

**INTERAGENCY COOPERATION CONTRACT
BETWEEN
TEXAS FACILITIES COMMISSION
AND
TEXAS WORKFORCE COMMISSION**

This Interagency Cooperation Contract (Contract) is entered into by and between the Texas Facilities Commission (TFC) and the Texas Workforce Commission (Receiving Agency), pursuant to the authority granted by and in compliance with the provisions of "The Interagency Cooperation Act," TEX. GOV'T CODE ANN. §§ 771.001-.010 (Vernon 2012 & Supp. 2015).

I. STATEMENT OF WORK TO BE PERFORMED.

1.01. **SCOPE OF SERVICES.** TFC shall provide, or cause to be provided, property management services for the TWC North Lamar Building and Criss Cole Center located at 4800 North Lamar Austin, Texas 78756, and the Brown Heatly Building Data Center located at 4900 North Lamar, Austin, Texas 78751 (hereinafter referred to as the "Building(s)") and the surrounding areas including the landscaped areas, parking lots, and/or garages (hereinafter referred to as the "Premises"). Property management services means all services, supplies and labor as set forth in Exhibit A – Statement of Work, attached hereto and incorporated herein for all purposes. The financial, procedural and operational roles and responsibilities associated with this Contract are further described in Exhibit B – Roles and Responsibilities, attached hereto and incorporated herein for all purposes. All service records, maintenance records or other records that result from work performed under this Contract shall be maintained by TFC, following TFC's records retention policies. Most services are to be performed during regular business hours which are considered to be between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday, excluding holidays. Some operations will require work in the Building(s) after normal business hours, and TFC is responsible for property oversight on a twenty-four (24) hour basis.

II. BASIS FOR COMPUTING REIMBURSABLE COSTS.

2.01. Payments made to TFC shall be for actual facilities management services estimated by TFC in cooperation with Receiving Agency as depicted in Exhibit C – FY17 Contract Budget, attached hereto and incorporated herein for all purposes. Funds received by TFC shall only be used to cover the cost of services and resources provided to Receiving Agency. Any funds not used will be returned to Receiving Agency at the end of the fiscal year. This Contract will determine the amount of work performed and materials furnished that are to be paid under the Contract. Any modification, addition or deletion of an item in the scope of work will require an amendment to the terms of this Contract and may require a budget adjustment.

III. CONSIDERATION.

3.01. **CONTRACT AMOUNT.** The Contract amount shall not exceed the sum of Four Hundred Seven Thousand Nine Hundred Ten and 72/100 Dollars (\$407,910.72) for providing the services required to fulfill the terms of this Contract, including a line item of Two Hundred Twenty Thousand Five Hundred Sixty Two and 88/100 Dollars (\$220,562.88) for security services provided by TFC, as further described in "Exhibit C", attached hereto and incorporated herein for all purposes.

3.02. ACTUAL COSTS. TFC and Receiving Agency agree that payment in advance by Receiving Agency to TFC for services is necessary to effectively and efficiently complete the services, that such payment throughout the term of this Contract would serve a legitimate public purpose, and that the delivery of services may be expedited as a result of advanced payment, as authorized by Section 2155.383 of the Texas Government Code. If actual costs for contracted services provided by third-party contractors for work requested by Receiving Agency will exceed the amount allocated for said service, TFC will provide notice and a revised estimate to Receiving Agency. Prior to exceeding the "maximum contract amount" the parties shall agree to amend this Contract pursuant to Section 8.09 to reimburse for such increased actual costs on a dollar for dollar basis. If actual costs for contracted services by third-party contractors are less than the maximum contract amount, TFC will return any amount that exceeds actual costs to Receiving Agency.

IV. PAYMENT FOR SERVICES.

4.01. PAYMENT. An Interagency Transaction Voucher or Invoice (ITV) for these services will be prepared by TFC for the full amount of this Contract. Receiving Agency shall reimburse TFC within thirty (30) days from receipt of ITV or invoice for the full amount of this Contract. If payment by Receiving Agency is not received within thirty (30) days, TFC may cancel the Contract without further notice to Receiving Agency, and Receiving Agency shall remain liable for all actual costs incurred by TFC in delivering services under this Contract. TFC shall process all expenditures under this Contract as non-TFC capital budget expenses in that Receiving Agency shall have processed these expenditures as capital expenditures pursuant to HB 1, 84th Leg., R.S., Art. IX, Sec. 14.03.

4.02. UNIFORM STATE ACCOUNTING SYSTEM (USAS). To the extent possible, interagency payments involving only treasury funds will be processed as paperless document transfers in the USAS system subject to audit by the Fund Accounting Division of the Comptroller's Office. Payments from treasury funds for deposit into local bank accounts will be processed in USAS through the paperless purchase vouchers process. Interagency payments received from local funds for deposit into the State Treasury must be submitted according to policies and procedures for USAS deposits.

4.03. REIMBURSEMENT. (a.) Reimbursements with funds contained in the State Treasury shall be made via USAS funds transfers, with Receiving Agency initiating the transfers. TFC will provide Receiving Agency with all the necessary USAS coding elements. Reimbursement with funds outside the State Treasury shall be made by Receiving Agency issuing warrants for payment to TFC.

(b.) All reimbursements must be made through the use of local funds or drawn on the appropriated item(s) or account(s) of Receiving Agency from which the agency would ordinarily make expenditures for similar services or resources. Reimbursements will be credited to the appropriation year in which the expenses were incurred.

(c.) To comply with H.B. 1, 84th Leg., R.S., art. IX, Sec. 6.08, entities making payments from funding sources other than General Revenue Fund appropriations, shall remit an additional amount equal to the percentage of direct labor costs, necessary to cover the cost of the benefits.

4.04. CAPITAL BUDGET AUTHORITY. Pursuant to Rider 16 entitled *Capital Construction on Behalf of State Agencies* for TFC found in HB 1, 84th R.S., Art. I, any capital items related to

construction of buildings and facilities including minor construction projects greater than \$100,000 performed by TFC on behalf of other state agencies do not apply to TFC for the purpose of the capital budget rider limitations specified in HB 1, 84th Leg., R.S., Art. IX, Sec. 14.03. By signing this Contract, Receiving Agency certifies it has the requisite capital budget authority to fund the services to be provided under this Contract.

V. TERM OF CONTRACT.

5.01. TERM. This Contract shall be effective as of September 1, 2016 and shall terminate on August 31, 2017, unless terminated earlier by either party, as provided in Section 5.03.

5.02. DISPUTE RESOLUTION. The parties agree to use good-faith efforts to decide all questions, difficulties, or disputes of any nature that may arise under or by this Contract; provided however, nothing in this paragraph shall preclude either party from pursuing any remedies as may be available under Texas law.

5.03. EARLY TERMINATION. (a.) Either party may terminate this Contract upon thirty (30) days prior written notice to the other. Upon receipt of notice of early termination, TFC shall cancel, withdraw, or otherwise terminate outstanding orders or subcontracts which relate to the performance of this Contract and shall otherwise cease to incur costs under this Contract. Early termination will be subject to an equitable settlement of the respective interests of the parties accrued up to the date of termination.

(b.) If this Contract is terminated for any reason, TFC will not be liable for any damages, claims, or losses, or any other amounts arising from or related to any such termination.

VI. FUNDING.

6.01. NO DEBT. This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or Receiving Agency 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.

VII. FORCE MAJEURE.

7.01. FORCE MAJEURE. Except as otherwise provided, neither TFC nor Receiving Agency is liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise or due foresight, such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure.

VIII. MISCELLANEOUS PROVISIONS.

8.01. INDEPENDENT CONTRACTOR. It is further mutually understood and agreed that Receiving Agency is contracting with TFC as an independent contractor.

8.02. INCORPORATION BY REFERENCE. Incorporated by reference the same as if specifically written herein are the rules, regulations, and all other requirements imposed by law, including but not limited to compliance with those applicable rules and regulations of the State of Texas and the federal government, all of which shall apply to the performance of the services under this Contract.

8.03 GOVERNING LAW AND VENUE. This Contract shall be governed and construed in accordance with the laws of the State of Texas. **VENUE OF ANY SUIT BROUGHT FOR BREACH OF THIS CONTRACT SHALL BE FIXED IN ANY COURT OF COMPETENT JURISDICTION IN TRAVIS COUNTY, TEXAS;** provided, however, the foregoing shall not be construed as a waiver of sovereign immunity by either party.

8.04. SEVERANCE. Should any one or more provisions of this Contract be held to be void, voidable, or for any reason whatsoever of no force and effect, such provision(s) shall be construed as severable from the remainder of this Contract and shall not affect the validity of all other provisions of this Contract, which shall remain of full force and effect.

8.05. HEADINGS. The headings contained in this Contract are for reference purposes only and shall not in any way affect the meaning or interpretation of this Contract.

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

TFC: Texas Facilities Commission
Attention: Legal Services
1711 San Jacinto Blvd.
Austin, Texas 78701

Receiving Agency: Texas Workforce Commission
101 East 15th Street
Austin, Texas 78711
Attention: Martin Carlson
Phone: (512) 936-3687
Email: martin.carlson@twc.state.tx.us

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

8.07. AUDIT. Pursuant to Section 2262.154 of the TEX. GOV'T CODE, TFC and Receiving Agency agree to the following:

(a) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(b) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(c) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

8.08. ENTIRE AGREEMENT. This Contract constitutes the entire agreement of the parties. No other agreement, statement, or promise that is not contained in this Contract shall be binding except a subsequent written amendment to this Contract signed by both parties.

THE UNDERSIGNED do hereby certify that, (1) the services specified above are necessary and essential and are properly within the statutory functions and programs of the affected agencies of State Government, (2) the proposed arrangements serve the interest of efficient and economical administration of those agencies, and (3) the services, supplies or materials contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract to the lowest responsible bidder.

TFC certifies that it has the authority to enter into this Contract by virtue of the authority granted in TEX. GOV. CODE ANN., Chapter 771.

Receiving Agency further certifies that it has the authority to enter into this Contract by virtue of the authority granted in TEX. CODE ANN., Chapter 771.

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TEXAS FACILITIES COMMISSION

By: 

Kay Molina

General Counsel

Date of execution: 8/31/16

 Dir.

K.M. D.E.D.

TEXAS WORKFORCE COMMISSION

By: 

Printed Name: Larry E, Temple

Title: Executive Director

Date of execution: 10/3/16

TFC Contract No. 17-004-000

“Exhibit A”

STATEMENT OF WORK
PROPERTY MANAGEMENT SERVICES
TWC – NORTH LAMAR BUILDING

BUILDING OPERATION, MAINTENANCE AND PROPERTY SERVICES

TFC shall provide the following building operation and maintenance services under this Interagency Cooperation Contract. Unless otherwise specified, these services shall be covered by the fees set forth in Exhibit C –FY17 Contract Budget to the Contract.

1. **SECURITY CONTROLS AND EQUIPMENT.** TFC shall provide, service and maintain the security controls and equipment at the building(s) as follows:
 - (i.) building access control system equipment to include all electronic door hardware, card readers, security panels, recording equipment and any other equipment to maintain a functioning system;
 - (ii.) management and issuing of access cards and the maintenance of the database;
 - (iii.) management and issuing of parking permits and the maintenance of the database;
 - (iv.) building surveillance system equipment to include all cameras, recording equipment and any other equipment to maintain a functioning system; and,
 - (v.) maintenance of the white noise system, which may include an emergency broadcast system.

2. **SECURITY GUARD SERVICES.** TFC shall provide contract security personnel with post orders approved by the TFC Contract Administrator and TFC Office of Risk Management. TFC shall provide the following security services:
 - (i.) all personnel employed to perform security duties shall be licensed as commissioned or non-commissioned security officers by the Texas Department of Public Safety;
 - (ii.) staff the guard station, centrally located in the Building(s) lobby, and oversee visitor sign-in and out;
 - (iii.) assistance with emergency evacuation;
 - (iv.) coordination with local life-safety and law enforcement officials;

- (v.) parking lot and/or garage monitoring;
- (vi.) building entrance monitoring;
- (vii.) raising and lowering of flags on each business day per flag protocol as dictated by the Governor of Texas;
- (viii.) monitoring of all CCTV cameras; and,
- (ix.) additional guard service, as needed, for special events or as tenant services.

3. **EXCLUDED SERVICES.** (a) The following services are specifically excluded from the specifications of this Contract:

- (i.) telecom services, including data cabling;
- (ii.) data centers/server rooms;
- (iii.) uninterrupted power supply systems;
- (iv.) major and minor construction projects;
- (v.) catastrophic repairs;
- (vi.) capital expenses such as major equipment replacement;
- (vii.) deferred maintenance projects;
- (viii.) repair or replacement of laboratory or other tenant agency specific equipment;
- (ix.) modular furniture repair, moving and modification;
- (x.) moving or repair of furniture or other equipment;
- (xi.) renovation projects;
- (xii.) other items not related to a building system;
- (xiii.) specialized (critical) air conditioning units;
- (xiv.) specialized fire protection equipment; and,
- (xv.) specialized electrical redundancy equipment.

- (b) Some of the services may be added to the specifications individually, on an as needed basis, and may require a budget increase and/or a contract amendment. Some of the services may be contracted through other TFC divisions, including the Departments

of Minor Construction, Facility Design and Construction, State Surplus or Energy Management.

STATEMENT OF WORK
PROPERTY MANAGEMENT SERVICES
CRISS COLE CENTER

TFC shall provide the following services under this Interagency Cooperation Contract. Unless otherwise specified, these services shall be covered by the fees set forth in Exhibit C – FY17 Contract Budget to the Contract.

1. **SECURITY GUARD SERVICES.** TFC shall provide contract security personnel with post orders approved by the TFC Contract Administrator and TFC Office of Risk Management. TFC shall provide the following security services:
 - (i.) all personnel employed to perform security duties shall be licensed as commissioned or non-commissioned security officers by the Texas Department of Public Safety;
 - (ii.) staff the guard station, centrally located in the Building(s) lobby, and oversee visitor sign-in and out;
 - (iii.) assistance with emergency evacuation;
 - (iv.) coordination with local life-safety and law enforcement officials;
 - (v.) parking lot and/or garage monitoring;
 - (vi.) building entrance monitoring;
 - (vii.) raising and lowering of flags on each business day per flag protocol as dictated by the Governor of Texas;
 - (viii.) monitoring of all CCTV cameras; and
 - (x.) additional guard service, as needed, for special events or as tenant services.

STATEMENT OF WORK
PROPERTY MANAGEMENT SERVICES
BROWN HEATLY – TWC DATA CENTER

TFC shall provide the following building operation and maintenance services under this Interagency Cooperation Contract. Unless otherwise specified, these services shall be covered by the fees set forth in Exhibit C – FY17 Contract Budget to the Contract.

1. **GENERATOR SYSTEM.** TFC shall provide for the following services.
 - (a.) TFC shall perform preventative maintenance, periodic testing and/or inspection as required by other state, local and federal government agencies.
 - (b.) In addition to the preventative maintenance program, TFC shall maintain, operate and repair the generator as required.
 - (c.) Monitoring of the SCADA system.

2. **FIRE PROTECTION SYSTEMS.** TFC shall be responsible for, at a minimum, the following fire protection system services for the gas fire suppression system and pre-action sprinkler system dedicated to the data room:
 - (i.) provide off-site monitoring, inspection, testing and maintenance of the gas fire suppression systems;
 - (ii.) maintain fire system devices s per applicable National Fire Protection Association (hereinafter referred to as “NFPA”) standards;
 - (iii.) provide twenty-four (24) hour support to fire systems; and,
 - (iv.) compile and maintain a complete list of Material Safety Data Sheets (MSDS’s) for the gas suppression agent. This information shall be located at the Fire Control Center and in the TFC Property Manager’s office.

TFC Contract No. 17-004-000

“Exhibit B”
ROLES AND RESPONSIBILITIES

EXHIBIT B

Roles and Responsibilities

Building: BHB - Data Center
 Tenant Agency: TWC

I. BUILDING OPERATION AND MAINTENANCE	Financial	Procedural	Operational
A. Preventative Maintenance (Generator Only)	Tenant	Shared	TFC
B. Electrical (Generator Only)	Tenant	Shared	TFC
C. Gas Fire Suppression System	Tenant	TFC	TFC

Building: North Lamar Building
 Tenant Agency: TWC

I. SECURITY	Financial	Procedural	Operational
A. Security Access Systems	Tenant	Shared	TFC
B. Badging Employees	Tenant	TFC	TFC
C. Video Systems	Tenant	Shared	TFC
D. Security Guard Services	Tenant	TFC	TFC

Building: Criss Cole Center
 Tenant Agency: TWC

I. SECURITY	Financial	Procedural	Operational
D. Security Guard Services	Tenant	TFC	TFC

TFC Contract No. 17-004-000

“Exhibit C”

FY17 CONTRACT BUDGET

Exhibit C

BHB Data Center Contract Budget FY17

Trade	Estimated Budget
Generator Maintenance	\$ 12,000.00
Gas Fire Suppression System	\$ 12,000.00
FY17 Budget	\$ 24,000.00

TWC North Lamar Building Budget FY17

Trade	Estimated Budget
Security Systems	\$ 4,000.00
Security	\$ 157,347.84
In-House Labor	\$ 1,000.00
Parts	\$ 1,000.00
FY17 Budget	\$ 163,347.84

Criss Cole Center Budget FY17

Trade	Estimated Budget
Security	\$ 220,562.88
FY17 Budget	\$ 220,562.88

TOTAL FY17 BUDGET	\$ 407,910.72
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