

TFC Contract No. 18-172-000
Flintco, LLC
RFQ No. 303-00611
Amendment No. 1
Project No. 18-002-8601

**AMENDMENT NO. 1
TO
CONSTRUCTION MANAGER-AT-RISK CONTRACT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
FLINTCO, LLC**

The Texas Facilities Commission (hereinafter referred to as “TFC”), a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701, as Owner (as defined in 2015 UGC Section 1.28) and Flintco, LLC, a limited liability company (hereinafter referred to as “CMR”), located at 8100 Cross Park Drive, Austin, Texas 78754 (hereinafter referred to as “CMR”) (hereinafter referred to collectively as the “Parties”), enter into the following *Amendment No. 1 to the Construction Manager-at-Risk Contract between the Texas Facilities Commission and Flintco, LLC* (hereinafter referred to as the “Amendment No. 1”).

Recitals:

WHEREAS, on May 4, 2018, the Parties entered into that one certain *Construction Manager-at-Risk Contract Between the Texas Facilities Commission and Flintco, LLC* (hereinafter referred to as the “Contract”); and

WHEREAS, in keeping with Contract Sections 2.1.4, TFC Approvals, and 12.26, Entire Agreement and Modification, the Parties desire to amend the Contract to provide additional funding, to increase the Contract Sum and reapportion its Components, to incorporate certain statutorily required provisions, and for such other purposes as are addressed herein;

NOW, THEREFORE, the Parties agree to amend the Contract as follows:

1. Unless clearly provided otherwise herein, all terms and phrases in initial caps herein shall have the same meaning as the terms and phrases with initial caps in the Contract.
2. The Parties agree to modify ARTICLE IV – CONSIDERATION, Section 4.2, Contract Sum-Components, to reflect the addition of Four Hundred Thousand and No/100 Dollars (\$400,000.00) thus increasing the total Contract amount from One Million Two Hundred Eighty Thousand Ninety-Two and No/100 Dollars (\$1,280,092.00) to a new total not to exceed amount of One Million Six Hundred Eighty Thousand Ninety-Two and No/100 Dollars (\$1,680,092.00) reflecting the additional funding indicated in Proposed Change Order Forms A, B, and C, dated November 19, 2018, attached hereto as “Exhibit A-1” and incorporated herein for all purposes. Section 4.2 is deleted in its entirety and replaced with Section 4.2, as follows:

“4.2. Contract Sum–Components. Upon execution of a GMP Acceptance, the Contract Sum shall not exceed One Million Six Hundred Eighty Thousand Ninety-Two and No/100 Dollars (\$1,680,092.00), which is the sum of the following components.

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4.2.1. Pre-Construction Management Fee. The Pre-Construction Management Fee of Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00).

4.2.2. Construction Management Fee. The Construction Management Fee not to exceed three and 85/100 percent (3.85%) of the Cost of Work, Fifty-One Thousand Two Hundred Five and No/100 Dollars (\$51,205.00), which sum will be finalized as part of the Contract Sum in the GMP Acceptance.

4.2.3. General Conditions Fee. The General Conditions Fee not to exceed One Hundred Ninety-Five Thousand Eight Hundred Seventy-Nine and No/100 Dollars (\$195,879.00), which sum will be finalized as part of the Contract Sum in the GMP Acceptance.

4.2.4. Cost of Work. The Cost of Work will be adjusted and finalized as part of the Contract Sum in the GMP. The budget for the Cost of Work shall not exceed One Million Three Hundred Thirty and No/100 Dollars (\$1,330,000.00).

4.2.5. TFC Controlled Contingency. The TFC Controlled Contingency of Fifty Thousand and No/100 Dollars (\$50,000.00), which sum shall be maintained through construction, and included in the Contract Sum and finalized in the GMP Acceptance.

4.2.6. Unused Contingencies. Any unused portion of the CMR Contingency and the TFC Controlled Contingency shall be returned to TFC at the completion of the Project through a credit Change Order to the Contract Sum.”

3. Pursuant to Contract Section 7.1.1, Compliance with All Laws, the Parties agree to modify ARTICLE VI – ACKNOWLEDGEMENTS, COVENANTS, AND AGREEMENTS, by adding Sections 6.2.19, Prohibition Against Contracting with Companies Engaged in Business with Iran, Sudan, or Freight Terrorist Organizations, and ARTICLE VII – WARRANTIES AND REPRESENTATIONS BY CMR, by adding Section 7.1.7.1, Disaster Relief Contract Violation, which shall read in their entirety as follows:

“6.2.19. Prohibition against contracting with companies engaged in business with Iran, Sudan, or Foreign Terrorist Organizations. In accordance with Section 2251.152 of the Texas Government Code, TFC is prohibited from entering into a governmental contract (as defined in Texas Government Code Section 2252.151(3)) with a company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807.051, or 2252.153. If contractor is on the above-referenced list the Contract will be considered void or voidable and TFC will not be responsible to pay Contractor for any work performed.”

“7.1.7.1. Disaster Relief Contract Violation. Under Sections 2155.006 and 2261.053 of the Texas Government Code, CMR certifies that the individual or business entity named in the response or Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification

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is inaccurate.”

4. The parties hereby agree to amend ARTICLE XII – MISCELLANEOUS PROVISIONS, SECTION – 12.7 – NOTICES, by changing the contact for CMR as follows:

“If to CMR: Flintco, LLC
Attention: Kirk Benken, Vice President, Area Manager
8100 Cross Park Drive
Austin, Texas 78754
E-Mail: Kirk.Benken@Flintco.com
Telephone: (512) 822-7450

5. Except as expressly amended above, the Contract remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment No. 1 to be effective as the date of the last party to sign.

TEXAS FACILITIES COMMISSION

FLINTCO, LLC

By:  _____
B1C9FCUA80Z0417...

By:  _____
4DB67C41C8BF434...

Mike Novak

Kirk D. Benken

Executive Director

Vice President, Area Manager

Date of execution: 01/08/2019 | 1:20 PM CST

Date of execution: 01/08/2019 | 12:06 PM CST

G.C. NRG

Dir. mw

D.E.D. JK

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EXHIBIT A-1

PROPOSED CHANGE ORDER FORMS A, B, AND C



ARCHITECT'S	A
Proposed Change Order Form	

TO: Contractor

Please prepare a CONTRACTOR'S PROPOSED CHANGE ORDER FORM B on the following proposed change: (Additional sealed documents necessary to completely describe the change identified below are attached.)

18-002-8601
TFC PROJECT NO.

PCO 002
PROPOSED CHANGE ORDER NO.

11/19/2018
DATE

Addition of \$400,000 to the contract to provide construction manager at risk services for construction of a new residential administration building on the TSBVI campus. \$330,000 to be added to the Cost of Work; \$11,787 add to General Conditions; \$12,705 add to the CM Fee; and \$45,508 add to the Contingency

Contract Summary

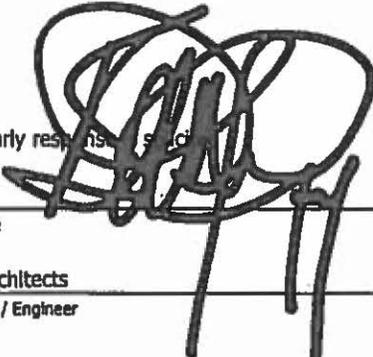
		original contract	proposed amendment
<i>Cost of Work</i>	72.7%	\$ 1,000,000.00	\$ 1,330,000.00
<i>Pre-Con</i>		\$ 7,500.00	\$ 7,500.00
<i>Gen Conditions</i>	18.4%	\$ 184,092.00	\$ 195,879.00
<i>CM Fees</i>	3.85%	\$ 38,500.00	\$ 51,205.00
<i>TFC Contingency</i>	5.0%	\$ 50,000.00	\$ 50,000.00
<i>CMR Contingency</i>			\$ 45,508.00
Contract Total		\$ 1,280,092.00	\$ 1,680,092.00

This Proposed Change Order was Initiated

by Dorothy Spearman

Texas Facilities Commission

Your early response is solicited

by 
Signature

GSC Architects
Architect / Engineer

ROUTING INFORMATION

1. Architect / Engineer prepare Proposed Change Order (PCO) in Impact and assign PCO number. Prepare and upload form "A", along with any attachments and transmit to Contractor via Impact.

2. Contractor prepare Form "B," Respond to PCO in Impact, upload Form "B" and transmit to Architect / Engineer.

4. TFC staff review all documents, fill in amounts on CHANGE ORDER form, assign CHANGE ORDER NUMBER, and endorse. Transmit to Using Agency via email/Impact.

5. Using Agency review all documents and endorse CHANGE ORDER form. Transmit to TFC via Impact.

6. TFC final Approval. Transmit copies of all documents to all parties via Impact.



CONTRACTOR'S Proposed Change Order Form	B
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TD: Architect / Engineer

The following is a detailed cost breakdown, including both materials and labor for all additions to and/or deductions from the contract sum if the change described on form A is accepted. (Additional data necessary to support itemized figures is attached and identified below.)

18-002-8601
TFC PROJECT NO.

PCO 002
PROPOSED CHANGE ORDER NO.

11/19/2018
DATE

Addition of \$400,000 to the contract to provide construction manager at risk services for construction of a new residential administration building on the TSBVI campus.

Total Addition / Deduction (circle one) to CONTRACT SUM if accepted: \$ 400,000.00

Request is made for addition of TBD CALENDAR DAYS to the contract period.

The above proposal is submitted for your consideration. The undersigned contractor understands and agrees that this proposal is validated only by the approved CHANGE ORDER attached hereto.


Authorized Signature

Flintco, LLC
Name of Contracting Firm



ARCHITECT'S	C
Proposed Change Order Form	

TO: Texas Facilities Commission

AND: Dorothy Spearman
PM/ODR

18-002-8601
TFC PROJECT NO.

The Proposed Change Order Documents are presented for your consideration and approval. The Contractor's Form "B" has been reviewed and it is recommended for approval by the undersigned. Acceptance of this change is recommended for the following REASON and JUSTIFICATION.

PCO 002
PROPOSED CHANGE ORDER NO.

11/19/2018
DATE

REASON:

Addition of \$400,000 to the contract to provide construction manager at risk services for construction of a new residential administration building on the TSBVI campus. \$330,000 to be added to the Cost of Work; \$11,787 add to General Conditions; \$12,705 add to the CM Fee; and \$45,508 add to the Contingency.

Contract Summary

		original contract		proposed amendment
<i>Cost of Work</i>	72.7%	\$ 1,000,000.00		\$ 1,330,000.00
<i>Pre-Con</i>		\$ 7,500.00		\$ 7,500.00
<i>Gen Conditions</i>	18.4%	\$ 184,092.00		\$ 195,879.00
<i>CM Fees</i>	3.85%	\$ 38,500.00		\$ 51,205.00
<i>TFC Contingency</i>	5.0%	\$ 50,000.00		\$ 50,000.00
<i>CMR Contingency</i>				\$ 45,508.00
Contract Total		\$ 1,280,092.00		\$ 1,680,092.00

JUSTIFICATION:

Per John Raff, TFC, \$400,000 is added to the contract, providing CM@R services for the construction of TSBVI - Residential Administration, Building 612. The Design Team takes no exception to PCO 002.

Respectfully submitted

by

Signature

GSC Architects
Architect / Engineer