal to ten percent (10%) of Contractor's revenue hereunder from the date TFC first notified Contractor of the need for the initial Correction Action Plan until the date on which Contractor is required to complete its most recently required Corrective Action Plan; and/or

(iii) TFC's termination of this Contract, immediately without notice to Contractor, or otherwise wish such notice as TFC elects to provide, in its sole discretion.

2.06. **NO LIABILITY UPON TERMINATION.** If this Contract is terminated for any reason, TFC and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination absent an award of damages pursuant to Texas Government Code, Chapter 2260.

III. CONSIDERATION.

3.01. **CONTRACT LIMIT AND FEES AND EXPENSES.** (a) The total amount of this Contract shall not exceed the sum of Three Hundred Thousand and No/100 Dollars (\$300,000.00). Pricing fees will be invoiced in accordance with Exhibit B - Compensation and Fees, attached hereto and incorporated herein for all purposes. Any changes to the not-to-exceed amount of this Contract or pricing fees set forth in Exhibit B - Compensation and Fees shall be submitted to TFC for review and shall be approved by amendment to this Contract.

(b) If, at any time during the term of this Contract, Contractor reduces the comparable price of any article or service covered by the Contract to customers other than TFC, the prices charged to TFC for such articles or services shall also be reduced proportionately. Such reduction shall be effective at the same time and in the same manner as the reduction in price to customers other than TFC. In addition to invoicing at the reduced prices, Contractor shall furnish promptly to TFC complete information regarding the reduction.

3.02. **PAYMENTS TO CONTRACTOR.** (a) Payments to Contractor will be made at the completion of a project under a DR and within thirty (30) days from receipt of a correct invoice or billing statement in accordance with the Texas Government Code, Chapter 2251, Texas Prompt Payment Act. An invoice is considered received on the date it is date stamped by TFC. Contractor will be paid for completion of work accepted and approved by the TFC Contract Administrator.

(b) For large projects, Contractor will be paid for work performed to the end of the preceding month, provided that the work required to be performed under the Contract shall have been fully and satisfactorily completed, accepted, and approved by the TFC Contract Administrator.

(c) Contractor shall invoice TFC for work performed by vendor identification number, building, purchase order number and DR number. Invoices must include the purchase order number, the number of employees that worked on the job, the number of hours, and a copy of the project service ticket. Additionally, invoices for any materials purchased, subcontractors utilized or payment and performance bonds required for each project must be provided. Address for submission is: Texas Facilities Commission, Fiscal Department, P.O. Box 13047, Austin, Texas 78711-3047 or accountspayable@tfc.state.tx.us.

3.03. **ADDITIONAL SERVICES AND ADJUSTMENTS.** (a) "Additional Services" are those services not included in Article I of this Contract which may be requested by TFC at any time for the duration of this Contract. Upon request by TFC for Additional Services, Contractor shall prepare and submit to TFC a proposal for such services requested. Additional Services will be charged at the hourly rates set forth in Exhibit B - Compensation and Fees and shall be documented by a DR.

(b) At any time, TFC may adjust the Contract, in whole or in part, with thirty (30) days' notice to Contractor. Adjustments shall be in accordance with the unit prices quoted in Exhibit B – Compensation and Fees and shall be documented by amendment to this Contract.

IV. CONTRACTOR PERSONNEL.

4.01. **REQUIRED QUALIFICATIONS.** At all times during the term of the Contract, Contractor shall have available, under direct employment and supervision, the necessary qualified personnel, organization and facility to properly fulfill all the terms and conditions of this Contract.

4.02. **GENERAL AND CRIMINAL BACKGROUND CHECKS.** (a) Contractor represents and warrants that Contractor and Contractor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised TFC as to the facts and circumstances surrounding the conviction.

(b) Contractor's employees and subcontractors that will complete any work on-site at a state-owned property may be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by Contractor. A complete criminal background check shall be completed before any employee performs services at the site, and may be requested at any time thereafter. Criminal background checks must be accomplished by the Texas Department of Public Safety ("DPS"), which includes fingerprint processing by an independent third-party company selected by DPS. Upon receipt of the fingerprints of Contractor's employees and/or subcontractors, DPS or TFC, will adjudicate the results of the criminal background searches in accordance with the criteria set forth in Exhibit C - Criminal Background Checks and Application Guidelines attached hereto and incorporated herein for all purposes.

4.03. **CONTRACTOR ACCESS.** Access routes, entrance gates or doors, parking and storage areas and any imposed time limitations shall be designated by the TFC Contract Administrator. Contractor shall conduct operations in strict observation of the access routes and other areas established as described above. Under no circumstances shall any of Contractor's personnel, vehicles, or equipment enter or move upon any area not authorized by the TFC Contract Administrator for access by Contractor. Upon the approval of the TFC Contract Administrator, Contractor shall have the right to utilize air, water, gas, steam, electricity, and similar items of expense from existing outlets at TFC property.

4.04. **CONTRACTOR PARKING.** Parking, for Contractor vehicles when performing work, must be coordinated through the TFC Contract Administrator. TFC Contract Administrator will arrange parking according to parking availability at the job site. Parking in close proximity to the project may not be possible. Subcontractors may be required to utilize remote parking & carpooling when space is not available.

4.05. **CONTRACTOR SAFETY.** All Contractors and subcontractors conducting work for TFC shall abide by all OSHA rules and regulations provided by the Department of Labor, OSHA, Code of Federal Regulations, Chapter 29. Employees of Contractor and subcontractors shall be trained in accordance with Chapter 29, Occupational Safety and Health Regulations.

4.06. **CONTRACTOR COOPERATION.** (a) Contractor agrees to conduct all of its services under this Contract by and through appropriate communications with the TFC Contract Administrator. No work, installation or other services shall be undertaken by Contractor except with the prior written direction of the TFC Contract Administrator.

(b) Contractor understands and agrees that work, installation or any other service performed without the prior written direction of the TFC Contract Administrator is work outside the scope of this Contract and shall be performed exclusively at Contractor's risk.

(c) Contractor agrees to employ competent personnel meeting the requirements outlined in the specifications, who shall be satisfactory to TFC. Personnel assigned to perform services under this Contract may not be reassigned without the prior written approval by the TFC Contract Administrator. TFC may request that Contractor replace unsatisfactory personnel, which request shall not be unreasonably denied.

(d) Contractor agrees to cooperate and coordinate its work with that of other Contractors retained by owner. Upon discovery of an apparent conflict in the sequencing of work with another Contractor, Contractor shall report the concern to the TFC Contract Administrator who will resolve the conflict.

4.05. **E-VERIFY.** (a) By entering into this Contract, Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system, in accordance with the U.S. Department of Homeland Security's rules, to determine the eligibility of: (i) all persons employed to perform duties within the State of Texas, during the term of the Contract; and (ii) all persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

(b) Contractor shall provide, upon request of TFC and if available, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three (3) most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of TFC, and at no fault to TFC, with no prior notification. Contractor shall also be responsible for the costs of any re-solicitation that TFC must undertake to replace the terminated Contract.

(c) For persons not eligible for E-Verify screening, Contractor (including subcontractors) shall provide, upon request by TFC, another form of documentation of proof of eligibility to work in the United States of America.

V. STATE FUNDING.

5.01. **STATE FUNDING.** (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or TFC in violation of Tex. Const. art. III, § 49. In compliance with Tex. Const. art. VIII, § 6, it is understood that all obligations of TFC hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract

may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests accrued up to the date of termination.

(b) Furthermore, any damages due under this Contract should not exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach; **provided, however, the foregoing shall not be construed as a waiver of sovereign immunity.**

VI. RECORDS, AUDIT, PROPRIETARY INFORMATION, AND PUBLIC DISCLOSURE.

6.01. SUPPORTING DOCUMENTS, RETENTION; RIGHT TO AUDIT; INDEPENDENT AUDITS. (a) Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Contract. Contractor and any subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TFC and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.

(b) Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. The acceptance of funds by Contractor or any other entity or person directly under this Contract, or indirectly through a subcontract under this Contract, shall constitute acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds. Contractor acknowledges and understands that the acceptance of funds under this Contract shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Furthermore, under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

6.02. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is:

- (i) confidential by law;
- (ii) marked or designated "confidential" (or words to that effect) by TFC; or

(iii) information that Contractor is otherwise required to keep confidential by this Contract.

6.03. **PUBLIC RECORDS.** Notwithstanding any provisions of this Contract to the contrary, Contractor understands that TFC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552. If contacted by TFC, Contractor will cooperate with TFC in the production of documents responsive to the request. Contractor agrees to provide the documents responsive to the request in the format and within the time frame specified by TFC. Contractor may request that TFC seek an opinion from the Office of the Texas Attorney General. However, the final decision whether to seek a ruling from the Office of the Texas Attorney General will be made by TFC in its sole discretion to comply with the legal requirements of the Texas Public Information Act. Additionally, Contractor will notify TFC's general counsel within twenty-four (24) hours of receipt of any third-party requests for information written, produced, collected, assembled, or maintained in connection with this Contract and/or any amendment to this Contract. This Contract and/or any amendment to this Contract and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. Contractor agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Contract, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, Contractor is required to make any information created or exchanged with the State pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public as specified by TFC at no additional charge to the State.

6.04. **PUBLIC DISCLOSURE.** No public disclosures or news releases pertaining to this Contract shall be made without prior written approval of TFC.

VII. CONTRACTOR'S RESPONSIBILITIES AND WARRANTIES.

7.01. **CONTRACTOR RESPONSIBILITIES.** (a) Contractor shall provide on call remediation services for water, fire, bio-hazard and hazardous chemical damage. Services shall include, but not be limited to, the following: (i) remediation including clean-up; (ii) removal of all contaminated materials; (iii) vacuuming of all water or debris; (iv) drying of walls and flooring; and (v) cleaning of all affected surfaces. TFC also reserves the right to terminate the Contract if actions do not meet the performance requirements, as defined in Section 2.04.

(b) Contractor shall be responsible for damage to TFC's facilities and all associated systems by its work, its negligence in work, its personnel, or its equipment by Contractor's or subcontractors staff. Contractor shall be responsible and liable for the safety, injury, and health of its working personnel while its employees are performing work for TFC.

(c) Contractor shall have all areas certified clean, dry, tested mold free and ready to be occupied.

(d) Contractor shall dispose of water damaged and contaminated items accordingly.

(e) Contractor shall maintain proper use of safety procedure and equipment.

(f) Contractor shall handle all scheduling of follow up work to be done.

(g) Contractor shall coordinate any and all building access.

(h) Contractor agrees to maintain compliance with IICRE specifications, NADCA standards and mold remediation standards of Texas.

7.02. PERFORMANCE STANDARDS. (a) All work performed under this Contract shall be in accordance with applicable terms and conditions of this Contract and shall comply with all federal, state, and local laws, rules, codes and ordinances and comply with the Occupational Safety and Health Administration (hereinafter referred to as "OSHA") accessibility requirements.

(b) All remediation contractors shall be licensed and will be verified through the appropriate agency.

(c) Contractor shall maintain the following certifications:

(i) Indoor Air Quality Association (IAQA)

(ii) Institute of Inspection, Cleaning and Restoration Certification (IICRC) Water Restorer Certification

(iii) Institute of Inspection, Cleaning and Restoration Certification (IICRC) Fire & Smoke Restorer Certification

(iv) United States Environmental Protection Agency (EPA) Lead-Safe Certification

(v) National Air Duct Cleaners Association (NADCA) Air Systems Cleaning Specialist (ASCS) Certification

(d) All materials and work performed under this contract shall be in accordance with the following:

(i) ANSI/IICRC S500 Standard and Reference Guide for Professional Water Damage Restoration

(ii) BSR-IICRC S520 Standard and Reference Guide for Professional Mold Remediation

(iii) NADCA General Specifications for the Cleaning of Commercial Heating, Ventilating and Air Conditioning Systems.

(iv) Texas Department of State Health Services (DSHS) Texas Mold Assessment and Remediation Rules

(e) Appropriate dress is required for all personnel. Prohibited attire includes, but is not limited to, the following:

- (i) athletic clothing and lounge attire of any type;
- (ii) clothing that displays offensive messages (picture or print);
- (iii) clothing that is see-through, low cut, or bares the midriff;
- (iv) shorts; and,
- (v) flip-flop sandals.

(f) Eating is prohibited on jobsites except in designated cafeterias.

(g) All facilities where work is to be performed are professional environments. Contractor employees using inappropriate language or behaving in an inappropriate manner will be asked to leave the premises and documented by the TFC Contract Administrator.

(h) All Contractor employees on jobsite will:

- (i) wear clean uniforms in good repair daily;
- (ii) keep shirttail tucked in during business hours;
- (iii) bathe daily and be clean at the start of the work day;
- (iv) wash hair daily, comb or brush before starting work and keep trimmed; and,
- (v) be clean shaven or if facial hair is present, keep trimmed.

7.03. WARRANTY ON SAFETY AND HEALTH REQUIREMENTS. Contractor shall procure, at Contractor's expense, all necessary and required licenses and permits necessary for the performance of this Contract. Contractor represents and warrants that the services provided under this Contract comply with all applicable federal health and safety standards, including but not limited to, the Occupational Safety and Health Administration (OSHA), and all Texas health and safety standards.

7.04. PERFORMANCE WARRANTY. All work performed under this Contract shall be in accordance with applicable terms and conditions of this Contract and of local codes and ordinances and any other authority having lawful jurisdiction. Work performed under this Contract shall meet all applicable requirements of the latest revision of the Uniform Building and Plumbing codes, National Electric Code, and all other applicable codes. Contractor shall guarantee all work included in the Contract against any defects in workmanship and shall satisfactorily correct, at no

cost to TFC, any such defect that may become apparent within a period of one (1) year after completion of work. The warranty period shall commence upon the date of acceptance by TFC.

7.05. **MATERIAL WARRANTY.** All material and equipment furnished under this Contract is guaranteed by Contractor to be in compliance with this Contract, fit and sufficient for the purpose intended, new and free from defects. Materials furnished under this Contract shall be the latest improved models in current production, as offered to commercial trade, and shall be of quality material. **USED, SHOPWORN, DEMONSTRATOR, PROTOTYPE, RECONDITIONED, OR DISCONTINUED MODELS OR MATERIAL ARE NOT ACCEPTABLE.** The warranty period for Contractor-provided materials shall be for a period of one (1) year after completion of the installation or within the manufacturer's warranty, whichever is longer. The warranty period shall commence upon date of acceptance by TFC. Contractor shall provide the TFC Contract Administrator with all manufacturers' warranty documents within five (5) business days of completion of each project.

VIII. BONDS, INSURANCE, INDEMNIFICATION AND LEGAL OBLIGATIONS.

8.01. **BONDS.** (a) Prior to commencement of work on non-emergency service calls under a DR issued under this Contract, Contractor is required to tender payment and performance bonds to TFC, as required by Texas Government Code, Chapter 2253, when the following circumstances apply:

(i) A performance bond is required if the DR amount is in excess of \$100,000.00. The performance bond is solely for the protection of TFC. The performance bond is to be for the sum of the DR to guarantee the faithful performance of the work in accordance with the Contract. The performance bond shall be effective through Contractor's warranty period. When submitting a proposal for services as requested by the TFC Contract Administrator, Contractor shall provide documentation for the cost of the performance bond.

(ii) A payment bond is required if the DR amount is in excess of \$25,000.00. The payment bond is to be for the sum of the DR and is payable to TFC solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with Contractor or a subcontractor. When submitting a proposal for services as requested by the TFC Contract Administrator, Contractor shall provide documentation for the cost of the payment bond.

(b) Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to TFC, on TFC's form, attached hereto and incorporated herein as Exhibit D – TFC Payment and Performance Bond Forms, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, TFC may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to TFC.

(c) Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond)

authorizing the attorney in fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.

(d) The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with Texas Government Code, Chapter 2253. **IF FOR ANY REASON A STATUTORY PAYMENT OF PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.**

(e) TFC shall furnish certified copies of the payment bond and the related Contract to any qualified person seeking copies who complies with Texas Government Code, Section 2253.026.

(f) Claims on payment bonds must be sent directly to Contractor and its surety in accordance with Texas Government Code, Section 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Contractor on such Contract, and that reliance on notices sent to TFC may result in loss of their rights against Contractor and/or its surety. TFC is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.

(g) The rights of subcontractors regarding payment are governed by Texas Property Code, Sections 53.231–53.239 when the value of a DR is less than \$25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.

(h) Sureties shall be listed on the US Department of the Treasury's Listing Approved Sureties stating companies holding Certificates of Authority as acceptable sureties on federal bonds and acceptable reinsuring companies (Department Circular 570).

8.02. **INSURANCE.** Prior to the commencement of work under this Contract, Contractor agrees to carry and maintain insurance in the following types and amounts for the duration of this Contract, to furnish certificates of insurance, and make available, at no cost to TFC, copies of policy declaration pages and policy endorsements as evidence thereof:

(a) Workers' Compensation and Employers' Liability coverage with minimum policy limits for employers' liability of \$100,000.00 bodily injury per accident, \$500,000.00 bodily injury disease policy limit and \$100,000.00 per disease, per employee. Workers' compensation insurance coverage must meet the statutory requirements of Texas Labor Code, Section 401.011(46). Certification in writing from Contractor and subcontractors shall be provided to TFC in accordance with Texas Labor Code, Section 406.096.

(b) Commercial General Liability with a combined single limit of \$1,000,000.00 per occurrence for coverage A and B including products/completed operations, where appropriate, with a separate aggregate of \$2,000,000.00 for bodily injury and for property damages. The policy shall contain the following provisions:

- Contract;
- (i) blanket contractual liability coverage for liability assumed under the
 - (ii) independent contractors' coverage;
 - (iii) State of Texas, TFC, its officials, directors, employees, representatives and volunteers must be listed as additional insureds;
 - (iv) thirty (30) day Notice of Cancellation in favor of TFC; and
 - (v) Waiver of Transfer Right of Recovery Against Others in favor of TFC.

(c) Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000.00 per accident for bodily injury and property damage. Alternate acceptable limits are \$250,000.00 bodily injury per person, \$500,000.00 bodily injury per accident and at least \$100,000.00 property damage liability per accident. The policy shall contain the following endorsements in favor of TFC:

- (i) Waiver of Subrogation endorsement;
- (ii) Thirty (30) day Notice of Cancellation endorsement; and
- (iii) Additional Insured endorsement.

(d) Umbrella Liability Insurance for an amount of not less than \$2,000,000.00 that provides coverage at least as broad as and applies in excess and follows the form of the primary liability coverage's required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

8.03. GENERAL REQUIREMENTS FOR INSURANCE. (a) Contractor shall be responsible for deductibles and self-insured retention, if any, stated in policies. All deductibles or self-insured retention shall be disclosed on the certificate of insurance required above. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with the date of this Contract and the certificate of insurance shall state that the coverage is claims made and the retroactive date.

(b) Contractor shall maintain coverage for the duration of this Contract. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Contract. Contractor shall, on at least an annual basis, provide TFC with an insurance certificate as evidence of such insurance. The premium for this extended reporting period shall be paid by Contractor.

(c) Contractor shall not commence work under this Contract until they have obtained the required insurance and until such insurance has been reviewed by TFC. Contractor shall not allow any subcontractors to commence work until the required insurance has been obtained and

approved. Approval of insurance by TFC shall not relieve or decrease the liability of Contractor hereunder.

(d) Insurance shall be written by a company licensed to do business in the State of Texas at the time the policy is issued and shall be written by a company with an A.M. Best rating of A- or better.

(e) TFC shall be an additional insured as its interests may apply on the Commercial General Liability and Business Automobile Liability Policies.

(f) Contractor shall produce endorsements upon TFC's request to each affected policy:

(i) Naming TFC, P.O. Box 13047, Austin, Texas 78711 as additional insured (except Workers' Compensation and employers' Liability);

(ii) That obligates the insurance company to notify the TFC Contract Administrator, TFC, P.O. Box 13047, Austin, Texas 78711, of any non-renewal, cancellations or material changes at least thirty (30) days prior to change or cancellation; and,

(iii) That the "other" insurance clause shall not apply to the State where TFC is an additional insured shown on the policy. It is intended that policies required in this Contract, covering both TFC and Contractor, shall be considered primary coverage as applicable.

(g) TFC shall be entitled, upon request and without expense, to receive copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies and if such request for deletions, revisions, or modifications are commercially available.

(h) Contractor shall not cause any insurance required under this Contract to cancel nor permit any insurance to lapse during the term of this Contract.

(i) TFC reserves the right to review the insurance requirements of this section during the effective period of the Contract and to make reasonable adjustments to insurance coverage and their limits when deemed necessary and prudent by TFC based upon changes in statutory law, court decisions or the claims history of the industry as well as Contractor (such adjustments shall be commercially available to Contractor).

(j) Contractor shall provide TFC thirty (30) days written notice of erosion of the aggregate limit.

(k) Actual losses not covered by insurance as required by this Contract shall be paid by Contractor.

(l) Contractor's insurance shall include a waiver of subrogation to TFC for the Workers' Compensation and Employers' Liability, Commercial General Liability, and Business Automobile Liability policies.

8.04. INDEMNIFICATION. (a) CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND CUSTOMERS, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

(b) CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TFC, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

(c) CONTRACTOR SHALL HAVE NO LIABILITY UNDER THIS SECTION IF THE ALLEGED INFRINGEMENT IS CAUSED IN WHOLE OR IN PART BY USE OF THE PRODUCT OR SERVICE FOR A PURPOSE OR IN A MANNER FOR WHICH THE PRODUCT OR SERVICE WAS NOT DESIGNED, ANY MODIFICATION MADE TO THE PRODUCT WITHOUT CONTRACTOR'S WRITTEN APPROVAL, ANY MODIFICATIONS MADE TO THE PRODUCT BY THE CONTRACTOR PURSUANT TO TFC'S SPECIFIC INSTRUCTIONS, ANY INTELLECTUAL PROPERTY RIGHT OWNED BY OR LICENSED TO TFC, OR ANY USE OF THE PRODUCT OR SERVICE BY TFC THAT IS NOT IN CONFORMITY WITH THE TERMS OF ANY APPLICABLE LICENSE AGREEMENT.

(d) **IF CONTRACTOR BECOMES AWARE OF AN ACTUAL OR POTENTIAL CLAIM, OR TFC PROVIDES CONTRACTOR WITH NOTICE OF AN ACTUAL OR POTENTIAL CLAIM, CONTRACTOR MAY (OR IN THE CASE OF AN INJUNCTION AGAINST TFC, SHALL), AT CONTRACTOR'S SOLE OPTION AND EXPENSE: (i.) PROCURE FOR TFC THE RIGHT TO CONTINUE TO USE THE AFFECTED PORTION OF THE PRODUCT OR SERVICE, OR (ii) MODIFY OR REPLACE THE AFFECTED PORTION OF THE PRODUCT OR SERVICE WITH FUNCTIONALLY EQUIVALENT OR SUPERIOR PRODUCT OR SERVICE SO THAT TFC'S USE IS NON-INFRINGEMENT.**

(e) **CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS AGREEMENT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS AGREEMENT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TFC AND/OR THE STATE SHALL NOT BE LIABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.**

(f) **CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TFC, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS AGREEMENT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

8.05. **NOTICE TO TFC.** In the event Contractor becomes aware of any claim that may be subject to the above-described indemnification, Contractor shall notify TFC of such claim within five (5) business days of becoming aware.

8.06. **SETTLEMENT AUTHORITY.** No settlement of any such claim shall be made by Contractor without TFC's prior written approval.

8.07. **LEGAL OBLIGATIONS.** Contractor shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit,

qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

IX. CONTRACTOR GENERAL AFFIRMATIONS.

9.01. **FINANCIAL INTERESTS/GIFTS.** (a) Pursuant to Texas Government Code Sections 572.051 and 2255.001 and Texas Penal Code Section 36.09, Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

(b) Pursuant to Texas Government Code Chapter 573 and Section 2254.032, if applicable, Contractor certifies that Contractor knows of no officer or employee of TFC, nor any relative within the second degree of consanguinity or affinity of an officer or employee of TFC, that has a financial interest in Contractor's company or corporation. Contractor further certifies that no partner, corporation, or unincorporated association which employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which Contractor will be dealing on behalf of TFC.

9.02. **PRIOR EMPLOYMENT.** Contractor knows of no officer or employee of TFC, nor any relative within the second degree of consanguinity or affinity of an officer or employee of TFC, that has a financial interest in Contractor's firm or corporation. Contractor further certifies that no partner, corporation, or unincorporated association that employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which Contractor will be dealing on behalf of TFC pursuant to the Texas Government Code, Chapter 573 and Section 2254.032. Furthermore, Contractor certifies and agrees that if it employs any former employee of TFC, such employee will perform no work in connection with this Contract during the twelve (12) month period immediately following the employee's last date of employment at TFC.

9.03. **ELIGIBILITY.** Pursuant to Texas Government Code Section 2155.004(b), Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

9.04. **FAMILY CODE.** Pursuant to the requirements of Texas Family Code Section 231.006, regarding delinquent child support, the undersigned signatory certifies that the individual or business entity named in this Contract is not ineligible to receive payment under this Contract and, if applicable, Contractor has provided the name and Social Security number of each person (sole proprietors, firm owners, partners, or shareholders) with at least twenty five percent (25%) ownership of the business entity entering into this Contract prior to its execution. Contractor acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

9.05. **DEBTS OR DELINQUENCIES TO STATE.** Pursuant to Texas Government Code Section 403.055, Contractor understands and agrees that any payment due under this Contract may be applied toward payment of any debt that is owed to the State of Texas including, but not limited to, delinquent taxes and child support.

9.06. **BUY TEXAS.** If Contractor is authorized to make purchases under this Contract, Contractor certifies that Contractor will buy Texas products, services, and materials when available at a comparable price and in a comparable period of time pursuant to Texas Government Code Ch. 2155.

9.07. **EQUAL OPPORTUNITY.** Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, religion, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this non-discrimination article. Contractor shall include the above provisions in all subcontracts pertaining to the work.

9.08. **DECEPTIVE TRADE PRACTICE; UNFAIR BUSINESS PRACTICES.** Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under the Texas Business and Commerce Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and those officers have not been found to be liable for such practices in such proceedings.

9.09. **DISCLOSURE OF FORMER STATE EXECUTIVE.** Pursuant to the Texas Government Code, Section 669.003 relating to contracting with an executive of a state agency, no person who, in the past four (4) years served as an executive of TFC or any other state agency was involved with or has any interest in this Contract or any Contract resulting from this Contract. If Contractor employs or has used the services of a former executive head of TFC or any other state agency, then Contractor has provided the name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Contractor, and the date of employment with Contractor.

9.10. **LIABILITY FOR TAXES.** Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of Contractor or its employees. TFC shall not be liable for any taxes resulting from this Contract.

9.11. **NO CONFLICTS.** Contractor represents and warrants that Contractor has no actual or potential conflicts of interest in providing services to the State of Texas under this Contract and

that Contractor's provision of services under this Contract would not reasonably create an appearance of impropriety.

9.12. **PROHIBITION ON CERTAIN BIDS AND CONTRACTS.** Under Texas Government Code, Section 2155.006, relating to the prohibition of certain bids and contracts, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. Contractor represents and warrants that during the five (5) year period preceding the date of this Contract, Contractor has not been: (i) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Texas Utilities Code, Section 39.459, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (ii) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Texas Utilities Code, Section 39.459, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

9.13. **IMMIGRATION REFORM.** The Immigration Reform and Control Act of 1986, as amended, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, require that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. TFC is committed to complying with all applicable immigration laws of the United States and requires compliance by all contractors and subcontractors who contract with the State. Contractor shall not place any employee of Contractor at a worksite, nor shall Contractor permit any employee, nor any Subcontractor, to perform any work on behalf of, or for the benefit of, TFC without first confirming said employee's authorization to lawfully work in the United States. Contractor warrants that Contractor: (i) maintains and follows an established policy to verify the employment authorization of its employees and to ensure continued compliance for the duration of employment; (ii) has verified the identity and employment eligibility of all employees in compliance with applicable law; (iii) has established internal safe officers and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to Contractor's senior management; and (iv) is without knowledge of any fact that would render any employee or Subcontractor ineligible to legally work in the United States. Contractor further acknowledges, agrees, and warrants that Contractor: (i) has complied, and shall at all times during the term of the Contractor comply, in all respects with the Immigration Reform and Control Act of 1986 and 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules, and regulations relating thereto; (ii) has properly maintained, and shall at all times during the term of the Agreement properly maintain, all records required by the Department of Homeland Security, Immigration and Customs Enforcement ("DHS-ICE"), including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees; and (iii) has responded, and shall at all times during the term of the Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of the Agreement, Contractor shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by TFC or any state agency of Contractor or any of its employees. Contractor acknowledges,

agrees and warrants that all Subcontractors permitted by it to perform work will be required to agree to these same terms as a condition to being awarded a Subcontract for such work.

9.14. **MINIMUM WAGE RATE REQUIREMENTS.** Notwithstanding any other provision of this Contract, Contractor hereby represents and warrants that the Contractor shall pay to each of its employees a wage not less than what is currently known as the “Federal Minimum Wage” and any increase or amendments thereto. Furthermore, Contractor shall produce proof of compliance with this provision by Contractor to TFC. TFC shall withhold payments due to Contractor until Contractor has complied with this provision. Prior to any payment being made for work satisfactorily completed and accepted, Contractor shall submit Wage Rate Affidavits with its billing documents affirming that all employees have been paid not less than the current “Federal Minimum Wage.”

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

X. MISCELLANEOUS PROVISIONS.

10.01. **ASSIGNMENT AND SUBCONTRACTS.** (a) Contractor shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Contract without the prior written consent of TFC.

(b) Notwithstanding this provision, it is mutually understood and agreed that Contractor may subcontract with others for some or all of the services to be performed. TFC shall approve all subcontractors. Subcontractors providing service under this Contract shall meet the same requirements and level of experience as required of the Contractor. No subcontract under the Contract shall relieve Contractor of responsibility for the service. If Contractor uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:

(i) Contractors planning to subcontract all or a portion of the work to be performed under this Contract shall identify the proposed subcontractor on Exhibit E – HUB Subcontracting Plan Form, as further described in Section 10.02 below.

(ii) Subcontracting shall be at the Contractor’s expense.

(iii) TFC retains the right to check any subcontractor’s background and make the determination to approve or reject the use of submitted subcontractors.

(iv) Contractor shall be the only contact for TFC and subcontractors. Contractor shall list a designated point of contact for all TFC and subcontractor inquiries.

10.02. **HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS).** In accordance with state law, it is TFC’s policy to assist HUBs, whether minority or women owned, whenever possible, to participate in providing goods and services to the agency. TFC encourages those parties with whom it contracts

for the provision of goods and services to adhere to this same philosophy in selecting subcontractors to assist in fulfilling Contractor's obligations with TFC. If Contractor subcontracts with others for some or all of the services to be performed under this Contract, Contractor shall comply with all HUB requirements pursuant to Texas Government Code, Chapter 2161 as described in Exhibit E – HUB Subcontracting Plan Form, attached hereto and incorporated herein for all purposes. In addition to information required by Section 10.01 above, Contractor shall provide TFC with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder on Exhibit E-1 – HSP Progress Assessment Report Form, attached hereto and incorporated herein for all purposes. PARs shall be submitted monthly with each invoice and are a condition of payment.

10.03. **FEDERAL, STATE, AND LOCAL REQUIREMENTS.** Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Contractor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Contractor or its employees for any unemployment or workers' compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

10.04. **PATENT, TRADEMARK, COPYRIGHT AND OTHER INFRINGEMENT CLAIMS.** Contractor shall indemnify, save and hold harmless the State of Texas from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from the State's or Contractor's use of or acquisition of any services or other items provided to the State of Texas by Contractor or otherwise to which the State of Texas has access as a result of Contractor's performance under this Contract, provided that the State shall notify Contractor of any such claim within a reasonable time of the State's receiving notice of any such claim. If Contractor is notified of any claim subject to this section, Contractor shall notify TFC of such claim within five (5) business days of such notice. No settlement of any such claim shall be made by Contractor without TFC's prior written approval. Contractor shall reimburse the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. Contractor shall pay all reasonable costs of the State's counsel and shall also pay costs of multiple counsel, if required to avoid conflicts of interest. Contractor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and permits.

10.05. **ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS.** (a) Effective September 1, 2006, all state agencies and institutions of higher education shall procure products which comply with the State of Texas accessibility requirements for electronic and information resources specified in Title 1 of the Texas Administrative Code, Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

(b) If applicable, Contractor shall provide the Texas Department of Information Resources ("DIR") with the universal resource locator ("URL") to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility

requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<https://app.buyaccessible.gov/baw/Main.jsp>). Contractors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

10.06. RELATIONSHIP OF THE PARTIES. Contractor is associated with TFC only for the purposes and to the extent specified in this Contract, and with respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor. Subject only to the terms of this Contract, Contractor shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for TFC whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and TFC shall have no obligation with respect to:

- (i) withholding of income taxes, FICA or any other taxes or fees;
- (ii) industrial or workers compensation insurance coverage;
- (iii) participation in any group insurance plans available to employees of the State of Texas;
- (iv) participation or contributions by the State of Texas to the State Employees Retirement System;
- (v) accumulation of vacation leave or sick leave; or
- (vi) unemployment compensation coverage provided by the State.

10.07. DRUG FREE WORK PLACE. Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law No. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Contractor, Contractor's employees, and Subcontractors shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

10.08. COMPLIANCE WITH OTHER LAWS. In the execution of this Contract, Contractor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal employment opportunity, safety, and environmental protection. Contractor shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect performance under this Contract.

10.09. **NOTICES.** Any notice required or permitted to be delivered under this Contract shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to TFC or Contractor, as the case may be, at the address set forth below:

For TFC: Texas Facilities Commission
1711 San Jacinto Blvd., Room 400
Austin, TX 78701
Attention: Legal Services Division
Phone: (512) 463-3446

For Contractor: Belfor USA Group Inc.
11525-B Stonehollow Drive, Suite 235
Austin, Texas 78758
Attn: Matt McCarty
Phone: (832) 795-9639
Email: matt.mccarty@us.belfor.com

Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

10.10. **NAME AND ORGANIZATIONAL CHANGES.** (a) Contractor must provide TFC with written notification of all name changes and organizational changes relating to Contractor including, but not limited to, merger, acquisition or sale no later than ten (10) business days of such change. Contractor, in its notice, shall describe the circumstances of the name change or organizational change, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform under the Contract. If the change entails personnel changes for personnel performing the responsibilities of the Contract for Contractor, Contractor shall identify the new personnel and provide resumes to TFC, if resumes were originally required by the solicitation. TFC may request other information about the change and its impact on the Contract and Contractor shall supply the requested information within five (5) working days of receipt of the request. All written notifications of organizational change must include a detailed statement specifying the change and supporting documentation evidencing continued right of Contractor or successor entity, as applicable, to maintain its status as a party to this Contract.

(b) TFC may terminate the Contract due to any change to Contractor that materially alters Contractor's ability to perform under the Contract.

10.11. **GOVERNING LAW AND VENUE.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. Contractor irrevocably waives any objection, including any objection to personal jurisdiction or proper venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the filing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **Nothing in this section shall be construed as a waiver of sovereign immunity by TFC.**

10.12. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

10.13. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges Contract is effective for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

10.14. **FORCE MAJEURE.** Any delays in or failure of performance by either party, except in respect of the obligation of payments under this Contract, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, herein called "Force Majeure", including acts of God or the public enemy, sabotage, war, mobilization, revolution, civil unrest, riots, strikes, lockouts, fires, accidents breakdowns, or floods, earthquakes, hurricanes or any other natural disaster or governmental actions. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, TFC may terminate this Contract immediately upon written notification to Contractor.

10.15. **LABOR ACTIVITY.** If any strike, boycott, picketing, work stoppage, slowdown, or other labor activity is directed against the Contractor at TFC's facility, which results in the curtailment or discontinuation of services performed herein, TFC shall have the right during said period to employ any means legally permissible to have the work performed.

10.16. **DISPUTE RESOLUTION.** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the parties to attempt to resolve all disputes arising under this Contract.

10.17. **COUNTERPARTS.** This Contract may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same agreement.

10.18. **NO WAIVER OF SOVEREIGN IMMUNITY.** Except as may be expressly and specifically provided otherwise by Chapter 114, Texas Civil Practice and Remedies Code, nothing in this Agreement shall be construed as a waiver of sovereign immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas, TFC or the Using Agency. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under the Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

10.19. **NO IMPLIED WAIVER.** The failure of a party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement shall not be construed as a waiver or a relinquishment thereof for the future.

10.20. **FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Contractor signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Contractor shall be in default under this Contract, and TFC may terminate or void this Contract for cause and pursue other remedies available to TFC under this Contract and applicable law.

10.21. **SURVIVAL OF TERMS.** Termination of the Contract for any reason shall not release Contractor from any liability of obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution and invoice and verification.

10.22. **ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistently with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification, renewal, extension or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

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TEXAS FACILITIES COMMISSION

By: [Signature]

Kay Molina

General Counsel

Date of Execution: 8/8/12

[Signature] G.C.

[Signature] Dir.

[Signature] D.E.D.

BELFOR USA GROUP INC

By: [Signature]

Print Name: MATT MCCARTY

Title: GENERAL MANAGER BELFOR-AUSTIN

Date of Execution: 8/1/12

EXHIBIT A

TFC CONTRACT NO. 18-028-000

**SECTION III, PROPOSED METHODOLOGY
FROM
CONTRACTOR'S RESPONSE TO RFQ**

Exhibit A



III. Proposed Methodology

Provide a detailed plan of how services will be handled from initial call, project estimation, how services will be handled and performed, to final invoicing.

Provide a proposed methodology for the services:

- Water remediation
- Fire/smoke remediation
- Mold remediation
- Biohazard remediation (raw sewage)
- Biohazard remediation (crime scene)

BELFOR Account Managers are primarily responsible for meeting client expectations and ensuring that the right team and resources are engaged on each project. They have the ability, resources, and authority to trigger any needed response after a property damage incident and are the key individuals accountable for any projects performed, from initial emergency response through final billing and payment.

Your Account Manager will pre-plan with designated members of the Texas Facilities Commission team to develop Standard Operating Procedures (SOP) for response and restoration specific to your properties. This includes putting the proper authorizations and agreements in place to allow for immediate dispatch and emergency service at all locations with no administrative delay.

To activate an emergency response, Texas Facilities Commission personnel will call the BELFOR in-house Call Center:

(800) 856-3333
Emergency Dispatch Hotline
24/7/365 Response

The phone will be answered immediately by a BELFOR employee agent who understands the urgent nature of the call and will ask pertinent questions to determine the nature and location of the loss. The caller will then be patched directly through to the Account Manager or another on-call Emergency Manager in the nearest BELFOR office to arrange for immediate dispatch.

An assigned Project Manager will respond from the closest office to the loss. He/She will be briefed on Texas Facilities Commission's Standard Operating Procedures and will keep the Account Manager informed about the project through completion.

An emergency response team will be dispatched to evaluate and mitigate the initial damage to keep it from progressing. Each event is evaluated to determine what is best for the type of facility, type of peril, the business unit that was affected, and how best to ensure business continuity.

Emergency responders will be immediately focused on stabilizing and saving mission-critical assets. Contents will be moved to safe areas if possible or stabilized and protected in place. Barrier walls and safe areas can quickly be erected around critical equipment, then cleaned and stabilized. For electronics and equipment, corrosion control procedures are immediately performed to forestall damage and keep restoration options open. Vital records will be inventoried, boxed and, depending upon the type of media, typically moved to refrigerator trucks for stabilization.

Due to our global network of resources, BELFOR can scale up rapidly to meet escalating demand. Depending upon the size of the event, additional managers, restoration technicians, and specialized skill workers will be called in as appropriate.

BELFOR team leaders will confer with the Texas Facilities Commission team to refine scope, decide on the approach that makes the most sense for that site and event, and quote estimated recovery costs and timeline.

Exhibit A



Water Remediation

- BELFOR protocols and procedures are based on the IICRC S500, Standard and Reference Guide for Professional Water Damage Restoration.
- Proper water damage restoration involves moving and securing contents, extracting excess physical water, identifying affected structural materials (walls, floors, ceilings) using moisture sensing/detection equipment, establishing target drying goals, and installing necessary drying equipment.
- Done correctly, structural drying is a science that weighs all pertinent variables, establishes goals and determines how best to recognize and document goal-attainment. BELFOR utilizes the most sophisticated dehumidification and monitoring equipment in the industry, along with highly-trained personnel to provide effective results and eliminate environmental concerns. Structural drying is very site-specific and one size never fits all.
- Removing standing water from the environment to stabilize conditions is an immediate goal upon arrival at a disaster scene. BELFOR teams are trained and highly adept at tracking hidden moisture to avoid long-term, undetected water damage problems and mold issues. Infrared cameras help ensure effective moisture detection.
- Daily inspections are performed to ensure drying efficiency. BELFOR maintains drying logs throughout the project to monitor moisture content and psychrometric conditions. No drying is complete until Equilibrium Moisture Content is attained. BELFOR provides photo documentation of every project.
- An exclusive agreement with Aggreko – the largest supplier of dehumidifiers, power generators, and temporary temperature control equipment in the world – gives us immediate access to additional equipment and specialty equipment beyond our own capacity. Per our agreement, BELFOR is the only restoration company Aggreko may supply. This is especially beneficial during regional or national catastrophes when resources elsewhere are depleted.
- Flood water is considered a Category 3 water loss and, due to the health and safety concerns for occupants, require additional steps during restoration. These steps include: identifying structural components that need to be removed and disposed, setting critical barriers to prevent cross contamination and installing HEPA filtered air scrubbers to clean ambient air and applying sanitizing chemicals.
- In Category 3 water losses, porous items are not salvageable. However, semi-porous items of value are analyzed further to determine restorability. Every situation and client is different, so this is determined on a case by case basis.

Fire & Smoke Remediation

- Fire clean-ups can be complex. The scope of clean-up is broken into two segments: structure and contents. The determining factors in developing the proper type of cleaning for each depends on the type of soot (dry or wet), the level of heat (defined by the heat line) and the affected surfaces or items.
- After a fire incident, an effective emergency response to mitigate damage and keep restoration options open is crucial to maintaining business continuity. BELFOR teams will help secure the property, quickly stabilize the facility by ventilating smoke and controlling ambient conditions, and recover and protect as many assets as possible.
- Trained technicians move quickly to determine the proper and most cost-effective cleaning processes. Corrosion control is performed to retain restoration options for electronics and equipment.
- In most cases, proper cleaning is a combination of dry and wet methods. Dry consists of air-washing, HEPA vacuuming or dry-sponging. Wet consists of washing with a specific cleaning and deodorizing product. Due to the acidic nature of soot, cleaning products used in fire restoration have a high pH to neutralize its corrosive effect.
- Often the cleaning of contents can take place on-site. Temporary ozone chambers can be constructed with visqueen for on-site deodorization. Occasionally contents may have to be taken off-site to provide effective cleaning and deodorization.
- Cleaning crews are broken into teams, each with a crew chief, and assigned to their respective areas. Areas are posted with a specific scope and a site supervisor must verify completed work.

Exhibit A



before the crew moves to the next area. Cleaning scopes identify the cleaning methods and cleaning products to be used.

- All necessary services, including temporary board-up, duct cleaning, structure cleaning & deodorization, content cleaning & deodorization, and reconstruction can be performed using BELFOR-owned companies. BELFOR warehouses a large amount of HEPA filtered air scrubbers, which can be used for cleaning of ambient air to make the structures acceptable for occupancy.
- To combat odors associated with virtually any disaster and help eliminate health and safety concerns, BELFOR combines the use of specially trained technicians with the most up-to-date dehumidification and air purifying equipment available today. Proprietary applications and techniques for the removal of source odors have been developed by the BELFOR National Technical Service Division.
- The most effective way to remove odor is to remove the source of the odor, versus sealing or masking techniques only, which can leak odor over time and as materials expand. BELFOR guarantees smoke odor removal on all of its fire damage projects, ozone treatment, and offers safe and highly effective deodorization for contents governed by strict OSHA and WCB guidelines.
- Duct cleaning is typically necessary to eliminate odor after a fire. BELFOR owns a commercial duct cleaning company called Ductz, which can provide critical services in tandem with restoration crews.

Mold Remediation

- BELFOR offers comprehensive mold remediation service, bringing vast experience, leadership and sensibility to the process.
- BELFOR technicians bring trained expertise to every mold remediation project, including: strategic response, proper assessment, engineering controls, remediation barriers, state-of-the-art equipment, risk-specific protocols, measured results, and highly-experienced remediation teams.
- IICRC Standard - Our Standard of Care is a combination of the IICRC S520 (Standard and Reference Guide for Professional Mold Remediation) and the University standards. Members of BELFOR's National Technical Services Division are leaders in the industry and helped author the current IICRC S520 Standard in use today.
- Workers on mold remediation projects are required wear the proper PPE for the level of project to be performed. They must also pass a physical exam and be fitted for respirators at time of hire.
- Duct Cleaning - In commercial environments, the air delivery system is frequently cited as a major contributor to illness, as airborne contaminants are pulled into air ducts, creating an ideal breeding ground for mold, bacteria, fungi and other microbes. As part of a restoration project or as a stand-alone service to clean and decontaminate the ducts in your building, BELFOR provides these services to clients directly.
- Mold remediation projects consist of the following:
 - Establishing engineering controls (through poly containments and HEPA-filtered negative air machines)
 - Removal and disposal
 - Evaluation and cleaning of contaminated materials and surfaces using specific anti-microbial products
 - HEPA vacuuming.

Biohazard Remediation (Sewage)

- Sewage is a Category 3 water loss and, due to the health and safety concerns for occupants, requires additional steps during restoration. These steps include: identifying structural components that need to be removed and disposed, setting critical barriers to prevent cross contamination and installing HEPA filtered air scrubbers to clean ambient air and applying sanitizing chemicals.
- Whenever possible, sewage is returned back into the sanitation system of origin.

Exhibit A



Biohazard Remediation (Crime Scene)

- Our biohazard cleaning service covers all forms of biohazard material from blood and decomposition to biohazard waste. BELFOR works with cities and counties to clean jails, laboratories, tear gas, finger print dust, clandestine methamphetamine drug labs, emergency cleaning, prisons, police cars, meth labs, squad cars, coroners labs, medical waste, forensic evidence, crime scenes, and any other blood, urine, feces, vomit, or other biohazardous material encountered in the course of law enforcement facilities and vehicles.
- Directly impacted contaminated materials are removed and disposed. The disposal is two-fold; items are placed into biohazard bags and then the bags into labeled biohazard boxes. Areas exposed to secondary damages, odor and insects, are cleaned using a sanitizing wash. Cleaning towels used are disposed of after use.
- A biohazard waste disposal company is used who can provide manifested disposal to verify proper handling of materials.

As the primary contact, Matt McCarty will be responsible for monitoring each loss from beginning to end to ensure client satisfaction. A debriefing after each project allows the Account Manager to implement needed process improvements before the next response.

Quarterly or semi-annual reporting from your BELFOR Account Manager is recommended, detailing both frequency and severity of losses.

BELFOR uses several billing methodologies based on type of project and client wishes:

Rate and Material Billing

Emergency response services are typically billed on a Rate & Material basis. This methodology uses a published rate structure to bill for the resources expended during a recovery. The main components of Rate and Material billing are Labor (Hourly Rates), Equipment (Daily Rental Rates), Consumables (Charged per unit consumed on a project), Vendor (supported with actual invoice backup from the vendor with a BELFOR mark-up applied), and Reimbursables (expenses incurred for travel, lodging, per diem, etc. with a BELFOR mark-up applied).

JD Edwards

BELFOR uses JD Edwards software to track equipment on the job site and for project invoicing and reporting. JDE has a material and equipment barcode system that produces a detailed report of all material and equipment on the job site. Daily activity reports are filled out by each project manager/supervisor. This document will detail what each of their crews accomplished each day and what materials and equipment they used. These Daily activity reports are turned in to the on-site auditors. The auditors then compile all the information gathered to ensure an accurate and timely invoice reflecting labor, materials, and equipment used, and then enter them into the JDE system.

JDE allows for real time data look-up and reporting. The financial reports are run monthly and accompany invoices. Specialized reporting, per the client is generated as directed by the client and may be generated from several components. A query field that may be used in information gathering is the vendor name, client name, client address, etc.

BELFOR tracking/accounting system accounts for actual expenditures for all purchases of equipment and materials that are purchased for a project that are not a part of the rate schedule. Supplies and materials that are used out of inventory and that are scheduled are accounted for by a sign-out process.

Xactimate

BELFOR uses the industry standard software Xactimate to produce reconstruction estimates. This program is a web based program that allows us to use local unit pricing for each region. It gives a detailed line item estimate using unit prices. This program is the most widely used estimating program in the insurance industry. BELFOR also uses Xactimate to estimate water losses using unit prices for clean-up and mitigation on some occasions.

EXHIBIT B

TFC CONTRACT NO. 18-028-000

COMPENSATION AND FEES

Exhibit B



VII. Attachment D – Compensation and Fees

Respondent may not add qualifications, conditions, exceptions, variations, or additional items to the proposal, or otherwise modify the pricing structure of the RFP in any manner.

COMPENSATION AND FEES

Labor Rates:

Item #	Classification	Hourly Rate – Normal*	Hourly Rate – Premium**
1	Service/Remediation Technician Water/Fire/Smoke/Mold	\$40.00	\$60.00
2	Service/Remediation Technician Bio-Hazard	\$55.00	\$82.50
3	Project Supervisor	\$42.00	\$63.00
4	Project Manager	\$50.00	\$75.00
5	Unskilled Labor	\$26.00	\$39.00

*Normal Hours is defined as 7:30 AM – 5:30 PM Monday through Friday

**Premium is defined as any hours that fall outside of Normal Hours or on Holidays

Standard Equipment Rates:

Item #	Description	Daily Rate	Weekly Rate
6	Dehumidifiers	\$75.00	\$300.00
8	Axial Air Mover	\$28.00	\$125.00
Item #	Description	Rate per Square Foot – Normal Hours	Rate per Square Foot – Premium Hours
	Water Extraction – Clean Water	\$.20	\$.32
	Water Extraction – Grey Water	\$.36	\$.55
	Water Extraction – Black Water	\$.65	\$1.00

Include on a separate sheet a fee schedule or price list for the various other materials, equipment, and services that are available. Pricing included on the attached pricing sheet shall be considered Not-to-Exceed pricing. The awarded vendor may submit pricing lower than that submitted on pricing sheet, but cannot exceed original pricing submitted for solicitation.

PROMPT PAYMENT CASH DISCOUNT: 0 % 0 DAYS

PAYMENT TERMS: Discounts for prompt payment will not be considered in the evaluation of proposals; however, any offered discount will become a part of the award, and will be taken if earned.

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Exhibit B



Additional Equipment	Daily Rate	Weekly Rate
HEPA Air Scrubber – 1000 CFM	\$75.00	\$300.00
HEPA Air Scrubber – 2000 CFM	\$140.00	\$560.00
Extraction Unit – Portable	\$150.00	
Extraction Unit – Truck Mount	\$550.00	
Carpet Cleaning Machine	\$75.00	
Injectidry Unit	\$125.00	\$500.00
Fogger, ULV / Thermal	\$30.00	
Vacuum – HEPA	\$75.00	
Vacuum – Wet / Dry	\$25.00	
Vehicle – Supervisor / Pick-Up	\$65.00	
Vehicle – Cargo Van – 10 Pass	\$125.00	
Vehicle – Box Truck	\$155.00	

Additional Labor Rates	Hourly Rate – Normal	Hourly Rate – Premium
General Labor	\$32.75	\$49.12
Demolition Technician	\$45.00	\$67.50
Mobilization Support	\$35.00	\$52.50
Health & Safety Officer	\$70.00	\$105.00

Proposed square footage pricing is for water extraction, which includes all labor and equipment for larger size losses. In the event of smaller type areas, pricing will be per hourly labor/equipment rates provided.

EXHIBIT C

TFC CONTRACT NO. 18-028-000

CRIMINAL BACKGROUND CHECKS AND APPLICATION GUIDELINES

EXHIBIT C

TEXAS FACILITIES COMMISSION
CRIMINAL BACKGROUND CHECKS AND APPLICATION
GUIDELINES

It is the policy of the Texas Facilities Commission ("TFC") that all contractor employees and subcontractors that will complete any work on-site at a state-owned property may be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by the contractor. Contractor employees and subcontracts who work in case-sensitive areas shall be required to submit to a criminal history background check. If requested by TFC, a complete criminal background check shall be completed before any employee performs services at the site. Criminal background checks must be performed by the Texas Department of Public Safety ("DPS") and must be on the form provide by TFC.

I. CRIMINAL HISTORY CRITERIA

Employers should use the following criminal history criteria when hiring employees to perform work for TFC. Any employee failing to meet the minimum standard will be denied. If special circumstances exist, please contact the TFC representative for clarification or further consideration.

A conviction or deferred adjudication for one of the following offenses will result in the **permanent disqualification** of a person from eligibility to provide contractual services with Texas Facilities Commission:

- (i) any act causing death as defined in Texas Penal Code; and
- (ii) any felony or misdemeanor involving arson, burglary, breach of computer security, credit card abuse, counterfeiting, forgery, kidnapping, robbery, stalking, terroristic threat, theft, and any sexual offense designated as a felony in Texas Penal Code.

Additionally, anyone who has a current duty to register as a sex offender, is under indictment or is a fugitive from justice is disqualified.

EXHIBIT C

For individuals who have a conviction or deferred adjudication for felonies not enumerated above, 10 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the TFC.

For individuals who have a misdemeanor conviction or deferred adjudication for misdemeanors not enumerated above, 5 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the TFC.

II. CRIMINAL BACKGROUND PROCESS

DPS has entered into an exclusive contract with Identogo Centers, formerly L-1 Enrollment Services, operated by MorphoTrust USA. Identogo by MorphoTrust is the exclusive live scan fingerprinting provider for DPS. All TFC contractors that are subject to TFC criminal background check requirements must create an account with Identogo in accordance with the Identogo Account Application and requirements attached hereto as "Attachment A". Thereafter, all contractor employees and subcontractors must follow the registration procedures attached hereto as "Attachment A" including using the *Texas Facilities Commission Service Code 11G6ZN*. All necessary instructions and information to schedule a fingerprint appointment is included in Attachment A. In addition, the only service code accepted by DPS for a TFC criminal background check is the service code provided in Attachment A, hereto, therefore, if an individual does not use the service code in Attachment A, he or she may be required to repeat the process at the expense of contractor. Contractors can begin the process by simply clicking on this link: <https://uenroll.identogo.com/servicecode/11G6ZN>

Additionally, forms and instructions can be found on the Identogo website at <http://www.identogo.com> by clicking on the State of Texas. Links on that page include one for online scheduling and a list for the state-wide fingerprinting locations. The waiver form for the criminal background check is attached hereto as "Attachment B". In the event Contractor needs to set up a new account, please refer to the attached link for instructions: <http://www.l1enrollment.com/state/forms/tx/566718664f05a.pdf>.

III. CRIMINAL HISTORY ERROR RESOLUTION

The Error Resolution Unit ("ER") is responsible for updating and evaluating possible errors in criminal history records. Potential errors are reported to ER by law enforcement, judicial agencies, as well as private citizens.

If an applicant would like to make a request that a criminal history record be updated or corrected, the applicant will need to supply certified documents to the ER. Required forms and additional information submit a correction request to the ER can be found at:

http://txdps.state.tx.us/administration/crime_records/pages/errorresolution.htm.

IV. TFC CONTACTS

For any questions involving the TFC criminal background check process, please contact the following:

EXHIBIT C

Tommy Oates, Deputy Executive Director
Office: 512-463-3057
Cell: 512-463-3376
Email: tommy.oates@tfc.state.tx.us

Shawn Finley, Manager
Office: 512-463-1668
Cell: 512-848-3111
Email: shawn.finley@tfc.state.tx.us

Sharee Johns, Team Lead
Office: 512-463-6157
Cell: 512-961-2928
Email: sharee.john@tfc.state.tx.us

ATTACHMENT A

Facilities Commission (ORI Facilities Commission/Service Code 11G6ZN)

The general process for electronic fingerprinting is:

1. Schedule an appointment to be electronically fingerprinted by MorphoTrust USA at one of their IdentoGo enrollment centers.
 - Internet based scheduling is the quickest and most convenient way to obtain a fingerprint appointment.
 - a. You may begin the process now by simply clicking on this link:
<https://uenroll.identogo.com/servicecode/11G6ZN>
 - b. Provide all required pre-enrollment data and select a convenient date and time for your appointment
 - If you prefer to schedule over the telephone, you must:
 - a. Have your Service Code ready (11G6ZN), then call 888.467.2080;
 - b. MorphoTrust will prompt you for the Service Code (11G6ZN);
 - c. Provide all required pre-enrollment data and select a convenient date and time for your appointment
2. Arrive at your scheduled appointment with your photo identification and fee
 - If you plan on bringing a form of identification other than a valid (unexpired) TX Driver License, please refer to the Department of Public Safety's acceptable document types here: <http://www.t1enrollment.com/state/forms/tx/55fc619a7f7aa.doc>
 - MorphoTrust accepts Visa/MasterCard/Discover/American Express, business checks, money orders and coupon codes (employer accounts) at the time of service.
 - Please note that personal checks and cash are **not accepted**.
3. Your fingerprints will be submitted electronically to DPS and the FBI. You will not receive a printed fingerprint card.
4. At the conclusion of your appointment, the MorphoTrust enrollment agent will provide you with an IdentoGo receipt stating that you were fingerprinted.
 - Do not throw away the receipt;
 - You may check status on your submission by clicking on this link:
<https://uenroll.identogo.com/servicecode/11G6ZN> and then;
 - Click "Check Status"

Fingerprints provided for this application shall be used to check criminal history records of the Texas Department of Public Safety and the Federal Bureau of Investigation, in accordance with applicable statutes.

ATTACHMENT B

**IdentoGO**

By MorphoTrust USA

Texas Fingerprint Service Code Form

Facilities Commission

Service Name: Facilities Commission

To schedule your ten-minute fingerprint appointment, simply visit
<https://uenroll.identogo.com> and enter the following Service Code

11G6ZN**Background Check Waiver**

I certify that all information I provided in relation to this criminal history record check is true and accurate. I authorize the Texas Department of Public Safety (DPS) to access Texas and Federal criminal history record information that pertains to me and disseminate that information to the designated Authorized Agency or Qualified Entity with which I am or am seeking to be employed or to serve as a volunteer, through the DPS Fingerprint-based Applicant Clearinghouse of Texas and as authorized by Texas Government Code Chapter 411 and any other applicable state or federal statute or policy.

I authorize the Texas Department of Public Safety to submit my fingerprints and other application information to the FBI for the purpose of comparing the submitted information to available records in order to identify other information that may be pertinent to the application. I authorize the FBI to disclose potentially pertinent information to the DPS during the processing of this application and for as long hereafter as may be relevant to the activity for which this application is being submitted. I understand that the FBI may also retain my fingerprints and other applicant information in the FBI's permanent collection of fingerprints and related information, where all such data will be subject to comparisons against other submissions received by the FBI and to further disseminations by the FBI as may be authorized under the Privacy Act of 1974 (5 USC 552a). I understand my fingerprints will be searched by and against civil, criminal and latent fingerprints in the Next Generation Identification (NGI) system. I understand I am entitled to obtain a copy of any criminal history record check and challenge the accuracy and completeness of the information before a final determination is made by the Qualified Entity. I also understand the Qualified Entity may deny me access to children, the elderly, or individuals with disabilities until the criminal history record check is completed. If a need arises to challenge the FBI record response, you may contact the agency that submitted the information to the FBI, or you may send a written challenge request to the FBI's Criminal Justice Information Services (CJIS) Division at FBI CJIS Division, Attention: Correspondence Group, 1000 Custer Hollow Road, Clarksburg, WV 26306.



Don't have access to the Internet? You can still schedule an appointment by calling 888.467.2080

EXHIBIT D

TFC CONTRACT NO. 18-028-000

TFC PAYMENT AND PERFORMANCE BOND FORMS

Exhibit D

PAYMENT BOND

STATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal
and we _____ a corporation
duly authorized to do business in this State, as Surety(s), are this date held and firmly
bound unto the State of Texas in the amount of _____

_____ Dollars \$ _____
for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.

Since a Contract, which by reference is made a part hereof, exists between Principal and the State
of Texas, acting by and through the Texas Facilities Commission, and dated _____
for the _____

The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless
and until the Principal shall faithfully perform the Contract in accordance with the Contract
Documents.

The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in
accordance with the provisions of Chapter 2253 of the Texas Government Code, amended by Acts
of 73rd Legislature, 1993 pursuant to which Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this
Instrument

this _____ day of _____

PRINCIPAL

SURETY

By _____

By _____

Bond Identification No. _____

Address of Attorney-In-Fact _____

Telephone No. of Attorney-In-Fact _____

Exhibit D

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal
and we _____ a corporation
duly authorized to do business in this State, as Surety(s), are this date held and firmly
bound unto the State of Texas in the amount of _____

_____ Dollars \$ _____
for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.

Since a Contract, which by reference is made a part hereof, exists between Principal and the State
of Texas, acting by and through the Texas Facilities Commission, and dated _____
_____ for the _____

The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless
and until the Principal shall faithfully perform the Contract in accordance with the Contract
Documents.

In the event of Principal's failure, as defined by the Contract Documents, to faithfully perform the
Contract, Surety(s) will within fifteen (15) days of determination of default, assume full responsibility
for completion of said Contract and become entitled to payment of the balance of the Contract
amount.

The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in
accordance with the provisions of Chapter 2253 of the Texas Government Code, amended by Acts
of 73rd Legislature, 1993 pursuant to which Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this
instrument

this _____ day of _____

PRINCIPAL

SURETY

By _____

By _____

Bond Identification No. _____

Address of Attorney-In-Fact _____

Telephone No. of Attorney-In-Fact _____

(Use of this form for the purposes indicated has been approved by the Attorney General of Texas)

EXHIBIT E
TFC CONTRACT NO. 18-028-000
HUB SUBCONTRACTING PLAN FORM



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

-- Agency Special Instructions/Additional Requirements --

In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION 1 RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: _____

(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2 RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including contracted staffing, goods and services will be subcontracted. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b of this SECTION and continue to Item c of this SECTION)
- No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a "continuous contract" in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a "continuous contract" in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a "continuous contract" in place with for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 2. RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a "continuous contract" in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a "continuous contract" in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3. SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below explain how your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

[Empty box for self-performing justification]

SECTION 4. AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

Rev 2/17

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, continue to SECTION B-4.)
- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/passcmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB <input type="checkbox"/> - Yes <input type="checkbox"/> - No	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____
 Point-of-Contact: _____
 E-mail Address: _____

State of Texas VID #: _____
 Phone #: _____
 Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____
 Point-of-Contact: _____
 Requisition #: _____

Phone #: _____
 Bid Open Date: _____
 (mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____
 Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

- Not Applicable

4. Bonding/Insurance Requirements:

- Not Applicable

5. Location to review plans/specifications:

- Not Applicable

EXHIBIT E-1

TFC CONTRACT NO. 18-028-000

HUB SUBCONTRACTING PLAN PROGRESS ASSESSMENT REPORT FORM

