

**AMENDMENT NO. 2  
TO THE  
CONSTRUCTION MANAGER-AT-RISK CONTRACT  
BETWEEN  
THE TEXAS FACILITIES COMMISSION  
AND  
SWINERTON BUILDERS**

**This Amendment No. 2** to the Construction Manager-at-Risk Contract (hereinafter referred to as "Amendment No. 2") is entered into by and between the Texas Facilities Commission, a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 (hereinafter referred to as "TFC"), as Owner (as defined in *2015 Uniform General Conditions*, Section 1.28) and Swinerton Builders, located at 5705 Southwest Parkway, Building One, Suite 200, Austin, Texas 78735, (hereinafter referred to as "CMR"), to amend the original construction manager-at-risk contract dated May 16, 2016, (hereinafter referred to as the "Contract") pursuant Tex. Gov't Code Ann. §§2166.2525 and §2267.151, to be effective as of the Effective Date (as defined below).

**RECITALS**

WHEREAS, on May 16, 2016, the parties entered into that one certain *Construction Services Contract By and Between the Texas Facilities Commission and Swinerton Builders* (hereinafter referred to as the "Contract"); and

WHEREAS, on March 27, 2017, the parties entered into Amendment No. 1 to the Contract; and

WHEREAS, the parties desire to extend the Term of the contract; and

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. Unless clearly provided otherwise herein, all terms and phrases in initial caps herein shall have the same meaning as the terms and phrases with initial caps in the Contract.
2. The parties agree to modify ARTICLE III – TERM, SUSPENSION, AND TERMINATION, by deleting Section 3.1, Contract Term, in its entirety and replacing it with Section 3.1, Contract Term, as follows:

"3.1. Contract Term. This Contract shall be effective as of the Effective Date and shall terminate on May 31, 2019, unless extended by the parties by amendment to this Contract or terminated earlier, as provided below."

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

"7.1.16. Prohibition Against Boycotting Israel. In accordance with Section 2270.002 of the Texas Government Code, by signature hereon, Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this Contract.

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

Except as expressly amended above, all provisions of the Contract remain in full force and effect.

In Witness Whereof, the parties hereto have made and executed this Amendment No. 2 to this Contract to be effective as of the date of the last party to sign.

TEXAS FACILITIES COMMISSION

SWINERTON BUILDERS

By: HSRAH

By: Bret Hall

John S. Raff

Print Name: Bret Hall

Interim Executive Director

Title: Division Manager

Date of Execution: 6-22-18

Date of Execution: 6/21/2018

G.C. NRG

Dir. HW

D.E.D. R