FREIGHT TRANSPORTATION SERVICE PROVIDER CONTRACT BETWEEN THE TEXAS FACILITIES COMMISSION AND GILTNER LOGISTIC SERVICES, INC.

The Texas Facilities Commission, a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 (hereinafter referred to as "TFC"), as Owner and Giltner Logistic Services, Inc. located at 834 Falls Avenue, Suite 1250, Twin Falls, Idaho 83301, (hereinafter referred to as "Transportation Service Provider" or "TSP") , enter into the following contract for Transportation Services (hereinafter referred to as the "Contract") pursuant Tex. Gov't Code Ann. Ch. 2175 (West 2012 & Supp. 2016), to be effective as of the Effective Date (as defined below).

I. DEFINITIONS

1.1. Definitions. Unless specifically provided otherwise herein, all words and phrases in this Contract in initial caps shall have the meanings set out in this Section 1.1. In the event of any conflict between the definitions in or in any other document that is referenced herein and incorporated for all purposes, and the definitions in this Contract, the definitions used in this Contract shall control to the extent of the conflict.

1.1.1 *Acceptance* means the act of an authorized representative of TFC, by which TFC assumes for itself or approves specific services as partial or complete performance of the requirements of this Contract.

1.1.2. *Broker* means an individual other than a motor freight TSP, as defined below in section 1.1.20, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement or otherwise as selling, providing, or arranging for, transportation by a TSP for compensation.

1.1.3. *C5 Form/Letter of Authorization to Release ("C5 Form")* is a form that TFC provides to awarded TSPs that identifies trucking companies, truck lines and driver names and authorizes TSP to pick up freight from federal locations.

1.1.4. *Consideration* means the funds and any and all other forms of valid, legal, consideration as discussed in Article V of this Contract.

1.1.5. *Contract Documents* means those documents identified in Article III of this Contract.

1.1.6. *Department of Transportation ("DOT")* means the federal agency charged with setting out laws, rules, and procedure to keep the traveling public safe and secure.

1.1.7. *Effective Date* means the date that the last signature of a party is affixed hereto.

1.1.8. *Freight Awarded Document ("FAD")* is a form and written notice to be issued to TSP, by TFC that informs the TSP that a freight shipment has been awarded to TSP and the date when TSP will begin work.

1.1.9. *Freight All Kinds ("FAK")* means a variety of commodities used by federal agencies and TFC. The following will not be included as FAK: (i) narcotics and dangerous drugs; (ii) explosives Class 1, Divisions 1.1,1.2,1.3,1.4,1.5, and 1.6; (iii) radioactive materials requiring a hazardous material label; (iv) etiologic agents, hazardous waste, or corpses; (v) currency; and (vi) postage stamps or stamped envelopes.

1.1.10. *Freight Quote Document ("FQD")* is a form that TFC provides to TSP to request a quote for the rate which would be charged for a shipment.

1.1.11. *Laws and Regulations* means any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders including those governing labor, equal employment opportunity, safety, and environmental protection.

1.1.12. *Person* means an individual, firm, partnership, corporation, association and any other legally recognized entity.

1.1.13. *Property Damage* is damage caused by TSP or its agents to TFC or a federal agency's personal or real property, including rental property, or grounds associated with the property.

1.1.14. *Scope of Services* means the Transportation Services as set out in Section 2.1 below.

1.1.15. *Site* means lands or areas upon which the work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by TFC which are designated for the use of the TSP.

1.1.16. *Subcontract* means any agreement between TSP and a Subcontractor.

1.1.17. *Subcontractor* means a Person, including a supplier that enters into an agreement with TSP to perform any part of the contract.

1.1.18. *TFC Contract Administrator* means the individual designated by TFC as the owner's designated representative with the direct responsibility to properly administer the Contract.

1.1.19. *Through Rate* is a rate applicable for transportation from the pickup location to the destination location on the FAD.

1.1.20. *Transportation Service Provider* is any awarded vendor that provides freight transportation and related services to TFC and has been approved by TFC to participate in this contract.

1.1.21. *Vendor Performance Tracking System (VPTS)* is a tool controlled by the Texas Comptroller of Public Accounts that tracks exceptional, satisfactory, and unsatisfactory vendor performance. The tool is used by all State of Texas agencies to log performance of vendors. The vendor performance tracking system can be found at the following link: http://www.cpa.state.tx.us/procurement/prog/vendor_performance/.

II. SCOPE OF SERVICES

2.1. Scope of Services. TSP shall provide pickup and delivery of federal and State of Texas property in the continental United States. This Contract is not awarded to one specific TSP, additional TSPs may be approved by TFC on a continual basis throughout the term of this Contract. TSPs must have the ability to provide freight services for a variety of loads ranging from small bulk items to heavy equipment and machinery.

2.1.1. Pre-Pickup Phase. Upon receipt of a FAD, TSP shall commence, as soon as reasonably practicable and timely complete the following Pre-Pickup Tasks for the following Scope of Services.

2.1.1.1. TFC solicits and awards pickup and delivery services on behalf of all TFC warehouses using the FQD and the FAD.

2.1.1.2. Requests for quotes will be solicited by sending an e-mail to all approved TSPs via the contact information included in the submission packet, the e-mail will include relevant shipment information and a deadline for response.

2.1.1.3. Quotes should include any foreseeable tolls, weight surcharges, fines or other charges that may be associated with the load, additional costs incurred by TSP due to a lack of information regarding the load's size and condition may be requested via email to the TFC Contract Administrator to recover the unknown costs, any additional costs not included in the FAD must be approved, in writing, by the TFC Contract Administrator.

2.1.1.4. Requests for expedited shipping quotes may be solicited over the phone by the TFC Contract Administrator from selected awarded vendors.

2.1.1.5. All approved TSPs that would like to do business with TFC shall submit their quotes via e-mail surplusfreight@tfc.state.tx.us or by fax to 512-263-6173, following the instructions outlined in this contract. TFC will notify TSP of an awarded truckload by sending TSP a signed and dated FAD, TFC may also send TSP a C5 Form and copies of the appropriate transfer order forms, TSP may be asked to produce a copy of the C5 Form to the federal holding agency at the time of pickup; however there may be times when TFC will provide the C5 Form directly to the federal holding agency, TFC Contract Administrator will inform TSP if TFC will be providing C5 Form directly to the federal holding agency prior to pickup.

2.1.1.6. TSP accepting shipments for motor freight under this contract must maintain effective service controls for prompt and complete performance of all ordered origin, line haul, destination services and all associated accessorial charges, line haul services include appropriate security, ensuring safety of shipments during transit and oversight of additional parties used in-transit.

2.1.1.7. TSP shall provide: (i) pickup and delivery pursuant to the standards set forth in this Contract; (ii) transportation equipment approved by the TFC Contract Administrator, equipment found unsuitable for freight loading or unloading will be rejected by the TFC Contract Administrator; (iii) prompt inspection and reporting of damaged material, any known damage to property during loading or transport shall be reported to TFC Contract Administrator immediately; (iv) ensure all reasonable accommodations are taken to prevent damage to property during loading and transport; (v) protection of freight from the elements and secure loads; (vi) all services, (for example, spotting of trailers, assisting in the loading of freight into conveyance and reporting to the agency or organization's shipping facility at the time requested) as requested by the TFC Contract Administrator for shipments awarded; (vii) information to property location for scheduling pick up or performing required background checks on drivers and/or trucking companies up to seventy two hours (72) prior to pickup; (viii) the name of the trucking company and driver to the TFC Contract Administrator prior to picking up the property for entry on the C5 Form; and (ix) notice to TFC warehouse location twenty-four (24) hour notification prior to delivery.

2.1.1.8. TSP is responsible for: (i) familiarizing itself with the Contract including the terms, conditions, and procedures to be used when moving TFC freight, (ii) acceptance and compliance with all terms and conditions of this Contract, (iii) performing all services in accordance with applicable federal, state, and local laws and regulations, (iv) possessing the appropriate, current operating authority to perform services for freight shipments awarded and produce evidence of that authority upon demand, (v) completing all documentation as required and (vi) overseeing the actions of all individuals performing services associated with a TFC freight shipment awarded to TSP. All questions, comments, and problems encountered during the Contract should be addressed to suplusfreight@tfc.state.tx.us.

2.1.2. Pickup and Delivery Phase. During the pickup phase TSP shall adhere to the following requirements.

2.1.2.1. TFC routinely transports property from the United States Department of Defense installations and other federal agencies to the following locations in Texas:

Austin Surplus Property Warehouse
6505 Bolm Rd.
Austin, TX 78721

San Antonio Federal Surplus Property Warehouse
2106 Ackerman Rd.
San Antonio, TX 78219

Fort Worth Federal Surplus Property Warehouse
2826 N. Beach St.
Fort Worth, TX 76111

2.1.2.2. Pickups and deliveries will generally not occur on weekends, state holidays, and federal holidays.

2.1.2.3. A pickup and delivery date that falls on a non-business day (weekend or holiday) will automatically be moved to the next business day, unless the TFC Contract Administrator requests and authorizes delivery on weekends or holidays, TSPs are not required to deliver shipments on these days, TSPs will not be penalized if they refuse to voluntarily make weekend or holiday delivery, the shipment will be delivered on the next business day.

2.1.2.4. The deadline for pickup will be included in the FAD. If this deadline is not met, the TFC Contract Administrator may reassign the truckload to another TSP, the TFC Contract Administrator will notify the TSP via e-mail of the cancellation.

2.1.2.5. If property becomes unavailable during a forty-eight (48) hour period due to the holding agency's policy, then TFC will notify the TSP that the truckload has been cancelled or reassigned, and the TSP will not be required to provide a replacement trailer.

2.1.2.6. TSP pickup service includes arriving on time for pickup with the type and quantity of equipment ordered by TFC, TFC and the federal holding agency may inspect the TSPs equipment upon arrival and, if determined unsuitable for freight loading, reject the equipment, no charges are due to TSP for equipment rejected for valid reasons, the TSP shall be provided with the federal holding agency's reason for rejecting the equipment.

2.1.2.7. When ordering equipment or requesting a pickup date, TSPs will receive advance notice from TFC. Unless an abnormal amount or type of equipment is requested, TSPs will be notified twenty-four (24) hours prior to the day the equipment is needed unless other arrangements are made. However, in some circumstances, TSPs may be requested to perform same day pickup service. TSPs will not be penalized if they are unable to provide this same day pickup service.

2.1.2.8. Pickup may be delayed only if TSP has requested and received permission to delay from the TFC Contract Administrator; otherwise the shipment pickup will be considered late. The TFC Contract Administrator must record the permitted delay in TFC records.

2.1.2.9. Carrier trailers will meet minimum DOT standards upon assignment to a TFC freight service. Trailers found unserviceable will be rejected and TSP shall be responsible for providing replacement trailers that meet DOT standards within forty-eight (48) hours.

2.1.2.10. Pickup or delivery service shall not be performed by TSP at any site from or to which it is impracticable to operate vehicles because of: (i) the condition of roads, streets, driveways, alleys or approaches thereto, (ii) inadequate loading or unloading facilities, and or (iii) circumstances set out below under Section 12.10, Force Majeure.

2.1.2.11. TSP shall not accept freight that is unsafe to transport.

2.1.2.12. During the term of the Contract, TFC will order specific equipment that will be necessary to accomplish TSP's Scope of Services in an effective manner. When TFC orders a specific type or size of equipment and TSP represents that it will provide such equipment in its FQD, then TSP will be responsible for providing the ordered equipment. If equipment other than what is ordered by TFC is used, TFC reserves the right to assess a discounted rate to TSP as penalty for the use of improper equipment. Further, if TSP is unable to complete the work assigned to it because TSP used equipment other than what was ordered by TFC, then TSP shall incur all expenses related to ensuring that the work is complete.

2.1.2.13. Three (3) hours of load time shall be included in quotes provided by TSPs for each pickup location. In the event that it takes longer than three (3) hours for the freight to be fully loaded, the TSP may request additional payment for Detention Time Fees at a rate not to exceed Sixty and No/100 Dollars ($60.00) per hour after the first three (3) hours included in the original freight quote. Detention time shall begin from the TSP's scheduled arrival time and ends when freight loading has been completed, with partial hours prorated. Requests for Detention Time Fees will not be approved by TFC if the request is submitted after the property has been picked up. TFC will only pay Detention Time Fees for actual detention time. TFC shall confirm loading hours with the federal holding location prior to approving Detention Time Fee requests. Detention Time Fees may only be requested if the TSP had a confirmed appointment with the holding location prior to arrival, and if the driver arrived at the holding location at the scheduled date and time.

2.1.2.14. Three (3) hours of unload time shall be included in quotes provided by TSPs for each location. In the event that it takes longer than three (3) hours for freight to be fully unloaded, the TSP may request additional payment for Detention Time Fees at a rate not to exceed Sixty and No/100 Dollars ($60.00) per hour after the TSP's arrival time and ends when freight unloading has been completed, with partial hours prorated. Requests for Detention Time Fees will not be approved by TFC if the request is submitted after the property has been unloaded. TFC will only pay Detention Time Fees for actual detention time. TFC shall confirm unloading hours with the warehouse location prior to approving Detention Time Fee requests. Detention Time Fees may only be requested if the TSP had notified the warehouse prior to arrival, and if the driver arrived at the warehouse location during specified hours.

2.1.2.15. If, after arrival at the holding location, TSP's pickup appointment is rescheduled by the federal holding location to the following day, TFC may either cancel the pick up or provide the option of staying overnight in order to have the freight loaded the next day. An overnight stay shall be approved by the driver, the TSP, the TFC Contract Administrator, and the federal holding agency. Should an overnight stay be approved by all parties, the TSP may request payment for the overnight stay. The rate for an overnight stay shall not exceed Two Hundred Fifty and No/100 ($250.00) per night. TFC shall reject requests for Overnight Fees if:

2.1.2.15.1. TSP did not have a scheduled appointment with the federal holding location prior to the attempted pickup;

2.1.2.15.2. due to fault of driver or TSP the freight is unable to be loaded; and

2.1.2.15.3. overnight stay was not approved by the driver, TSP, TFC Contract Administrator, and the federal holding agency.

2.1.3. Truck Order Not Used Fee. Should TFC choose to cancel the pickup after the TSP has arrived at the federal holding location, or if the holding location cancels the appointment after the driver's arrival, then TSP may be eligible for a Truck Order Not Used Fee. Truck Order Not Used Fee may only be requested if the TSP had a confirmed appointment with the federal holding location prior to arrival and if the driver arrived at the holding location at the scheduled date and time. Truck Order Not Used Fees shall be determined based on the total amount awarded for that particular load and length of time the driver had to wait at the holding location prior to the load being cancelled. The following fee schedule applied to Truck Order Not Used Fees:

Wait Time	Fee Schedule
0 – Three (3) Hours	Not-to-Exceed 10% of quoted freight rate
Three (3) – Six (6) Hours	Not-to-Exceed 15% of quoted freight rate
Six (6) hours and up	Not-to-Exceed 20% of quoted freight rate

The TFC Contract Administrator shall confirm the appointment and detention time with the federal holding location prior to approval of fees. Detention Time Fees shall not be added to Truck Order Not Used Fees. Truck Order Not Used Fees shall not be paid if the driver refuses the load once at the holding location or abandons a freight shipment after acceptance of the freight.

2.1.4. Loss or Damage Claims. Loss or damage claims attributable to TSP's performance must be acknowledged and settled in accordance with Federal and Texas law. Information used by TFC to file a single or aggregate claim against a TSP could include, but is not limited to: (i) reports; (ii) records; or (iii) historical agency/organization files.

2.1.4.1. If TFC files an aggregate claim against an individual TSP, each item must be settled and reported on separately by TSP. For example, the claim must have an amount requested with the supporting documentation for each claim on the aggregate filing.

2.1.4.2. TSP shall provide an initial report in writing to the TFC Contract Administrator no later than the first business day after the incident, detailing any event of major significance that produces substantial loss, damage, or delay to a shipment(s), such as theft or seizure of shipment, strikes, embargoes, fires, or other similar incidents.

2.1.4.3. TSP shall follow up the initial report with a detailed written report that includes an assessment of the loss or damage, delays encountered, and final disposition of the property. The following is the required information: (i) type of incident; (ii) location of incident; (iii) description of any hazardous cargo; (iv) FAD date issued; (v) FAD issuing person; (vi) origin; (vii) destination; (viii) date shipment received by TSP; (ix) required delivery date, if applicable;

(x) date and time of incident; (xi) estimated amount of loss and extent of damage; (xii) current status of shipment(s), including new estimated time of arrival; (xiii) location of shipments, if applicable; and (xiv) copy of police report, if applicable.

2.1.4.4. If TSP claims TFC's actions damaged a trailer, it is the responsibility of TSP to provide the evidence to support the claim.

2.1.4.5. If freight is separated from TSP, the TSP will contact the TFC Contract Administrator within twenty-four (24) hours for further instructions.

2.1.4.6. Request for waiver from Contract or FAD. The TFC Contract Administrator may, for an individual shipment, waive one or more of the requirements in this Contract or of the FAD in whole or in part because of the incompatibility of such requirements with the prevailing circumstances. An affected TSP may submit the waiver request to the TFC Contract Administrator via e-mail, surplusfreight@tfc.state.tx.us, within one business day of the initial award. If the TFC Contract Administrator determines that a waiver is justified, he or she will issue a waiver in writing, by amending the FAD and distributing copies of the amendment, including a copy to TSP within forty-eight (48) hours after receiving TSP's request.

2.1.5. Non-Applicable Charges. TSP shall not charge any detention, demurrage or storage charges against any TFC shipment when the delay is caused by acts or omissions beyond TFC's contractors or its agent's control.

2.1.5.1. The delivery commitment guarantee does not apply when the delays in delivery are caused by Force Majeure. In each instance, the failure to perform must be beyond the control and without the fault or negligence of TSP.

2.1.5.2. TSP will inform the shipper of weight limitations and verify that the weight on any vehicle loaded by or on behalf of TFC does not exceed limitations imposed by any state or municipality in which the shipment will be transported.

2.1.5.3. When TSP performs services that are required for normal movement of freight shipments and such services are not identified in this Contract, the charges for these services will be negotiated between TFC and TSP. Trailer recovery is not an allowable charge.

2.1.5.4. Freight will be delivered in the same condition as received at origin. Any damage or loss will be the responsibility of TSP unless due to Force Majeure.

2.1.6. Inspection and Acceptance. Inspections can occur either by a scheduled visit by TFC or an impromptu visit by authorized TFC representatives of TFC Surplus Property Program. These personnel have the right to inspect TSP facilities including but not limited to TSP equipment, terminals, stations, and warehouses.

2.1.6.1. Authorized representatives of TFC have the right to inspect performance of service during loading, pickup, and delivery, as well as services performed by TSP in connection with any shipment handled under the provisions of this contract.

2.1.6.2. TSP must furnish authorized representatives with free and reasonable access to the facilities and TSP must provide any TFC requested assistance to accomplish the inspection process.

2.1.6.3. If an inspection takes place and no written report of necessary corrective action is issued, then the work is deemed accepted. When authorized representatives of TFC determine that facilities, equipment, or services do not meet the terms, conditions or specifications prescribed by this Contract, TSP or its agent shall cooperate fully to promptly correct the deficiency by taking appropriate action at no additional cost to TFC.

2.1.7. Service Performance Evaluation. This section presents the performance standard necessary to ensure repeat business from TFC.

2.1.7.1. TSP performance data will be obtained from a variety of sources, including written complaints submitted by TFC's Contract Administrator, TFC staff, agency/organization holding facility operating personnel, or consignee; reports obtained or formulated from TSP pickup records, history files, and finance payment records; serious incident reports; and other TSP performance information collected by or for the TFC Surplus Property Program.

2.1.7.2. Federal holding agencies and TFC will use the following information in evaluating a TSP's performance: (i) ability to provide accessorial and special services; (ii) adherence in observing federal, state, local, and TFC and federal holding agency facility regulations; and (iii) unwarranted refusal of shipments or selective acceptance of shipments, which are prohibited by this Contract.

2.1.7.3. Noted deficiencies may result in a TSP report issued on the State of Texas vendor performing tracking system (VPTS). TSP has fourteen (14) calendar days to respond to any report.

2.1.7.4. A TSP's performance may be reported for any of the following: (i) willful violation of the terms of the Contract or the rate quoted; (ii) persistent or willful failure to meet requested packing and pickup service; (iii) failure to meet required delivery dates; (iv) violation of DOT hazardous material regulations; (v) mishandling of freight, damages or missing transportation seals, improper loading, blocking, packing or bracing of property; (vi) improper routing of property; (vii) subjecting TFC shipments to unlawful seizure or detention through financial irresponsibility; (viii) operating without legal authority; (ix) failure to settle claims according to TFC regulations; and/or (x) repeated failure to comply with regulations of DOT, Surface Transportation Board, state, or local governments or other government agencies.

2.1.7.5. Below are actions of such importance that one violation could result in TSP being placed in suspension status. These actions include, but are not limited to: (i) willful violations of this Contract, other relevant quotes, or tariffs; (ii) financial irresponsibility that results

in shipment awards under this contract being delayed, detained, or seized; (iii) failure to maintain proper insurance coverage; (iv) operating without legal authority; and (v) repeated non-performance.

III. CONTRACT DOCUMENTS

3.1. Contract Documents. In performing its Scope of Services for the Contract, TSP shall be bound by, and comply with, the following Contract Documents.

3.1.1. TSP's Response to RFQ. TSP's *Response to RFQ, Submittal*, submitted in response to RFQ No. 303-7-00 (collectively, the "RFQ"), a digital copy of which Response is incorporated herein by reference for all purposes in .pdf format on the Exhibits DVD and labeled therein as "Exhibit A," to the extent any warranties, representations, and/or promises of additional services are made therein, and only to that extent.

3.1.2. Freight Quote Document Template. The Freight Quote Document Template a digital copy of which is incorporated herein by reference for all purposes in .pdf format on the Exhibits DVD and labeled therein as "Exhibit B."

3.1.3. Freight Award Document Template. The Freight Award Document Template a digital copy of which is incorporated herein by reference for all purposes in .pdf format on the Exhibits DVD and labeled therein as "Exhibit C."

3.1.4. Workers Compensation Waiver. Workers Compensation Waiver is incorporated herein by reference for all purposes in .pdf format on the Exhibits DVD and labeled therein as "Exhibit D."

3.1.5. Broker's Affidavit Regarding Underlying Carriers. The Broker's Affidavit Regarding Underlying Carriers is incorporated herein by reference for all purposes in .pdf format on the Exhibits DVD and labeled therein as "Exhibit E."

IV. TERM, SUSPENSION AND TERMINATION

4.1. Contract Term. This Contract shall be effective as of date accepted and shall expire on August 31, 2018 unless extended by the parties by amendment to this Contract or terminated earlier, as provided by the section below. This Contract may be renewed for one (1) additional two (2) year period. Any renewals shall be at the same terms and conditions, plus any approved changes. 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 fee verification, and default shall survive the termination or expiration dates of this Contract.

4.2. Termination.

4.2.1. For Cause. Upon written notice to TSP and its surety, TFC may, without prejudice to any right or remedy, terminate this Contract under any of the following circumstances, each one of which shall be considered a material breach of this Contract:

4.2.1.1. failure or refusal to supply enough properly skilled workmen or proper materials;

4.2.1.2. a violation, whether discovered or asserted before or after the Effective Date, of any Laws and/or Regulations of any governmental entity;

4.2.1.3. the failure of TSP to timely deliver the services set out herein or timely complete the Scope of Services in accordance with the Contract Documents;

4.2.1.4. failure to timely remedy defective work;

4.2.1.5. failure to pay Subcontractors, laborers, and material suppliers pursuant to Tex. Gov't Code, Chapter 2251;

4.2.1.6. creating endangerment to the safety of employees, Subcontractors, or any other members of the public or of the work;

4.2.1.7. failure to timely obtain and deliver, or maintain any required bonds or any required proof of insurance, pursuant to the Contract Documents;

4.2.1.8. the falsity of any material statement, warranty or representation when given or made by TSP to TFC or federal holding agency, whether in this Contract, in TSP's response to the RFQ, or otherwise, or any such statement, warranty or representation becoming materially false at any time during the term of this Contract, or any fraud committed by TSP or its members, officers, agents, or principals in connection with the procurement of this Contract or the delivery of Transportation Services;

4.2.1.9. TSP (i) makes an assignment for the benefit of creditors; (ii) files a voluntary proceeding seeking protection from creditors under any bankruptcy or other law; (iii) is the subject of an involuntary proceeding under any bankruptcy or other similar law and such proceeding is not dismissed within sixty (60) days; or (iv) makes any admission of its inability to pay its debts generally as they become due;

4.2.1.10. the appointment of a trustee, receiver, or liquidator for TSP;

4.2.1.11. the use of or otherwise incorporating equipment into pickup/delivery that is not specified by TFC, or otherwise approved pursuant to the procedures set out in this Contract; and

4.2.1.12. failure to timely comply with any other requirements of the Contract.

4.3.1. For Convenience. TFC may, at its sole option and discretion, terminate the Contract at any time, for any reason whatsoever, by giving a written "Notice of Termination" to TSP at least thirty (30) days prior to the effective date of termination. TSP 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 the Notice of Termination, do such work (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 and equipment. In the event of termination by TFC, TFC shall pay TSP for all work satisfactorily performed up to the effective date of termination or reduction in the Scope of Services.

4.3.2. Implementation of Termination. TSP 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 and on the date specified on the Notice of Termination, do such work, 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, buildings, and equipment. In the event of termination by TFC, TFC shall pay TSP for all work satisfactorily performed up to the effective date of termination or reduction in the scope of services.

4.3.3. Termination by TSP. TSP may terminate the Contract upon providing sixty (60) days prior written notice to TFC. In the event of termination by TSP, TSP shall be governed by the terms and conditions and shall perform the acts as outlined in the preceding section. TSP will be held responsible for any additional costs incurred from terminating the Contract.

4.3.4. No Liability Upon Termination. If this Contract is terminated for any reason, TFC and the State of Texas shall not be liable to TSP 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.

V. CONSIDERATION

5.1. Contract Sum. The total Contract Sum shall not exceed the sum of One Hundred Thousand and No/100 ($100,000.00). Pricing fees will be invoiced in accordance with issued FAD for each load. Any changes to the not-to-exceed amount of this Contract shall be approved by amendments to this Contract. Any amendment to the Contract Sum must be submitted to TFC for review and must be approved by TFC in order to be valid and enforceable.

5.2. Payment of the Contract Sum. Payment to TSP will be made at the completion of each shipment 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. TSP shall be paid for completion of work accepted and approved by the TFC Contract Administrator.

5.2.1. Invoicing. TSP shall invoice TFC for worked performed by TSP. Invoice shall include TSP's identification number, delivery location, load number. Additionally, invoices for any materials purchased or additional services must be provided. Address for submission is: Texas Facilities, Fiscal Department, P.O. Box 13047, Austin, Texas 78711-3047 or accountspayable@tfc.state.tx.us.

5.2.2. Payment of Charges. All rates, charges, or other amounts are stated as U.S. currency, and, all rates, charges, or other amounts are payable in lawful money of the United States.

5.2.3. Prompt Payment. TSP shall be paid in accordance with Chapter 2251 of the Texas Government Code, also known as the "Prompt Payment Act." In addition, TSP shall be responsible for paying its Subcontractors for services rendered.

VI. ACKNOWLEDGEMENTS, COVENANTS, AND AGREEMENTS

6.1. Acknowledgements, Covenants, and Agreements of TFC. TFC acknowledges, covenants, and agrees as follows:

6.1.1. TFC Services to TSP. TFC shall timely provide, or cause to be provided, to Contractor the following services for the Project:

6.1.1.1. assuming satisfactory completion of all potential criminal background checks, assistance to TSP in obtaining such access to the site as is reasonably necessary to enable TSP to provide pickup and delivery services;

6.1.1.2. designation the TFC Contract Administrator who will manage the Contract and the services being provided pursuant to this Contract and the other Contract Documents; and

6.1.1.3. provision of intermediate reviews of TSP's work as necessary to allow TSP to proceed with deliveries in a timely manner.

6.2. Acknowledgements, Covenants, and Agreements of Contractor. TSP acknowledges, covenants, and agrees to the follows conditions.

6.2.1. Timely Delivery of Conforming Services. TSP will, subject to Force Majeure events, as defined in Article XII below, timely provide the Transportation Services in conformity with the Contract Documents.

6.2.2. Risk of Loss. TSP shall bear all losses, if any, resulting on account of the amount and character of the work, or because the conditions under which the work must be done are different from what were estimated or anticipated by TSP, or because of weather, floods, elements or other causes.

6.2.3. Limitation of Authority. TSP agrees that the TFC Contract Administrator shall not have any express or implied authority to vary or otherwise amend the terms and conditions of this

Contract in any way, or waive strict compliance with the terms and conditions of this Contract, any deviation from which must be evidenced by the TFC Contract Administrator in writing.

6.2.4. TSP Cooperation. TSP agrees to conduct all of its services under this Contract by and through appropriate communications with the TFC Contract Administrator. No work or other services shall be undertaken by TSP except with the prior written direction of the TFC Contract Administrator. TSP understands and agrees that work 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 TSP's risk. TSP agrees to employ competent personnel, 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 TSP replace unsatisfactory personnel, such requests shall not be unreasonably denied. TSP agrees to cooperate and coordinate its work with that of other TSPs retained by owner. Upon discovery of an apparent conflict in the sequencing of work with another TSP, TSP shall report the concern to the TFC Contract Administrator who will resolve the conflict.

6.2.5. Contractor Safety. All TSPs 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 TSP and Subcontractors shall be trained in accordance with Chapter 29, Occupational Safety and Health Regulations.

6.2.6. Employment Verification. By entering into this Contract, TSP certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, either the U.S. Department of Homeland Security's E-Verify system, in accordance with the U.S. Department of Homeland Security's rules, or other documents and verifiable means to determine the eligibility of all persons, including subcontractors, employed by, assigned by, or subcontracted by the TSP to perform duties related to the Contract during the term of the Contract. If means other than E-Verify are utilized, they are to be services offered by industry recognized third party providers, engaged in the business of providing independent employment eligibility verifications to employers. These services are to be in addition to standard I-9 compliance measures performed by TSP. Verification services shall be provided by businesses such as or similar in nature to Info Cubic, First Advantage, FC Background, or a combination of verification information provided by multiple entities. TSP shall provide, upon request of TFC, an electronic or hardcopy screenshot of the confirmation or tentative non-conformation screen containing either the E-Verify case verification number or third party provider case document for attachment to the Form I-9 for the three (3) most recent hires that match the criteria above, by the TSP, and TSP'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. TSP shall also be responsible for the costs of any re-solicitation that TFC must undertake to replace the terminated Contract. For persons not eligible for E-Verifying screening, TSP (including Subcontractors) shall provide, upon request by TFC, the alternate form of documentation (as described above) of proof of eligibility to work in the United States of America.

6.2.7. TSP Personnel Required Qualifications. At all times during the term of this Contract, TSP 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.

6.2.7.1. All drivers transporting TFC shipments on behalf of TSP will have in their physical possession C5 Form that verifies their affiliation with the TSP.

6.2.7.2. Drivers who transport any TFC freight will have in their physical possession a valid commercial driver's license, medical qualification card, employee record card or a similar document that contains the driver's photograph and complies with DOT regulations. All documents will be in English and tamper proof. TSPs are responsible for ensuring that any driver who transports TFC freight on their behalf is legally qualified and possesses all necessary documentation.

6.2.7.3. Any driver engaged in transporting TFC freight will be qualified and licensed and will comply with all legal requirements, including federal statutes and regulations.

6.2.7.4. TFC may request that TSP replace unsatisfactory personnel for such reasons as: (i) any past or present violation of any statute, rule, regulation or ordinance of any city, county, the State of Texas, or the United States, or any other Laws and Regulations; (ii) TFC's reasonable belief that failure to obtain an acceptable criminal background check will occur; (iii) prior unsatisfactory performance on other TFC projects; and (v) any other like reasons.

6.2.8. Brokers and Their Underlying Carriers. Brokers and Their Underlying Carriers shall: (i) maintain proper filing and documentation with the Federal Motor Carrier Safety Administration to operate as a Broker to fulfill the requirement of this Contract; (ii) ensure all contracted underlying carriers possess proper operating authority; (iii) ensure all contracted underlying carriers adhere to all requirements of this Contract; (iv) ensure notification of all underlying carriers that TFC assumes no responsibility for payment of services to carriers hired by brokers; and (v) provide a completed and notarized Broker's Affidavit, which is "Exhibit E" of this Contract.

6.2.9. Buy Texas. If TSP is authorized to make purchases under this Contract, TSP certifies that TSP 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, Chapter 2155.

6.2.10. No Assumption. No approvals or acceptances by, or on behalf of, TFC shall be deemed to be an assumption of any responsibility by TFC for any defect, error or omission.

6.2.11. Debts or Delinquencies Owed to the State. Any payment due under this Contract may be withheld and applied toward payment of any debt that is owed to the State of Texas including, but not limited to, delinquent taxes and child support pursuant to Texas Government Code, Section 403.055.

6.2.12. General and Criminal Background Checks.

6.2.12.1. TSP represents and warrants that TSP and TSP's employees have not been convicted of a felony criminal offense, or of a crime involving moral turpitude, or that, if

such a conviction has occurred, TSP has fully advised TFC as to the facts and circumstances surrounding the conviction.

6.2.12.2. All of TSP's employees and Subcontractors that will perform any work on-site at a state-owned or federally-owned property shall be subject to a criminal background check. If requested by TFC, a complete criminal background check shall be completed before any employee performs services at the site, and may be requested at any time thereafter. Any expense associated with TFC requested criminal background check shall be borne by TSP.

6.2.13. Equal Opportunity. TSP shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. TSP 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. TSP shall post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination subsection. TSP shall include the above provisions in all Subcontracts pertaining to the work.

6.2.14. No Advertising. TSP shall not advertise that it is doing business with TFC or use this Contract as any sort of marketing or sales tool without the prior written consent of TFC.

6.2.15. Security and Identification. TSP shall abide by all procedures and rules as conveyed by the TFC Contract Administrator regarding security requirements of the property where work is to be performed.

6.2.16. TSP Access. Access routes, entrance gates or doors, parking and storage areas and any imposed time limitations shall be designated by the TFC Contract Administrator. TSP shall conduct operations in strict observance of the access routes and other areas established as described above. Under no circumstances shall any of TSP's personnel, vehicles, or equipment enter or move upon any area not authorized by the TFC Contract Administrator for access by TSP.

6.2.17. Existing Utilities and Structures. TSP shall adequately protect TFC's property, adjacent property and the public. In the event of damage to facilities as a result of TSP's operations, TSP shall take immediate steps to notify the TFC Contract Administrator and subsequently repair or restore all services to the satisfactory approval of the TFC Contract Administrator. Further, TSP shall engage any additional outside services which may be necessary to facilitate repairs until services are restored. All costs involved in making repairs and restoring disrupted services shall be at the expense of TSP. TSP 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 TSP. Upon the approval of the TFC Contract Administrator, TSP shall have the right to utilize air, water, gas, steam, electricity, and similar items of expense from existing outlets on TFC's property.

6.2.18. Working Hours. TSP shall make deliveries as set forth in this Contract that will not interfere with the day to day business operations of TFC facilities between the hours of 8:00 a.m.-12:00 p.m. and 1:00 p.m.-4:30p.m. Monday through Friday. Other contract work may also be performed at hours other than normal business hours, at the direction of the TFC Contract Administrator, in order to meet required schedules.

VII. WARRANTIES AND REPRESENTATIONS BY TSP

7.1. Warranties and Representations by TSP. TSP hereby makes the following warranties, representations and certifications, all of which are true, accurate and complete at the time of the Effective Date and throughout the term of the Contract, and which shall be true, accurate and complete. All representations and warranties discussed below shall survive the expiration or termination of this Contract.

7.1.1. Compliance with All Laws. TSP 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 TSP to provide the goods or services required by this Contract. TSP will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. TSP agrees to be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Contract. TSP shall make itself familiar with and at all times give all notices required by, and shall observe and comply with, all Laws and Regulations of all Governmental Authorities that in any manner affect performance under this Contract.

7.1.1.1. Neither TSP, nor any firm, corporation, partnership, or institution represented by TSP, or anyone acting for them has: (i) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15 or the Federal antitrust laws; or (ii) communicated directly or indirectly its response to the Request for Qualifications for this Contract to any competitor or any other person engaged in such line of business during the procurement process for this Contract.

7.1.1.2. TFC reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary to address TFC's or TSP's required compliance with all Laws and Regulations.

7.1.1.3. TSP has determined what licenses, patents and permits are required under the Contract and will have acquired all such licenses, patents and permits prior to commencement of construction.

7.1.2. Responses to RFQ. All statements, representations and certifications contained in, or otherwise set out in, TSP's response(s) to the RFQ for this Contract were true and correct when made, and shall remain true and correct throughout the term of this Contract.

7.1.3. 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. TSP shall not place any employee of TSP at a worksite, nor shall TSP 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.

7.1.3.1. TSP warrants that TSP: (i) maintains and follows an established policy to verify the employment authorization if 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 safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to TSP'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.

7.1.3.2. TSP further acknowledges, agrees, and warrants that TSP: (i) has complied, and shall at all times during the term of the Contract 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 TSP'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, TSP 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 TSP or any of its employees.

7.1.3.3. TSP 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.

7.1.4. Minimum Wage Rate Requirements. Notwithstanding any other provision of this Contract, TSP hereby represents and warrants that the TSP 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, TSP shall produce proof of compliance with this provision by TSP to TFC. TFC shall withhold payments due to TSP until TSP has complied with this provision. Prior to any payment being made for work satisfactorily completed and accepted, TSP shall submit Wage Rate Affidavits with its billing documents affirming that all employees have been paid not less than the current Federal Minimum Wage.

7.1.5. Warranty of Performance. 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.

7.1.6. Eligibility. 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 pursuant to Texas Government Code, Section 2155.004(b).

7.1.7. Family Code Disclosure of Ownership. Pursuant to the requirements of the Texas Family Code, Section 231.006, regarding delinquent child support, the individual or business entity named in this Contract is not ineligible to receive payment under this Contract and, if applicable, TSP has provided, prior to its execution of this Contract, the name and social security number of each such person (sole proprietors, firm owners, partners, or shareholders) holding at least twenty-five percent (25%) ownership of the business entity entering into this Contract. TSP acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

7.1.8. Deceptive Trade Practices Act; Unfair Business Practices Disclosures. TSP represents and warrants that it has not been found liable of Deceptive Trade Practices Act violations under Chapter 17 of the Texas Business and Commerce Code or of any unfair business practice in any administrative hearing or court suit. TSP further certifies that it has no officers who have served as officers of other entities who have been found liable of Deceptive Trade Practices violations or of any unfair business practices in an administrative hearing or court suit. In the event that allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code or of any unfair business practices against either TSP or any of TSP's officers have occurred or are currently pending in an administrative proceeding or in a lawsuit filed with any court, then TSP has disclosed all such matters to TFC and provided a brief description of each allegation, information regarding the administrative body or court before which the matter is pending, and the current status of the matter.

7.1.9. Disclosure of Former State Executives. Pursuant to 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 TSP employs or has used the services of a former executive head of TFC or any other state agency, then TSP 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 TSP, and the date of employment with TSP.

7.1.10. Financial Interest/Gifts. (a) Pursuant to Texas Government Code Sections 572.051 and 2255.001 and Texas Penal Code Section 36.09, TSP 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, TSP certifies that TSP 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 TFC's company or corporation. TFC 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 TSP will be dealing on behalf of TFC.

7.1.11. Prior Employment. TSP certifies that TSP shall comply with all applicable Texas and federal laws and regulations relating to the hiring of former state employees including "revolving door" provisions. Furthermore, TSP certifies 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.

7.1.12. Affirmation as to Submittals. Upon submittal to TFC of any documentation or data that was created or modified by TSP all representations contained therein shall be true and accurate as to each such creation or modification.

7.1.13. 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.

VIII. STATE FUNDING

8.1. State Funding. 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. 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 TSP, for the fiscal year Budget in existence at the time of the breach.

IX. COPYRIGHTS AND TRADEMARKS

9.1. Copyright, Trademark and Other Infringement Claims. TSP 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 TSP's use of or acquisition of any services or other items provided to the State of Texas by TSP or otherwise to which the State of Texas has access as a result of TSP's performance under this Contract, provided that the State shall notify TSP of any such claim within a reasonable time of the State's receiving notice of any such claim. If TSP is notified of any claim subject to this section, TSP shall notify TFC of such claim within five (5) business days of such notice. No settlement of such claim shall be made by TSP without TFC's prior written approval. TSP shall reimburse the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including but not limited to, attorney's fees and court costs, arising from any such claim. TSP 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. TSP represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents, and permits.

9.2. No Use of Name or Trademark. TSP agrees not to make any written use of or reference to TFC's name or registered or unregistered trademarks for any marketing, public relations,

advertising, display or other business purpose or make any use of TFC's facilities for any activity related to the express business purposes and interests of TFC pursuant to this Contract, without the prior written consent of TFC, which consent may be withheld or granted in TFC's sole discretion.

X. RECORDS, AUDIT, PROPRIETARY INFORMATION AND PUBLIC DISCLOSURE

10.1. Books and Records. TSP shall keep and maintain under generally accepted accounting principles full, true and complete records, as are necessary to fully disclose to TFC or the United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal regulations and statutes.

10.2. Inspections and Audits. TSP agrees that all relevant records related to this Contract or any work product under this Contract, including practices of its Subcontractors, shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of TSP where such records may be found, with or without notice by the Texas State Auditor's Office ("SAO"), the contracting agency or its contracted examiners, or the Office of the Texas Attorney General, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All Subcontracts shall reflect the requirements of this section. In addition, pursuant to Texas Government Code, Section 2262.003, the SAO may conduct an audit or investigation of any entity receiving funds under this Contract, including direct payments to Contractor and indirect payments under a Subcontract to this Contract; acceptance of such monies acts as acceptance of SAO authority, under legislative audit committee direction, to audit and investigate related to those funds and the entity subject to the audit or investigation must provide SAO with access to any information SAO considers relevant to the scope of the audit or investigation.

10.3. Records Retention. All records relevant to this Contract shall be retained for a minimum of seven (7) years. This retention period runs from the date of payment for the relevant goods or services by TFC, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative proceeding or litigation which may ensue.

10.4 Confidentiality Provisions Applicable to TSP.

10.4.1. Protection of Confidential Information. TSP shall keep confidential all information, in whatever form, produced, prepared, observed or received by TSP to the extent that such information is: (i) confidential by law; (ii) marked or designated "confidential" by TFC; or (iii) information that TSP is otherwise required to keep confidential by this Contract.

10.4.2. Definition of Confidential Information. "Confidential Information" shall mean all information, whether or not originated by TFC, which is used in, or a part of, TFC's business and operations and is: (i) proprietary to, about, or created by TFC; (ii) gives TFC some competitive advantage or the opportunity of obtaining such advantage or the disclosure of which could be

detrimental to the interests of TFC; (iii) designated as "Confidential Information" by TFC, or from all the relevant circumstances should reasonably be assumed by Contractor to be confidential and proprietary to TFC; or (iv) not generally known by Contractor.

10.4.3. Exclusions. "Confidential Information" shall not include information that: (i) is or becomes available to the public generally, other than as a result of disclosure by Contractor in breach of the terms of this Contract; (ii) becomes available to TSP from a source (other than TFC) which source is not, to the best of TSP's knowledge, subject to any legally binding obligation to keep the same confidential; or (iii) has been independently acquired or developed by TSP.

10.4.4. Covenants. As a consequence of TSP's acquisition or anticipated acquisition of Confidential Information, TSP will occupy a position of trust and confidence to TFC with respect to TFC's affairs and business. In view of the foregoing and of the mutual consideration to be provided to each party, TSP agrees that it is reasonable and necessary that it make the following covenants:

10.4.4.1. Both during and forever after the performance of its Contract, TSP will not disclose Confidential Information to any Person or entity other than as necessary in carrying out its duties on behalf of TFC and/or due diligence investigation, without first obtaining TFC's prior, written consent, and TSP will take all reasonable precautions to prevent inadvertent disclosure of such Confidential Information. This prohibition against TSP's disclosure of Confidential Information includes, but is not limited to, disclosing the fact that any similarity exists between the Confidential Information and information independently developed by another Person or entity, and TSP understands that such similarity does not excuse TSP from abiding by its covenant or other obligations pursuant to this Contract.

10.4.4.2. Both during and after the conduct of its due diligence investigation, TSP will not use, copy, or transfer Confidential Information other than as necessary in carrying out its duties on behalf of TFC and/or due diligence investigation, without first obtaining prior written consent of TFC, and will take all reasonable precautions to prevent inadvertent use, copying, or transfer of such Confidential Information. This prohibition against TSP's use, copying, or transfer of Confidential Information includes, but is not limited to, selling, licensing or otherwise exploiting, directly or indirectly, any products or services (including software in any form) that embody or are derived from Confidential Information.

10.4.4.3. TSP agrees not to utilize, either directly or indirectly, any Confidential Information in order to facilitate or create direct business relationships with Business Customers of TFC.

10.5. Confidentiality Provisions Applicable to TFC. Subject to the provisions of Section 10.6 below, TFC shall keep confidential all information, in whatever form, produced, prepared, or observed by TSP to the extent that such information is: (i) confidential by law; (ii) marked or designated "confidential," or words to that effect, in a font size no smaller than 14 point, by Contractor; or (iii) information that TFC is otherwise required to keep confidential by this Contract.

10.6. Public Records. Notwithstanding any provisions of this Agreement to the contrary, TSP understands that TFC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. If contacted by TFC, TSP will cooperate with TFC in the production of documents responsive to the request. TSP agrees to provide the documents responsive to the request in the format specified by TFC. TSP may request that TFC seek an opinion from the Attorney General of the State of Texas. However, TFC will not honor TSP's request for an opinion if the request is not based upon a reasonable interpretation of the Texas Public Information Act. Additionally, TSP will notify TFC's General Counsel within twenty-four (24) hours of receipt of any third-party requests for information that was provided by the State of Texas for use in performing the Agreement. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. TSP agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, TSP is required to make any information created or exchanged with the State pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

XI. INSURANCE

11.1. Insurance. TSP agrees to carry and maintain insurance in the following types and amounts for the duration of the Contract, to furnish certificates of insurance, and make available, at no cost to TFC, copies of policy declaration pages and policy endorsement as evidence thereof.

11.2. Insurance Requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Texas and shall be in a form satisfactory to TFC. TSP agrees that with respect to the required insurance, all insurance contracts and certificate(s) of insurance will contain and state in writing the following required provisions:

11.2.1. Amounts and Types of Insurance Coverages. The amounts and types of required insurance coverages are as follows:

11.2.1.1. TSP shall provide Commercial General Liability Insurance, including independent TSP's liability with a combined single limit of liability of $1,000,000 per occurrence for bodily injury or death and property damage.

11.2.1.1.1. The policy shall name TFC, its Board/Trustees, Officers, Directors, Employees, agents, and volunteers as Additional Insured and considered as primary for all claims.

11.2.1.1.2. The policy must be endorsed to include Waiver of Subrogation in favor of the Texas Facilities Commission.

11.2.1.1.3. The policy must be endorsed to include 30 day Notice of Cancellation, 10 day notice for non-payment, in favor of the Texas Facilities Commission.

11.2.1.2. TSP shall provide Commercial Automobile Liability Insurance covering owned, leased, hired, non-owned vehicles, and employee non-owned vehicles with a minimum combined single limit for bodily injury, including death, and property damage of $1,000,000 per occurrence.

11.2.1.2.1. The policy shall name TFC, its Board/Trustees, Officers, Directors, Employees, agents, and volunteers as Additional Insured and considered as primary for all claims.

11.2.1.2.2. The policy must be endorsed to include Waiver of Subrogation in favor of the Texas Facilities Commission.

11.2.1.3. TSP shall provide Workers Compensation Insurance with limits as required by the Texas Workers' Compensation Act and Employers' Liability coverage with a minimum limit of $1,000,000 per occurrence, covering all personnel who will provide services under this Contract.

11.2.1.3.1. The policy shall include Waiver of Subrogation in favor of the Texas Facilities Commission.

11.2.1.3.2. Worker's Compensation may be waived if the TSP is a sole proprietor and is covered by his or her own medical insurance. In order to opt out of the Worker's Compensation Insurance requirement, the TSP must sign and submit Exhibit D, Workers' Compensation Waiver.

11.2.1.4. TSP shall provide Cargo Liability Insurance with a minimum single limit of $100,000 per shipment for damaged property.

11.2.1.4.1. The policy shall name TFC, its Board/Trustees, Officers, Directors, Employees, agents, and volunteers as Additional Insured and Loss Payee, and considered primary for all claims.

11.2.1.4.2. The policy must be endorsed to include Waiver of Subrogation in favor of the Texas Facilities Commission.

11.2.1.5. TSP shall provide Insurance to cover against theft with a minimum single limit of $100,000 per shipment of property.

11.2.1.5.1. The policy shall name TFC, its Board/Trustees, Officers, Directors, Employees, agents, and volunteers as Additional Insured and Loss Payee, and considered primary for all claims.

11.2.1.5.2. The policy must be endorsed to include Waiver of Subrogation in favor of the Texas Facilities Commission.

11.2.2. General Requirements for All Insurance. The following provisions shall apply to all insurance requirements:

11.2.2.1. TSP shall be responsible for all deductibles and self-insured retentions, if any, stated in policies. All deductibles and self-insured retentions shall be disclosed on the certificates of insurance.

11.2.2.2. If coverage is underwritten on a claims-made basis, the retroactive date for the policy and all renewals shall be coincident with the Effective Date of this Contract and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. Any premiums for this extended reporting period shall be paid by Contractor.

11.2.2.3. In the event the primary insurance policy does not so provide, TSP shall obtain and maintain endorsements as to each deficient policy, or provide such other document(s) as may be approved in advance by TFC, that satisfy all of the following requirements:

11.2.2.3.1. naming "**Texas Facilities Commission, P.O. Box 13047, Austin, Texas 78711, its officials, directors, employees, representatives, and volunteers,**" as additional insureds, provided however, this requirement does not apply to Workers' Compensation Insurance;

11.2.2.3.2. the policy, or such other document(s) as may be acceptable to TFC, must obligate the insurer, or a third-party acceptable to TFC, notify the TFC Insurance Analyst, TFC - Legal, P.O. Box 13047, Austin, Texas 78711, of any: (i) non-renewal; (ii) cancellations; or (iii) material changes, at least thirty (30) days prior to change or cancellation for any reason except in the case of cancellation for non-payment of premiums, the notification must be at least ten (10) days prior to cancellation;

11.2.2.3.2.1. "Material Change" means any of the following changes to the policy during the term of the Policy:

11.2.2.3.2.1.1. a change in the policy period;

11.2.2.3.2.1.2. a material revision to, or removal of, a coverage section;

11.2.2.3.2.1.3. a reduction of the amount of limits of insurance, provided such reduction is not the result of payment of damages, medical expenses, or claim expenses; or

11.2.2.3.2.1.4. an increase of the amount of any self-insured retentions; and

11.2.2.3.3. as to those policies wherein TFC is an additional insured, said insurance coverages must be primary and non-contributing with respect to insurance or self-insurance carried by TFC, if any; and

11.2.2.3.4. the policy must provide a waiver of subrogation rights to TFC for the workers' compensation, employers' liability, commercial general liability, and business automobile liability policies.

11.2.2.4. TSP shall not, nor allow any Subcontractor(s) to commence work until the FAD is provided by TFC. However, any approval of the insurance requirements by TFC shall not relieve or reduce the liability of TSP hereunder.

11.2.2.5. All insurance must be written by a company licensed to do business in the State of Texas at the time the policy and any renewals are issued, and must be written by a company with an A.M. Best rating of A- or better and have an A.M. Best Financial Size Category Class of "VII" or better.

11.2.3. No Cancellation or Lapse. TSP shall not cause or permit any required insurance to cancel or lapse prior to the expiration of all warranty periods, provided however, policy duration for builder's risk (or as applicable, an installation floater) is not governed by this provision.

11.2.4. Notice of Erosion. TSP shall provide TFC thirty (30) days written notice of erosion of any aggregate limits below the minimum amounts required by the Contract.

11.2.5. Right to Review. TFC reserves the right to review the insurance requirements of Article XI 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 and/or of TSP, provided however, such modifications must be commercially available to TSP. TFC shall make an equitable adjustment to the Contract Sum for any additional cost resulting therefrom.

11.2.6. Losses Paid by TSP. Actual losses not covered by insurance as required by this Contract shall be paid by TSP.

11.2.7. Failure to Obtain or Maintain. Failure to timely obtain and maintain the insurance coverages as required under this Contract may subject TSP to, among other remedies, the following:

11.2.7.1. disqualification from eligibility to participate in any other or future projects with TFC;

11.2.7.2. suspension of work for cause;

11.2.7.3. in the event TSP fails to timely renew or pay any of the renewal premiums for any expiring policies, TFC shall have the right (but not the obligation) to: (i) make

such payments; and/or (ii) acquire replacement coverage, and set off the amount(s) or costs thereof against the next payment(s) coming due to TSP under the Contract or under any other contract between TFC and TSP; and/or

11.2.7.4. TFC may withhold any payments due to TSP until satisfaction is achieved.

11.2.8. TFC a Third-Party Beneficiary. It is hereby acknowledged and agreed that TFC is a third-party beneficiary of any agreement(s) between TSP and any and all Persons who procure, or cause to be procured, the above-described insurance coverages, and all renewals thereof, for the Scope of Services under this Contract.

XII. MISCELLANEOUS

12.1. INDEMNIFICATION.

12.1.1. **TSP 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 TSP 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 TSP WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND TSP MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. TSP AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

12.1.2. **INFRINGEMENTS. TSP 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 TSP PURSUANT TO THIS AGREEMENT. TSP AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. TSP SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY TSP WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND TSP MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. TSP SHALL**

HAVE NO LIABILITY UNDER THIS SECTION IF THE ALLEGED INFRINGEMENT IS CAUSED IN WHOLE OR IN PART BY: (i) USE OF THE PRODUCT OR SERVICE FOR A PURPOSE OR IN A MANNER FOR WHICH THE PRODUCT OR SERVICE WAS NOT DESIGNED, (ii) ANY MODIFICATION MADE TO THE PRODUCT WITHOUT TSP'S WRITTEN APPROVAL, (iii) ANY MODIFICATIONS MADE TO THE PRODUCT BY THE TSP PURSUANT TO TFC'S SPECIFIC INSTRUCTIONS, (iv) ANY INTELLECTUAL PROPERTY RIGHT OWNED BY OR LICENSED TO TFC, OR (v) ANY USE OF THE PRODUCT OR SERVICE BY TFC THAT IS NOT IN CONFORMITY WITH THE TERMS OF ANY APPLICABLE LICENSE AGREEMENT. IF TSP BECOMES AWARE OF AN ACTUAL OR POTENTIAL CLAIM, OR TFC PROVIDES TSP WITH NOTICE OF AN ACTUAL OR POTENTIAL CLAIM, TSP MAY (OR IN THE CASE OF AN INJUNCTION AGAINST TFC, SHALL), AT TSP'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-INFRINGING.

12.1.3. **TAXES / WORKERS' COMPENSATION / UNEMPLOYMENT INSURANCE-INCLUDING INDEMNITY. TSP AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS AGREEMENT, TSP SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF TSP'S AND TSPS EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS AGREEMENT. TSP 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 TSP, 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. TSP 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. TSP SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY TSP WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND TSP MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. TSP AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

12.1.4. Notice to TFC. In the event TSP becomes aware of any claim that may be subject to the above-described indemnification, TSP shall notify TFC of such claim within five (5) business days of becoming aware.

12.1.5. Settlement Authority. No settlement of any such claim shall be made by TSP without TFC's prior written approval.

12.2. 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 TSP's obligations with TFC.

12.3. Relationship of the Parties. TSP 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, TSP is and shall be an independent contractor. Subject only to the terms of this Contract, TSP shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. TFC has no right or obligation to control the methods and means of performing the work except as to the obligation to ensure compliance with the Contract Documents. 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 TSP or any other party. TSP 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 to the State Employees Retirement System; (v) accumulation of vacation leave or sick leave; or (vi) unemployment compensation coverage provided by the State.

12.4. No Assignment & Subcontracts. TSP shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Contract without the prior written consent of TFC. Notwithstanding the foregoing, it is mutually understood and agreed that TSP may subcontract with third parties for some or all of the Scope of Services to be performed. In any approved Subcontracts, TSP shall legally bind such Subcontractor to perform and make such Subcontractor subject to all the duties, requirements, and obligations of TSP specified herein. Nothing herein shall be construed to relieve TSP of the responsibility for ensuring that the goods delivered and/or the services rendered by TSP and/or any of its Subcontractors comply with all the terms and provisions of this TSP.

12.5. Drug Free Work Place. TSP, TSP's employees and Subcontractors 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 TSP, TSP's employees, and Subcontractors shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

12.6. No Smoking. All facilities where work is to be performed are nonsmoking buildings. Contractor's employees and Subcontractors are prohibited from smoking in all areas except in areas designated for smoking.

12.7. Notices. All notices, demands and requests required in this Contract shall be in writing and shall be deemed to have been properly delivered and received: (i) three (3) business days after deposit in a regularly maintained receptacle for the United States mail, certified mail, return receipt requested and postage prepaid; or (ii) one (1) business day after deposit with Federal Express or comparable overnight delivery system for overnight delivery with all costs prepaid. All notices, demands and requests hereunder shall be addressed as follows:

If to TFC:	Texas Facilities Commission Attention: Legal Services Division 1711 San Jacinto Boulevard, Suite 400 Austin, Texas 78701
With a Copy to:	Texas Facilities Commission Attention: Federal Surplus Property Program 1711 San Jacinto Boulevard Austin, Texas 78701
If to TSP:	Giltner Logistic Services, Inc. Attention: Greg Paulson, President and CEO 834 Falls Avenue, Suite 1250 Twin Falls, Idaho 83301 Telephone: (208) 644-9090 Email: billing@giltner.com

Either party hereto may change its address by giving the other party written notice thereof at least five (5) business days in advance of the Effective Date for such new address.

12.8. Name and Organizational Changes. TSP must provide TFC with written notification of all name changes and organizational changes relating to TSP including, but not limited to, merger, acquisition or sale no later than ten (10) business days of such change. TSP, 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 TSP, TSP 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 TSP 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 TSP or successor entity, as applicable, to maintain its status as a

party to this Contract. TFC may terminate the Contract due to any change to TSP that materially alters TSP's ability to perform under the Contract.

12.9. 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 pursuant to this Contract shall be in a court of competent jurisdiction in Travis County, Texas. TSP hereby irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of, or responding to, any action or proceeding in such jurisdiction with respect to this Contract or any document related hereto.

12.10. 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. TSP acknowledges that this Contract is effective for the period of time specified in the Contract. Any services performed by TSP before this Contract is effective or after it ceases to be effective are performed at the sole risk of TSP.

12.11. Force Majeure. Any delays in or failure of performance by either party, except in respect of the obligation for payments under this Contract, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused solely 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 (hereinafter referred to as "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 notify the other party of the Force Majeure event in writing within forty-eight (48) hours of the commencement of the Force Majeure event, and within forty-eight (48) hours of the termination of the Force Majeure event. In the event said party fails to timely provide either of the above-described notices, such failure shall constitute, without further notice or action, a waiver of the right to claim Force Majeure for such event. If possible, the 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 nonperformance continues for more than thirty (30) days, TFC may terminate this Contract immediately upon written notification to TSP.

12.12. Dispute Resolution. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used by the parties to attempt to resolve all disputes arising under this Contract.

12.13. Legal Construction and Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision herein, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Furthermore, in lieu of each such illegal, invalid, or

unenforceable provision there shall be substituted a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12.14. Multiple 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.

12.15. Binding Effect. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their representatives, successors and assigns.

12.16. Limitation on Authority and No Other Obligations. TSP shall have no authority to act for or on behalf of TFC or the State of Texas except as expressly provided for in this Contract; no other authority, power, or use is granted or implied. TSP may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of TFC or the State of Texas.

12.17. No Waiver of Sovereign Immunity. Nothing in the Contract 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 holding location. 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 Contract 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.

12.18. 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 Contract shall not be construed as a waiver or a relinquishment thereof for the future.

12.19. No Third-Party Beneficiaries. This Contract is made solely and specifically among and for the benefit of the parties named herein and the holding location, and their respective successors and assigns, and no other Person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of this Contract as a third-party beneficiary or otherwise.

12.20. Further Assurances. TSP shall take such actions and execute such other and additional documents as are reasonably necessary or desirable in order to carry out the purposes and intent of this Contract.

12.21. No Presumptions for Ambiguities. Each party hereby represents and warrants that although the initial draft of this Contract may have been prepared by one party, both parties have been given the opportunity to review this Contract with counsel of their choice, and have made additions, revisions, and amendments hereto. Therefore, each party hereby covenants and agrees that they are co-drafters of this Contract such that any ambiguities cannot be construed against any party.

12.22. Time is of the Essence. Time is of the essence with respect to this Contract; provided however, in the event that any of the deadlines set forth herein end on a Saturday, Sunday, or federal legal holiday, such deadline shall automatically be extended to the next day which is not a Saturday, Sunday, or federal legal holiday.

12.23. 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, TSP 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). TSPs 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/.

12.24. Work Made for Hire. All work shall constitute the exclusive property of TFC. All right, title and interest in and to said work shall automatically and without further notice or action vest in TFC upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to this Contract. To the extent that title to any such work may not, by operation of law, vest in TFC, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably and unconditionally assigned to TFC. TFC shall also have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. TSP must give TFC and/or the State of Texas, as well as any person designated by TFC and/or the State of Texas, all assistance reasonably necessary to effectuate the intent of this section and to perfect the rights and interests defined herein without any charge or expense to TFC beyond those amounts payable to TSP for the services rendered under this Contract.

12.25. Schedule of Exhibits. The following shall be the exhibits to this Contract, which are contained on the Exhibits DVD and are hereby incorporated herein by reference.

12.25.1.	Exhibit A.	TSP's Response to RFQ.
12.25.2.	Exhibit B.	Freight Quote Document Template.
12.25.3.	Exhibit C.	Freight Quote Award Document Template.
12.25.4.	Exhibit D.	Workers Compensation Waiver.
12.25.5.	Exhibit E.	Broker's Affidavit Regarding Underlying Carrier.

12.26. Survival of Terms. Termination of the Contract for any reason shall not release TSP 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.

TEXAS FACILITIES COMMISSION	GILTNER LOGITSIC SERVICES, INC.
By: Naomi R. Gonzalez	By: Greg Paulson
Naomi Gonzalez	Name: Greg Paulson
Acting General Counsel	Title: President and CEO
Date of Execution: 4-5-18	Date of Execution: 4.3.18

G.C. NRG

Dir.

EXHIBIT A

TSP'S RESPONSE TO RFQ

TSP'S RESPONSE

REQUIRED COMPANY INFORMATION*:

Federal EIN #:	82-0521084			
Company Name:	Giltner Logistic Services, Inc			
TSP Type: (Check One)	Motor Carrier:		Broker:	✓
FMCSA MC Number:	388552			
USDOT Number	2226873			

*Information provided will be verified on federal motor carrier safety administration website prior to acceptance of contract.

TSP affirms that services can be provided for the movement of freight for the following types: Check all that apply (√)

Household Goods	✓	Mobile Homes	✓	FTL – Full Truckload	✓
Vehicles	✓	Heavy Equipment	✓	Small Packages	✓
Boats	✓	LTL – Less than Truckload	✓		

TSP affirms that these types of equipment can be provided: Check all that apply (√)

Semi-van	✓	Step Deck	✓	Auto-Hauler	
RGN		Gooseneck		Power Only Shipments	✓
Flat Bed	✓	Box Vans			

Contact Information to Receive Freight Quote Documents	
Name:	Patrick Engelby
Phone:	479.282.7740
Fax #:	208.258.3923
E-mail:	paengelby@giltner.com

EXHIBIT B

FREIGHT QUOTE DOCUMENT TEMPLATE

Texas Federal Surplus Property Program
Freight Quote Document

Quote should be returned to:

E-mail: surplusfreight@tfc.state.tx.us or Fax: 512-236-6173

Load #:		**Date:**		**Truck Type Requested:**	
Quote Deadline:		**Date:**		**Time:**	
Quote must be received by the date and time above to be considered for award.					

Delivery Hours: M-F, 8:00 am-12:00 pm & 1:00 pm-4:30 pm, Notify TFC warehouse 24 hours prior to delivery

Delivery to:

- ☐ FTW, Texas Federal Surplus, 2826 North Beach Street, Fort Worth, Texas 78611-6201
- ☐ SAN, Texas Federal Surplus, 2103 Ackerman Road, San Antonio, Texas 78219-3017
- ☐ AUS, Texas State and Federal Surplus, 6506 Bolm Road, Austin, Texas 78721-1990

Quote should include all costs including loading expenses (if required) for all the following document(s). Three hours shall be permitted for loading of freight. This is a quote only, and is not intended to imply an award. You will be notified if further action is required. Provide the most economical combination possible.

Transfer Order #	Property Location	Property Name & Description (Dimensions and Weight, if known)

Driver must notify location by phone and e-mail prior to pickup and delivery at each location. A C5 Authorization Form with name of truck line and driver may be required for each pick-up location. Forms and contact information will be provided with notice of award.

Quote Total Amount for All Property Listed Above:	**$**

Vendors Signature _____ Date _____

IMPORTANT: If awarded, please bill for exact number of documents delivered and explain reason why other documents on this quote were not delivered

EXHIBIT C

FREIGHT AWARD DOCUMENT TEMPLATE

Texas Federal Surplus Property Program
Freight Award Document

Load #:		Date:		Truck Type Assigned:	

Delivery Hours: M-F, 8:00 am-12:00 pm & 1:00 pm-4:30 pm, Notify TFC warehouse 24 hours prior to delivery

Delivery to:

- ☐ FTW, Texas Federal Surplus, 2826 North Beach Street, Fort Worth, Texas 78611-6201
- ☐ SAN, Texas Federal Surplus, 2103 Ackerman Road, San Antonio, Texas 78219-3017
- ☐ AUS, Texas State and Federal Surplus, 6506 Bolm Road, Austin, Texas 78721-1990

Pricing includes all costs including loading and unloading expenses (if required) for all the following document(s).

Transfer Order #	Property Location	Contact Information	Property Description (Dimensions and Weight, if known)

Driver must notify location by phone and e-mail prior to pickup and delivery at each location. See attached C5 Authorization Form(s) which will need to be completed and forwarded to each pick-up location.

Awarded Amount for All Property Listed Above:	$

Agency Authorized Signature _____ Date _____

IMPORTANT: Please invoice for exact number of documents delivered and explain reason why other documents on this quote were not delivered. Any additional charges in excess of awarded amount must be pre-approved in writing from the Contract Administrator.

EXHIBIT D

WORKERS' COMPENSATION WAIVER

WORKERS' COMPENSATION WAIVER

ALL EMPLOYERS MUST PROVIDE EVIDENCE OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE TEXAS WORKERS' COMPENSATION ACT.

Generally, an employer with one or more employees carries workers' compensation insurance to cover those employees or elects coverage through self-insurance as permitted by Texas Labor Code, Section 406.003.

Sole proprietorships who wish to perform freight services pursuant to Texas Facilities Commission's Request for Qualifications No. 303-7-00202 that do not carry workers' compensation insurance must comply, agree, and attest to the following:

A signed statement (see below) that the business is a sole proprietorship as defined by the Texas Workers' Compensation Act.

> I am the owner of a sole proprietorship, doing business as, Giltner Logistic Services, Inc___ and am the sole employee of this business entity. I, as an individual employer, have not elected to be covered under the Texas Workers' Compensation Act.
>
> I, and the sole proprietorship that I represent, am covered by medical insurance that will be used to cover any injuries obtained in providing freight services to Texas Facilities Commission (TFC).

I, and the sole proprietorship that I represent, waive all rights to sue the Texas Facilities Commission or its officers, employees, or commissioners or the State of Texas for injuries not caused by its negligence.

I, and the sole proprietorship that I represent, release liability of the Texas Facilities Commission or its officers, employees, or commissioners or the State of Texas for any injuries to myself in the course of performing work in conjunction with providing freight services to TFC.

BUSINESS NAME:

Giltner Logistic Services, Inc_____

SIGNATURE OF SOLE PROPRIETOR:

Greg Paulson

Date __4.4.18_____

EXHIBIT E

BROKER'S AFFIDAVIT RE UNDERLYING CARRIERS

Broker's Affidavit re Underlying Carriers

March 7th, 2018

Texas Facilities Commission

PO Box 13047

Austin, TX 78711-3047

AFFIDAVIT BY BROKER

I, the undersigned, as a duly appointed agent for Giltner Logistic Services, Inc, in accordance with the requirements of the Texas Facilities Commission Contract for Freight Transportation Services, Giltner Logistic Services, Inc, do hereby ensure that Giltner Logistic Services, Inc in providing Freight Transportation Services to the Texas Facilities Commission will ensure that:

1. All contracted underlying carriers possess proper operating authority;
2. All contracted underlying carriers shall adhere to all requirements of Sections II and XI of the Contract for Freight Transportation Services;
3. Notification has been given to all contracted underlying carriers that the Texas Facilities Commission assumes no responsibility for payment of services to carriers hired by brokers; and
4. Notification has been given to all contracted underlying carriers that the Texas Facilities Commission assumes no liability for loss of property or personal injury.

I certify under penalty of perjury under the laws of the State of Texas that the forgoing information is true and correct.

Signature of Authorized Agent
President and CEO

CEO.
Title

3.7.18
Date

Broker's Affidavit re Underlying Carriers pg 2

STATE OF Idaho

COUNTY OF Twin Falls

Before me, a notary public, on this day personally appeared Greg Paulson, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

(Personalized Seal)

KAREN JENSEN
NOTARY PUBLIC
STATE OF IDAHO

Notary Public Signature

Commission Ends on: 10/21/20