

**MEMORANDUM OF AGREEMENT  
BETWEEN  
TEXAS FACILITIES COMMISSION  
AND  
TEXAS HISTORICAL COMMISSION**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made by and between the Texas Facilities Commission (“TFC”) and the Texas Historical Commission (“THC”) for the purposes of the transfer of jurisdiction over the French Legation (the “Legation”).

WHEREAS, TFC and THC are agencies of the State of Texas (State); and

WHEREAS, TFC is the state agency with primary responsibility for maintenance and repair of state buildings, grounds, and property; and

WHEREAS, THC is the state agency responsible for providing leadership and coordinating services in the field of archeological and historic preservation; and

WHEREAS, the Legation is a historic landmark located in Austin, Texas and is property of the State, with title to the property currently in the control of TFC; and

WHEREAS, Section 2165.257 of the Texas Government Code currently states that the Legation is for the use and purposes of the Daughters of the Republic of Texas (“DRT”) and that they have full charge of the building and use as they consider proper; and

WHEREAS, pursuant to HB 3810, 85<sup>th</sup> Leg., R.S. (the “Act”), effective September 1, 2017 (the “Effective Date”), Section 2165.257 of the Texas Government Code was amended and transferred to Subchapter C, Chapter 442, Section 442.076, of the Texas Government Code to reassign title of the Legation from TFC to THC and to reassign statutory responsibility for the preservation, maintenance, and restoration of the Legation and its contents and the protection of the historical and architectural integrity of the exterior, interior, and grounds of the Legation from the DRT to THC; and

WHEREAS, this MOA identifies and transfers to THC any property, obligations, and contracts of TFC relating to the Legation; and

WHEREAS, TFC and THC intend to enter into this MOA to meet the requirements of Section 8 of the Act;

Now, THEREFORE, in consideration of the mutual covenants and agreements contained herein, TFC and THC hereby agree as follows:

1. **INVENTORY OF PERSONAL PROPERTY AND FIXTURES.** TFC and THC agree to work together with the DRT to complete an inventory of all personal property and fixtures located at the Legation. Such inventory must identify the origin of each item. All items identified as state-owned assets shall be identified on the inventory as items to be transferred to THC. In the event that THC and TFC are unable to reach agreement regarding the ownership of personal property and fixtures located at the Legation, TFC and THC mutually agree to work together in good faith to resolve any such dispute through alternative dispute resolution as provided by Chapter 2009 of the Texas Government Code. The alternative dispute resolution procedures to be utilized may include any mutually agreed upon mediation procedure or combination of mediation procedures as contemplated by Civil Practice and Remedies Code, Chapter 154.

2. **TRANSFER OF RECORDS.** On the Effective Date, pursuant to Subsection 8(2) of the Act, all records associated with the Legation shall automatically become records of THC. TFC shall make every effort to work with THC to transfer the necessary records associated with the Legation as soon as practicable after the Effective Date.

3. **TRANSFER OF STATE CONTRACTS.** On the Effective Date, pursuant to Subsection 8(3) of the Act, all solicitations, contracts, and purchase orders associated with the Legation shall automatically become solicitations, contracts, and purchase orders of THC. At this time, TFC has not identified any solicitation, contracts, and/or purchase orders related to the Legation to transfer to THC. TFC and THC agree that utility services will not be transferred by this MOA, but THC will be responsible for any maintenance and upkeep related to those services.

4. **TRANSFER OF APPROPRIATIONS.** On the Effective Date, pursuant to Subsection 8(4) of the Act, all funds appropriated to TFC and designated for the benefit of the Legation shall be transferred to THC. Although TFC received no appropriated funds designated for the benefit of the Legation, TFC has received approval from the Legislative Budget Board (“LBB”) as set forth in the letter dated June 2, 2017 to Mr. Harvey Hilderbran from Ms. Ursula Parks, attached hereto and incorporated herein by reference as Attachment A – LBB Approval, for utilization of emergency repair funds for the purpose set forth in the letter dated March 30, 2017 to Ms. Ursula Parks from Mr. Harvey Hilderbran, attached hereto and incorporated herein for all purposes as Attachment B – Request for LBB Approval. The amount authorized by the LBB is equal to \$1,570,000.00 as supported by the TFC exceptional item request for deferred maintenance for the Legation submitted to the LBB in the TFC Legislative Appropriations Request for the 85th Legislative Session, attached hereto and incorporated herein for all purposes as Attachment C – TFC Exceptional Item Request-French Legation Deferred Maintenance. The parties agree that these funds will be transferred from TFC to THC on the Effective Date and used for their intended purposes to support the needed critical repairs and improvements to the Legation.

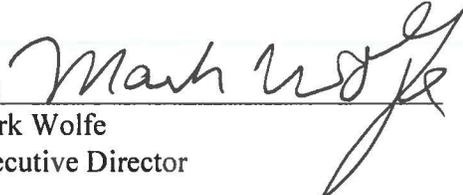
5. **EFFECTIVE DATE AND TERMINATION.** This MOA shall be effective on September 1, 2017, the Effective Date, and shall continue in effect thereafter until it is terminated by operation of law or a written agreement signed by authorized representatives of both parties.

6. **INCORPORATION AND AMENDMENTS.** All oral or written agreements between the parties hereto relating to the subject matter of this MOA that were made prior to the execution of this MOA have been reduced to writing and are contained herein. Any alteration, addition to, or deletion from the terms of this MOA shall be by written amendment by all parties to this MOA.

**TEXAS FACILITIES COMMISSION**

**TEXAS HISTORICAL COMMISSION**

By:   
Harvey Hilderbran  
Executive Director

By:   
Mark Wolfe  
Executive Director

Date of Execution: 8-11-17

Date of Execution: 8/11/17

GC 

**ATTACHEMENT A – LBB APPROVAL**

**LEGISLATIVE BUDGET BOARD**

Robert E. Johnson Bldg.  
1501 N. Congress Ave. - 5th Floor  
Austin, TX 78701

512/463-1200  
Fax: 512/475-2902  
<http://www.lbb.state.tx.us>

June 2, 2017

Mr. Harvey Hilderbran  
Executive Director  
Texas Facilities Commission  
1711 San Jacinto Blvd.,  
Austin, Texas 78701

Dear Mr. Hilderbran:

Pursuant to Rider 18, Emergency Repairs, in the Texas Facilities Commission bill pattern, of the General Appropriations Act for the 2016-17 biennium, the Legislative Budget Board (LBB) shall review an agency request to expend appropriations for emergency repairs.

In a letter dated March 30, 2017, the Texas Facilities Commission requested authorization to use an amount not-to-exceed \$1,570,000 for the critical needs at the French Legation historic landmark.

The LBB has reviewed the Texas Facilities Commission's request and approves an amount not-to-exceed \$1,570,000 for fiscal year 2017. This approval takes effect immediately.

If you need additional information regarding this matter, please contact Jordan Smith, the LBB Analyst assigned to your agency at 512-463-1840 or [Jordan.Smith@lbb.state.tx.us](mailto:Jordan.Smith@lbb.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Ursula Parks".

Ursula Parks  
Director

/js

June 2, 2017

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cc: Mike Morrissey  
Joaquin Guadarrama  
Shannon Ghangurde  
Brady Vaughn  
Drew DeBerry  
Steven Albright  
John McGeady  
Julie Ivie  
Nora Velasco  
Central Files

Andrew Blifford  
Jennifer Deegan  
Nelda Hunter  
Malika Te  
Rob Coleman  
Sarah Keyton  
Benilde Rocha-Cartwright

**ATTACHMENT B – REQUEST FOR LBB APPROVAL**

**Chair**  
Robert D. Thomas

**Executive Director**  
Harvey Hilderbran

**Commissioners**  
William D. Darby  
Patti Jones  
Mike Novak  
Jack W. Perry  
Betty Reinbeck  
Joseph O. Slovacek



*Mailing address:*  
P. O. Box 13047  
Austin, TX 78711-3047  
(512) 463-3446  
[www.tfc.state.tx.us](http://www.tfc.state.tx.us)

March 30, 2017

Ms. Ursula M. Parks  
Director, Legislative Budget Board  
Robert E. Johnson Building, 5<sup>th</sup> Floor  
Austin, Texas 78701

**Re: Request for Approval – Authorization for Emergency Repair Fund Use  
French Legation**

Dear Ms. Parks:

#### **A. BACKGROUND ON FRENCH LEGATION EMERGENCY NEED**

The French Legation is an historic landmark located in Austin and the Daughters of the Republic of Texas (DRT) have been custodians of the site since it was purchased by the State of Texas in 1947. Historic designations of the property include National Register Designation (1969), Registered Texas Historic Landmark Designation (1967), State Archeological Landmark Registration (1981), and City of Austin Historical Landmark Designation. The asset resides on TFC's inventory and the agency has historically assisted the DRT with facility-related matters, including a previous appropriation request. Despite decades of repairs, with major projects in 1985 and 2012, the French Legation is endangered. There is a critical and urgent need to repair certain exterior cladding systems, windows, and interior finishes. As with deferred maintenance on all facilities, the longer critical scopes of work are delayed, the faster the deterioration accelerates and expands in scope. With historic preservation, increasing scopes of repair jeopardize the feasibility of true, historic, restorative repairs that preserve the authentic character of the asset. Additional items needed that will serve to protect this historic and rare remnant of the Republic of Texas era include a new fire alarm system, security system, and site lighting.

TFC's estimated cost for the needed repairs is \$1,570,000. Utilization of emergency repair funds for this purpose will require LBB approval.

#### **B. REQUESTED APPROVAL FROM LBB FOR UTILIZATION OF \$1,570,000 FROM THE EMERGENCY REPAIR FUND**

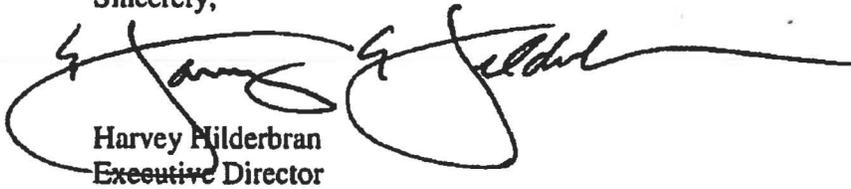
Please accept this letter as a formal request by TFC for LBB approval, in accordance with Rider 18 of TFC's bill pattern in the FY 2016-2017 GAA, for authority to use \$1,570,000 in the FY 2017 Emergency Repair Fund for the purpose of funding repairs to the French Legation related to the aforementioned critical needs.

Ms. Ursula M. Parks  
March 30, 2017  
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The proposed access to the Emergency Repair Fund will allow TFC to address the critical repair needs at the French Legation with minimal budgetary disruption to the State or to the fulfillment of other statutory responsibilities of this agency. We look forward to working cooperatively with LBB in addressing these issues and receiving a favorable determination on this request.

Please contact me if you need any additional information regarding this request. Given the immediacy of the needed repairs for the French Legation, we look forward to hearing from you at your very earliest convenience. Thank you for your assistance with this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Harvey Hilderbran", with a long horizontal flourish extending to the right.

Harvey Hilderbran  
Executive Director

**ATTACHMENT C – TFC EXCEPTION ITEM REQUEST – FRENCH  
LEGATION DEFERRED MAINTENANCE**

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	E	F	G	H	I	J	K	L	M
2	TFC Exceptional Item Request - French Legation Deferred Maintenance								
3	Cost Estimate June - 2016								
4									
5			<b>Trade Est.</b>		<b>Incl. GC's and OH&amp;P</b>		<b>TFC Cost Estimate</b>		
6									
7	Sitework (Demo & Utilities)		\$8,450		\$11,058		\$11,058		
8	Masonry (Chimney)		\$12,300		\$16,097		\$16,097		
9	Metals (Handrail)		\$6,500		\$8,506		\$8,506		
10	Carpentry		\$69,500		\$90,953		\$90,953		
11	Thermal & Moisture Protection		\$5,400		\$7,067		\$7,067		
12	Doors & Windows		\$83,000		\$108,620		\$108,620		
13	Finishes		\$55,700		\$72,893		\$72,893		
14	HVAC		\$15,000		\$19,630		\$19,630		
15	Electrical & Interior Lighting		\$48,300		\$63,209		\$63,209		
16	Fire Alarm		\$2,500		\$3,272		\$12,000		Increased per TFC Historical Costs
17	Security		\$5,000		\$6,543		\$27,500		Increased per TFC Historical Costs
18	Estimating Contingency		\$17,833		\$19,973		\$19,973		
19	Site Electrical				<b>* Subtotal</b>		\$80,000		Added Item
20	Site Lighting						\$20,000		Added Item
21	Landscaping						\$33,000		Added Item
22	Furniture Moving & Storage						\$25,000		Added Item
23									
24							\$615,506		
25	Contingency						\$400,000		
26									
27	Tech Serv Preservation Specialist						\$152,250		
28	Tech Serv Project Management						\$91,845		
29									
30							\$1,259,601		
31									
32	24% Escalation						\$1,561,905		Round up to \$1,570,000
33									
34									
35	* Reconciles with Volz, O'Connell Hutson's 2014 Estimate.								