CONTRACT
FOR
BOILER PREVENTATIVE MAINTENANCE
AND REPAIR SERVICES
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
THE BRANDT COMPANIES, LLC

The Texas Facilities Commission (hereinafter referred to as "TFC"), a state agency located at 1711 San Jacinto Blvd., Austin, Texas 78701 and The Brandt Companies, LLC (hereinafter referred to as "Contractor"), located at 1728 Briercroft Court, Carrollton, Texas 75006, enter into the following contract for boiler preventative maintenance and repair services (hereinafter referred to as the "Contract") pursuant to TEX. GOV'T CODE ANN. Ch. 2165 (Vernon 2012 & Supp. 2015).

I. STATEMENT OF WORK.

1.01. **GENERAL.** (a.) Contractor shall provide boiler preventive maintenance and repair services for various State-owned and/or maintained office buildings located in the Austin, Texas metropolitan area. Contractor shall provide all labor, materials, equipment, tools and transportation required to perform these services. All boiler repair work and maintenance shall follow the manufacturer's recommendations.

(b.) Contractor shall provide replacement parts for boilers within seventy two (72) hours from the date and time of notification by TFC. Exceptions to this must be approved by the Contract Administrator, as defined in Section 1.02 below.

(c.) Contractor shall provide repairs and maintenance for boilers necessary to meet the standards of Texas Health and Safety Code, Chapter 755, as administered by the Texas Department of Licensing and Regulation, and Title 16 of the Texas Administrative Code, Chapter 65. Scope of work and cost for such implementations must be approved by the Contract Administrator.

(d.) Contractor shall purchase and provide all manufacturers replacement parts for each model of boiler. After-market parts are not to be used unless approved by the Contract Administrator.

(e.) All maintenance, repair and alteration work must comply with the applicable rules and regulations of the Texas Department of Licensing and Regulation and American Society of Mechanical Engineers code, Title 24, and the current edition of the National Board Inspection Code (and addenda), and maintain an R Stamp Certificate of Authorization.

1.02. **CONTRACT ADMINISTRATOR.** (a.) TFC shall designate a "Contract Administrator" for this Contract who will serve as the point of contact between TFC and Contractor. The instructions of the Contract Administrator and/or the Contract Administrator's designated representative (hereinafter collectively referred to as "Contract Administrator") are to be strictly

and promptly followed by Contractor at all times. The Contract Administrator is to have free access to Contractor's supplies, equipment, and work product at all times for inspection and audit. Contractor is to afford the Contract Administrator all necessary assistance during those inspections and/or audits. The Contract Administrator will decide any and all questions that may arise as to the quality and acceptability of work performed, and as to the manner of performance and rate of progress of the work. The Contract Administrator will determine the amount of work performed and materials furnished which are to be paid under this Contract. Failure of the Contract Administrator during the progress of the Contract, to: (i.) discover or reject unacceptable work; (ii.) discover work not in accordance with the Contract; or, (iii.) failure to exercise any remedies in connection therewith, shall not be deemed an acceptance thereof, nor a waiver, of TFC's right to full performance of the contract.

(b.) Contractor agrees to conduct all of its services under this Contract by and through appropriate communications with Contract Administrator. Contractor understands and agrees that work, installation or any other service performed without the prior written direction of Contract Administrator is work outside the scope of this Contract and shall be performed exclusively at Contractor's risk and own expense.

1.03. **PERFORMANCE REQUIREMENTS.** Contractor's performance shall include, but not limited to, the following when performing boiler maintenance:

(i.) all major and minor boiler repairs, including, but not limited to, the following: diagnostic, rebuilds, overalls, teardowns, retrofits and re-tubes;

(ii.) performance of annual maintenance per the manufacturer's guidelines;

(iii.) removal and disposal of all trash and oil from floors when job is completed for the day;

(iv.) provision of the appropriate off-site disposal of used parts and trash; and,

(v.) reporting of any observed equipment deficiencies to Contract Administrator the same day they have been observed.

1.08. **DELIVERY RELEASE SERVICES.** (a.) TFC may, from time to time, initiate maintenance and repair projects based on deficiencies documented during boiler maintenance services under this Contract or to effect repairs due to system failures. Such requests for services shall be documented through a separate document (hereinafter referred to as a "Delivery Release"). Each Delivery Release will constitute an amendment to this Contract, subject to the terms and conditions set forth in this Contract, and shall include a description of the project assignment, scope of services, schedule and term, and compensation specific to the Delivery Release which shall be negotiated at the time of such Delivery Release. Any work completed by Contractor without a Delivery Release will not be paid for by TFC.

(b.) Contractor understands and agrees that no guaranteed minimum number of Delivery Releases or amount of work will arise from this Contract.

(c.) Contractor's response to an initial request shall include the following types of requests.

(i.) Non-Emergency. Contractor's initial response shall be within one (1) business day, unless otherwise agreed to by the TFC Contract Administrator. Contractor shall have a technician on site in the time frame agreed to by the TFC Contract Administrator at the time of the Contractor's initial response.

(ii.) Emergency. Contractor's initial response shall be within fifteen (15) minutes, unless otherwise agreed to by the TFC Contract Administrator. Contract shall have a technician on site within two (2) hours, unless otherwise agreed to by the TFC Contract Administrator at the time of the Contractor's initial response.

(d.) Travel time to and from a job site is not reimbursable under this Contract. Contractor shall check in and out with the Contract Administrator to ensure that the Contract Administrator logs the commencement and completion times for the "Service Ticket", or summary list, for the services performed under a Delivery Release. Contractors shall provide the following information on the Service Ticket:

(i.) building name;

(ii.) floor number;

(iii.) TFC work order number;

(iv.) name of Contractor personnel performing the work;

(v.) trade category of person performing the work;

(vi.) number of hours worked;

(vii.) itemized list of parts/material used/replaced; and,

(viii.) narrative description of what the technician found that was causing the problem and what was done to correct it.

1.09. **CALLBACK.** For the purpose of evaluating Delivery Release performance under this Contract, a "Callback" is defined as a failure due to a technician's inability, negligence or lack of knowledge to perform services. Contractor is to perform Callback Service at no additional cost to TFC, regardless of whether the work is performed during normal working hours or overtime hours. Contractor shall maintain a complete, orderly written report of all Callbacks. These "Callback Reports" shall indicate the time, date, name of personnel, problems reported and corrective measures taken to complete or repair all problems. A consolidated Callback Report is to be furnished to TFC as soon as the service is provided.

1.10. **CALLBACK RESPONSE.** Failure by Contractor to successfully complete the work described in a Delivery Release will result in a Callback. The Contract Administrator will contact the Contractor and notify them of the Callback. Contractor will respond to the Callback

no later than the next business day with a technician possessing the technical expertise, knowledge and any required material to correct the problem. Contractor shall check in and out with the Contract Administrator to ensure that the Contract Administrator logs the commencement and completion times for the "Callback Service Ticket", or summary list, for the services performed to correct the problem described in the original Delivery Release. Contractor shall provide the following information on the Service Ticket:

(i.) building name;

(ii.) TFC work order number;

(iii.) name of Contractor personnel performing the work;

(iv.) number of hours worked;

(v.) itemized list of parts/material used/replaced; and,

(vi.) narrative description of what the technician found that was causing the problem and what was done to correct it.

1.11. **SECURITY AND IDENTIFICATION.** Contractor shall abide by all procedures and rules as conveyed by Contract Administrator regarding security requirements of the property where work is to be performed. Contractor employees must wear either uniforms or appropriate clothing identifying them as employees of the Contractor at all times when working in TFC facilities. Shorts and/or muscle shirts shall not be worn at any time. Contractor personnel must have a TFC supplied identification badge visible at all times when working in TFC facilities.

1.10. **CONTRACTOR ACCESS.** Access routes, entrance gates or doors, parking and storage areas, and other necessary Contactor access, along with any imposed time limitations shall be designated by Contract Administrator. Contractor shall conduct operations in strict observation of the access routes and other areas established. Under no circumstances shall any of Contractor's employee, vehicles, or equipment enter or move upon any area not authorized by Contract Administrator for access by Contractor.

1.11. **EXAMINATION OF PREMISES.** Contractor shall be held to have examined all properties at which the work will take place and to be familiar with the conditions under which the work will be accomplished. Contractor shall inspect existing conditions prior to commencing work, including elements subject to damage or movement during the performance of services under this Contract.

1.12. **EXISTING UTILITIES AND STRUCTURES.** Contractor shall adequately protect the work, TFC's property, adjacent property and the public. In the event of damage to facilities as a result of Contractor's operations, Contractor 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, Contractor 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 Contractor, and Contractor 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 Contractor. Upon the approval of the TFC Contract Administrator, Contractor shall have the right to utilize air, water, gas, steam, electricity, and similar items of expense from existing outlets on TFC property.

1.13. **WASTE REMOVAL.** Contractor shall keep the premises clean on a continual basis, and no trash or debris will be permitted to accumulate in work areas. Contractor shall be responsible for removal and disposal of all debris and waste materials associated with this Contract.

1.14. **SMOKING.** All TFC facilities where work is to be performed are nonsmoking buildings. Contractor's employees are prohibited from smoking in all areas except in areas designated for smoking.

II. TERM.

2.01. **CONTRACT AWARD.** (a.) This Contract shall be effective as of the date of the last party to sign and shall expire on August 31, 2017, unless extended by the parties by amendment to this Contract or terminated earlier, as provided in Section 2.03 below. This Contract may be renewed for one (1) additional two (2) year period, provided that renewal is executed by written amendment to this Contract prior to expiration of the current contract term. Any renewals shall be at the same terms and conditions, plus any approved changes.

(b.) 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 fees verification, and default shall survive the termination or expiration dates of this Contract.

2.02. **WORKING HOURS.** Contractor shall perform the services set forth in this Contract that shall not interfere with the day to day business operations of TFC facilities between the hours of 7:30 a.m.–6:00 p.m. Monday through Friday. Other contract work may also be performed at hours other than normal business hours, at the direction of the Contract Administrator, in order to meet required schedules. Contractor will be on-call twenty four (24) hours a day three hundred sixty five (365) days a year and shall respond to the TFC Contract Administrator, as required in Section 1.08 (c). No overtime will be paid without the prior written approval of the Contract Administrator.

2.03. **TERMINATION.** (a.) Termination with Default. TFC may terminate this Contract immediately for default by providing written notice to Contractor of such termination if the Contractor fails to execute the work properly, performs work in an unsatisfactory manner, or fails to perform any provision of the Contract. In the event of abandonment or default, Contractor will be responsible for paying damages to TFC, including but not limited to, the cost to resolicit this Contract and any consequential damages to the State of Texas or TFC resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the scope of work is significantly changed.

(b.) Termination without Default. TFC may, at its sole option and discretion, terminate this Contract at any time, for any reason whatsoever, in whole or in part, by giving written notice (the "Notice of Termination") to Contractor at least thirty (30) days prior to the effective date of

termination or reduction in the scope of work. In the event of termination by TFC under this subsection, Contractor shall be governed by the terms and conditions, and shall perform the acts outlined in the following Section 2.03(c.)

(c.) Implementation of Termination. Contractor 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 as may be necessary and be compensated only for such work as may be necessary as determined by Contract Administrator to preserve the work in progress and to protect materials, properties, and equipment. In the event of termination by TFC, TFC shall pay Contractor for all work satisfactorily performed up to the effective date of termination or reduction in the scope of work in accordance with the prices included in the scope of work.

(d.) Termination by Contractor. Contractor may terminate the Contract upon providing sixty (60) days' written notice to TFC. In the event of termination by Contractor, Contractor shall be governed by the terms and conditions of this Contract, and shall perform the acts outlined in Section 2.03(c.) above. Contractor will be held responsible for additional cost incurred from the termination of this Contract.

2.04. **UNSATISFACTORY PERFORMANCE.** TFC may consider the following levels of performance by Contractor as unsatisfactory. An unsatisfactory performance determination is not limited to the following:

(i.) more than one (1) Callback to correct the same problem within thirty (30) calendar days;

(ii.) more than one (1) instance within one (1) calendar year of Contractor personnel assigned to an authorized Service Call, test or inspection not having the skill, knowledge, license or certification to perform the required service or test or inspection;

(iii.) failure to timely complete and document required inspections;

(iv.) failure to provide the tools necessary to complete the inspection, test or required service;

(v.) failure by Contractor, upon completion of testing, inspection or service, to place the serviced unit back into service or to leave it in other than it's normal state;

(vi.) failure by Contractor to submit a complete and accurate invoice to the Contract Administrator no later than the fifth (5th) business day of the month following the month in which the services being invoiced were completed;

(vii.) failure by Contractor to respond to an emergency call within the required timeframe;

(viii.) the incorrect use, unsafe staging of equipment and/or inappropriate safety procedures;

(ix.) failure by Contractor to provide suitable supervision;

(x.) failure by Contractor to maintain a safe work environment; and

(xi.) improper or inaccurate reporting of job progress.

2.05. **CORRECTIVE ACTION PLAN.** (a.) If TFC identifies one or more instances of Contractor's unsatisfactory performance based on any of the circumstances set forth in Section 2.04 above or otherwise based on Contractor's obligations under this Contract, the Contract Administrator may request a corrective action plan (hereinafter referred to as "Corrective Action Plan") from Contractor by notifying Contractor in writing of the issue(s) which constitute unsatisfactory performance, and direct Contractor to provide a written Corrective Action Plan. Contractor shall deliver a Corrective Action Plan within ten (10) business days of Contract Administrator's notification, and such plan shall be subject to written approval by the Contract Administrator. The Corrective Action Plan shall address how Contractor will correct the instances of unsatisfactory performance identified by TFC, and provide that Contractor shall, unless otherwise approved in advance by the Contract Administrator, complete all actions set forth in the Corrective Action Plan no later than thirty (30) calendar days following Contractor Administrator's approval of the Plan. Failure to correct all identified elements of unsatisfactory performance included in the notice requesting the Corrective Action Plan, within the time as set forth in this paragraph, shall entitle TFC to avail itself of one or more of the following remedies at TFC's sole discretion:

(i.) TFC's removal of one or more facilities from the scope of this Contract; and/or

(ii.) TFC's termination of this Contract.

(b.) In addition, if Contractor is required to deliver and perform under more than one (1) Corrective Action Plan within any period of twelve (12) continuous months during the term of this Contract, and regardless of whether or not Contractor successfully completes such Correction Action Plans, TFC may consider such conduct to amount to Contractor's continuing material nonperformance of services under this Contract. In such an event, TFC shall be entitled to avail itself of one or more of the following remedies at TFC's sole discretion:

(i.) TFC's removal of one or more facilities from the scope of this Contract;

(ii.) TFC's imposition of liquidated damages on Contractor in an amount equal to ten percent (10%) of the amount of compensation otherwise payable by TFC to Contractor under this Contract for work performed during the three (3) month period preceding the date the most recently submitted Corrective Action Plan was approved by the Contract Administrator; and/or

(iii.) TFC's termination of this Contract.

2.06. **NO LIABILITY UPON TERMINATION.** If this Contract is terminated for any reason, TFC and the State of Texas shall not be liable to Contractor 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.

III. CONSIDERATION.

3.01. **CONTRACT LIMIT AND FEES AND EXPENSES.** (a.) The total amount of this Contract shall not exceed the sum of Two Hundred Thirty Seven Thousand One Hundred Seventy Four and No/100 Dollars ($237,174.00). This amount includes the Fiscal Year 2016 – 2017 contract base fee of One Hundred Thirty Seven Thousand One Hundred Seventy Four and No/100 Dollars ($137,174.00) and One Hundred Thousand and No/100 Dollars ($100,000.00) to cover any Additional Services, as defined in Section 3.03 below. Pricing fees will be invoiced in accordance with Exhibit B - Compensation and Fees, attached hereto and incorporated herein for all purposes. Any changes to the not-to-exceed amount of this Contract or pricing fees set forth in Exhibit B - Compensation and Fees shall be submitted to TFC for review and shall be approved by amendment to this Contract.

(b.) If, at any time during the term of this Contract, Contractor reduces the comparable price of any article or service covered by the Contract to customers other than TFC, the prices charged to TFC for such articles or services shall also be reduced proportionately. Such reduction shall be effective at the same time and in the same manner as the reduction in price to customers other than TFC. In addition to invoicing at the reduced prices, Contractor shall furnish promptly to TFC complete information regarding the reduction.

3.02. **PAYMENTS TO CONTRACTOR.** (a.) Payments to Contractor will be made on a monthly basis 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. Contractor will be paid for completion of work accepted and approved by TFC's Contract Administrator. For large projects, partial payment may be allowed once per month on completed work with acceptance and approval of the Contract Administrator.

(b.) Contractor will be paid for work performed to the end of the preceding month, provided that the work required to be performed under the Contract shall have been fully and satisfactorily completed, accepted, and approved by TFC's Contract Administrator. Inspections shall not be considered to be complete and payable unless the completed, signed inspection form along with copies of service tickets have been submitted to and received by TFC

(c.) Contractor shall invoice TFC for work performed by vendor identification number, building, and purchase order number. Invoices must include the purchase order number, the number of employees that worked on the job, the number of hours, and a copy of the project service ticket. Additionally, invoices for any materials purchased for each project must be provided. Address for submission is: Texas Facilities Commission, Accounts Payable, P.O. Box 13047, Austin, Texas 78711-3047 or accountspayable@tfc.state.tx.us.

3.03. **ADDITIONAL SERVICES AND ADJUSTMENTS.** (a.) "Additional Services" are those services not included in Article I of this Contract which may be requested by TFC at any time for the duration of this Contract. Upon request by TFC for Additional Services, Contractor shall prepare and submit to TFC a proposal for such services requested. Additional Services will be charged at

the rates set forth in Exhibit B – Compensation and Fees and shall be documented by a Delivery Release.

(b.) Additional Services may also include the addition of units and/or facilities for which no unit price was included in Exhibit B – Compensation and Fees, and may be added to this Contract provided TFC and Contractor agree to a unit price. Prices for any additional units shall be calculated by comparing pricing to similar services included in Exhibit B – Compensation and Fees. The addition of units and/or facilities shall be documented by amendment to this Contract.

(c.) At any time, TFC may adjust the Contract, in whole or in part, with thirty (30) days' notice to Contractor. An adjustment will be made when a service is no longer required and shall be documented by amendment to this Contract.

IV. CONTRACTOR PERSONNEL.

4.01. **REQUIRED QUALIFICATIONS.** At all times during the term of the Contract, Contractor shall have available, at a minimum, one journeyman level technician on site during repairs or maintenance. Technician must have all required licenses.

4.02. **GENERAL AND CRIMINAL BACKGROUND CHECKS.** (a) Contractor represents and warrants that Contractor and Contractor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised TFC as to the facts and circumstances surrounding the conviction.

(b.) Contractor's employees and subcontractors that will complete any work on-site at a state-owned property may be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by Contractor. 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. Criminal background checks must be accomplished by the Texas Department of Public Safety ("DPS"), which includes fingerprint processing by an independent third-party company selected by DPS. Upon receipt of the fingerprints of Contractor's employees and/or subcontractors, DPS or TFC, will adjudicate the results of the criminal background searches in accordance with the criteria set forth in Exhibit C - Criminal Background Checks and Application Guidelines, attached hereto and incorporated herein for all purposes.

4.03. **REMOVAL OF PERSONNEL.** TFC may request that the Contractor replace unsatisfactory personnel, which request shall not be unreasonably denied.

4.04. **CONTRACTOR COOPERATION.** Contractor agrees to cooperate and coordinate its work with that of other contractors retained by TFC. Upon discovery of an apparent conflict in the sequencing of work with another contractor, Contractor shall report the concern to TFC's Contract Administrator who will resolve the conflict.

4.05. **E-VERIFY.** (a.) By entering into this Contract, Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of

Homeland Security's E-Verify system, in accordance with the U.S. Department of Homeland Security's rules, to determine the eligibility of:

(i.) all persons employed to perform duties within the State of Texas, during the term of the Contract; and

(ii.) all persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

(b.) Contractor shall provide, upon request of TFC and if available, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three (3) most recent hires that match the criteria above, by the Contractor, and Contractor'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. Contractor shall also be responsible for the costs of any re-solicitation that TFC must undertake to replace the terminated Contract.

(c.) For persons not eligible for E-Verify screening, Contractor (including sub-contractors) shall provide, upon request by TFC, another form of documentation of proof of eligibility to work in the United States of America.

V. STATE FUNDING.

5.01. **STATE FUNDING.** (a.) 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.

(b.) 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 Contractor, for the fiscal year budget in existence at the time of the breach; provided, however, the foregoing shall not be construed as a waiver of sovereign immunity.

VI. RECORDS, AUDIT, PROPRIETARY INFORMATION, AND PUBLIC DISCLOSURE.

6.01. **SUPPORTING DOCUMENTS, RETENTION; RIGHT TO AUDIT; INDEPENDENT AUDITS.** (a.) Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Contract. Contractor and

any subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TFC and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.

(b.) Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. The acceptance of funds by Contractor or any other entity or person directly under this Contract, or indirectly through a subcontract under this Contract, shall constitute acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds. Contractor acknowledges and understands that the acceptance of funds under this Contract shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Furthermore, 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.

6.02. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is:

(i.) confidential by law;

(ii.) marked or designated "confidential" (or words to that effect) by TFC; or

(iii.) information that Contractor is otherwise required to keep confidential by this Contract.

6.04. **PUBLIC RECORDS.** Notwithstanding any provisions of this Contract to the contrary, Contractor understands that TFC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552. If contacted by TFC, Contractor will cooperate with TFC in the production of documents responsive to the request. Contractor agrees to provide the documents responsive to the request in the format and within the time frame specified by TFC. Contractor may request that TFC seek an opinion from the Office of the Texas Attorney General. However, the final decision whether to seek a ruling from the Office of the Texas Attorney General will be made by TFC in its sole discretion to comply with the legal requirements of the Texas Public Information Act. Additionally, Contractor will notify TFC's general counsel within twenty-four (24) hours of receipt of any third-party requests for information written, produced, collected, assembled, or maintained in connection with this Contract and/or any amendment to this Contract. This Contract and/or any amendment to this Contract and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. Contractor agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Contract, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, Contractor is required to make any information created or exchanged with the State pursuant to this Contract, and not otherwise excepted from disclosure under the

Texas Public Information Act, available in a format that is accessible by the public as specified by TFC at no additional charge to the State.

6.04. **PUBLIC DISCLOSURE.** No public disclosures or news releases pertaining to this Contract shall be made without prior written approval of TFC.

VII. CONTRACATOR'S RESPONSIBILITIES AND WARRANTIES.

7.01. **CONTRACTOR RESPONSIBILITIES**. Contractor shall be responsible for damage to TFC's equipment, and/or the workplace and its contents, by its works, its negligence in work, its personnel, or its equipment by Contractor's staff or subcontractors. Contractor shall be responsible and liable for the safety, injury, and health of its working personnel while its employees are performing work for TFC.

7.02. **PERFORMANCE STANDARDS.** (a.) All work performed under this Contract shall be in accordance with applicable terms and conditions of this Contract and shall comply with all federal, state, and local laws, rules, codes and ordinances and comply with the Occupational Safety and Health Administration (hereinafter referred to as "OSHA").

(b.) Appropriate dress is required for all personnel. Prohibited attire includes, but is not limited to, the following:

(i.) athletic clothing and lounge attire of any type;

(ii.) clothing that displays offensive messages (picture or print);

(iii.) clothing that is see-through, low cut, or bares the midriff;

(iv.) shorts; and,

(v.) flip-flop sandals.

(c.) Eating is prohibited on jobsites except in designated cafeterias.

(d.) All facilities where work is to be performed are professional environments. Contractor employees using inappropriate language or behaving in an inappropriate manner will be asked to leave the premises and documented by the Contract Administrator.

(e.) All Contractor employees on jobsite will:

(i.) wear clean uniforms in good repair daily;

(ii.) keep shirttail tucked in during business hours;

(iii.) bathe daily and be clean at the start of the work day;

(iv.) wash hair daily, comb or brush before starting work and keep trimmed; and,

(i.) Notice. CMR must provide written notice to TFC of a claim for breach of contract not later than one hundred eighty (180) days after the date of the event giving rise to the claim. The notice must state with particularity: (i) the nature of the alleged breach; (ii) the amount CMR seeks as damages; and (iii) the legal theory of recovery.

(ii.) TFC must assert, in a writing delivered to CMR, any counterclaim not later than the sixtieth (60th) day after the date of notice of a claim under Section 12.11.1.1 above.

(b.) Damages. The total amount of money recoverable on a claim for breach of contract under this Section 12.11 may not, after deducting the amount specified below, exceed an amount equal to the sum of: (i) the balance due and owing on the Contract price; (ii) the amount or fair market value of orders or requests for additional work made by a unit of state government to the extent that the orders or requests for additional work were actually performed; and (iii) any delay or labor-related expense incurred by the CMR as a result of an action of or a failure to act by the unit of state government or a party acting under the supervision or control of the unit of state government.

(i.) Any amount owed the unit of state government for work not performed under a contract or in substantial compliance with its terms shall be deducted from the amount in Section 12.11.2 above.

(ii.) Any award of damages under this Contract may not include: (i) consequential or similar damages, except delays or labor-related expenses described by Section 12.11.2 above; (ii) exemplary damages; (iii) any damages based on an unjust enrichment theory; (iv) attorney's fees; or (v) home office overhead.

(c.) Negotiation. TFC's general counsel shall examine the claim and any counterclaim and negotiate with CMR in an effort to resolve them. The negotiation must begin no later than one hundred twenty (120) days after the date the claim is received. TFC's administrative rules located at Title l, Part 5, Section 111.31 of the Texas Administrative Code apply to this Contract and govern the negotiation of any dispute arising from this Contract. In the event negotiation results in the resolution of some disputed issues by agreement or in a settlement, the parties shall reduce the settlement to writing, and each party shall sign the settlement. A partial settlement or resolution of a claim does not waive a party's rights as to the parts of the claim that are not resolved.

(d.) Mediation. Before the one hundred twentieth (120th) day after the date the claim is filed with TFC and before the expiration of any extension of time mutually agreed upon, the parties may agree to mediate a claim made under this Contract. TFC's administrative rules located at Title l, Part 5, Section 111.31 of the Texas Administrative Code apply to this Contract and govern the mediation of any dispute arising from this Contract.

(e.) Adjudication. On or after the two hundred seventieth (270th) day following the date the claim is filed with TFC, unless the parties agree in writing to an extension of time, CMR may adjudicate any claim in accordance with and to the extent permitted under the Texas Civil Practice and Remedies Code, Chapter 114 or the Texas Government Code, Chapter 2260.

(f.) Payment of Claims. In accordance with the Texas Civil Practice and Remedies Code, Section 114.011, TFC may pay a claim resolved under this Section 12.11 only from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim or settlement, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim. Chapter 304 of the Texas Finance Code applies to a judgment awarded to a claimant except that the applicable rate of interest may not exceed six percent (6%). Consistent with the Texas Civil Practice and Remedies Code, Section 114.011, property owned by the State or any unit of state government is not subject to seizure, attachment, garnishment, or any other creditors' remedy to satisfy a judgment on a breach of contract claim.

(g.) Representation of TFC. The Office of the Attorney General of Texas shall defend TFC in any proceeding or adjudication conducted in conjunction with a claim brought under this Section 12.11.

10.17. **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.

10.18. **NO WAIVER**. Nothing in this Contract shall be construed as a waiver of sovereign immunity by the State of Texas. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. 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 this 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. TFC does not waive any privileges, rights, defenses, or immunities available to TFC by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract.

10.19. **FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Contractor signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Contractor shall be in default under this Contract, and TFC may terminate or void this Contract for cause and pursue other remedies available to TFC under this Contract and applicable law.

10.20. **SURVIVAL OF TERMS.** Termination of the Purchase Order for any reason shall not release Vendor from any liability of obligation set forth in the Purchase Order 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.

10.21. **ENTIRE CONTRACT & MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that

may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistently with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification, renewal, extension or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

TEXAS FACILITIES COMMISSION

Kay Molina

General Counsel

Date of execution: 3/24/16

DIR.

DED

THE BRANDT COMPANIES, LLC

Printed Name: James Marek

Title: Director of Service

Date of execution: 3-21-16

EXHIBIT A

TFC CONTRACT NO. 16-090-000

TFC BUILDING LIST

EXHIBIT A – TFC BUILDING LIST

BLDG	BLDG NAME	ADDRESS
BHB	Brown Heatly State Office Building	4900 North Lamar
CSB	Central Services Building	1711 San Jacinto
CSX	Central Services Annex	311 East 14th St.
DARS	Department of Assistive and Rehabilitative Services	4800 N. Lamar
EOT	Ernest O. Thompson State Office Building	920 Colorado St.
LBJ	Lyndon B. Johnson State Office Building	111 E. 17th St.
DSHS	Department of State Health Services HQ	909 W. 45th. St.
TCEQ A	Texas Commission on Environmental Quality, Building A	12100 Park 35 Circle
TCEQ B	Texas Commission on Environmental Quality, Building B	12100 Park 35 Circle
TCEQ C	Texas Commission on Environmental Quality, Building C	12100 Park 35 Circle
REJ	Robert E. Johnson State Office Building	1501 North Congress
SFA	Stephen F. Austin State Office Building	1700 N. Congress Ave.
SHB	Sam Houston State Office Building	201 East 14th St.
SRC	State Records Center (Talking Book)	4400 Shoal Creek
TDHOP	Texas Department of Health Old Plant	1100 W. 49th St.
TDHNP	Texas Department of Health New Plant	1100 W. 49th St.
TJR	Thomas J. Rusk State Office Building	200 E. 10th St.
WBT	William B. Travis State Office Building	1701 N. Congress Ave.
TSD	Texas School for the Deaf Bldg 565	1102 S. Congress Ave.
TSBVI	Texas School for the Blind and Visually Impaired	1100 W. 45th St.

EXHIBIT B

TFC CONTRACT NO. 16-090-000

COMPENSATION AND FEES

ATTACHMENT E
COMPENSATION AND FEES

Vendor Name The Brandt Companies, LLC

Capital Complex / North Complex				
Building	**Model #**	**Year**	**Source**	**Annual Maintenance Cost**
BHB				
Cleaver Brooks #2	M4W-5000	1987	Hot Water	$ 2,493.00
Teledyne Laars #1	HH5000IN18JCACZEX	1994	Hot Water	$ 1,288.00
CSB				
RayPay	H3-3001	2015	Hot Water	$ 1,556.00
CSX				
Lochinvar	CHN401	2009	Hot Water	$ 1,188.00
DARS				
Indeeco	Cat #34 / 7V-300V-GIVI	1985	Hot Water	$ 410.00
EOT				
Lochinvar #1	CHN0991	2009	Hot Water	$ 1,556.00
Lochinvar #2	CHN0991	2009	Hot Water	$ 1,556.00
LBJ				
Lochinvar #1	FBN3000	2013	Hot Water	$ 1,188.00
Lochinvar #2	FBN3000	2013	Hot Water	$ 1,188.00
Lochinvar #3	FBN3000	2013	Hot Water	$ 1,188.00
State Water Heater	SBT80 500 NE7 ASMEF	1989	Hot Water	$ 410.00
MHMR				
Teledyne Laars #1	P63 1010 IN 09 KIACXX	1994	Hot Water	$ 1,188.00
Teledyne Laars #2	P63 1010 IN 09 KIACXX	1994	Hot Water	$ 1,188.00
TCEQ A				

Teledyne Laars	HH 3500 IN18KC	1991	Hot Water	$ 1,188.00
TCEQ B				
RBI	90747348	2007	Hot Water	$ 820.00
TCEQ C				
Precision	M068870	2007	Hot Water	$ 778.00
REJ				
Primera	2000B-00	2011	Hot Water	$ 410.00
Primera	2000B-00	2011	Hot Water	$ 410.00
Primera	1000B-00	2011	Hot Water	$ 410.00
SFA				
Lochinvar #1	EBN3000	2014	Hot Water	$ 1,188.00
Lochinvar #2	EBN3000	2014	Hot Water	$ 1,188.00
Lochinvar #3	EBN3000	2014	Hot Water	$ 1,188.00
Lochinvar #4	EBN3000	2014	Hot Water	$ 1,188.00
Lochinvar	8WN500PM	2009	Hot Water	$ 1,188.00
SHB				
Kewanee #1	H3S250G	1991	Steam	$ 2,274.00
Kewanee #2	H3S500G	1991	Steam	$ 2,365.00
Kewanee #3	H3S500G	1991	Steam	$ 2,365.00
PVI #2	14 N 125A-MX	1995	Hot Water	$ 410.00
PVI #1	14 N 125A-MX	1995	Hot Water	$ 410.00
SRC				
Teledyne Laars	Mighty Therm	1995	Hot Water	$ 778.00
Lochinvar South	PBN1701	2013	Hot Water	$ 778.00
Lochinvar North	PBN1702	2013	Hot Water	$ 778.00
TDH O/P				
Cleaver Brooks #1	CB1-700-125-150	2006	Steam	$ 2,288.00

TDH N/P				
Cleaver Brooks #1	CBI-700-350-150	2001	Steam	$ 2,491.00
Cleaver Brooks #2	CBI-700-350-150	2001	Steam	$ 2,491.00
TJ R				
Raypak (Rheem)	H2-2500	2005	Hot Water	$ 778.00
WBT				
Lochinvar #1	FBN3000	2014	Hot Water	$ 1,188.00
Lochinvar #2	FBN3000	2014	Hot Water	$ 1,188.00
Lochinvar #3	FBN3000	2014	Hot Water	$ 1,188.00

Texas School for the Deaf				
Building	**Model #**	**Year**	**Source**	**Annual Maintenance Cost**
Cottage 566				
Munchkin	119MR2	2007	Hot Water	$ 410.00
Cottage 564				
Munchkin	119MR2	2007	Hot Water	$ 410.00
Central Plant				
PVI	200WBHE250ATP	1994	Hot Water	$ 410.00
PVI	200WBHE250ATP	1994	Hot Water	$ 410.00
Teledyne Laars	167311	2006	Hot Water	$ 410.00
Cafeteria				
Vulcan	VSX246	2010	Steam	$ 1,664.00
Cleveland	24CGP10	2010	Steam	$ 1,664.00
Armor	PFN1002PM	Unavaliable	Hot Water	$ 820.00
Lewis Hall				

Armor	AWN400PM	2011	Hot Water	$ 820.00
Armor	AWN400PM	2011	Hot Water	$ 820.00
Koen Hall				
Armor	AWN400PM	2011	Hot Water	$ 820.00
Armor	AWN400PM	2011	Hot Water	$ 820.00
Le Roy Colombo Swim Center				
AO Smith	GW18500	2012	Hot Water	$ 820.00
Deaf Smith Center				
PVI	54V90	1993	Hot Water	$ 820.00
CTE Ford Building				
PVI	14N125A-G	1993	Hot Water	$ 410.00
PVI	14N125A-G	1993	Hot Water	$ 410.00
HS Senior Boy				
PVI	40N250ANXL	2003	Hot Water	$ 820.00
MS Girls Dorm				
PVI	65N280ANXL	2003	Hot Water	$ 820.00
HS Senior Girls				
PVI	40N250ANXL	2003	Hot Water	$ 820.00
Elementary/MS Boys Dorm				
Armor	AWN500PM	2014	Hot Water	$ 820.00
HS SND Boys				
Armor	75L250AMXIF	Unavaliable	Hot Water	$ 820.00

Texas School for the Blind and Visually Impaired				
Building	**Model #**	**Year**	**Source**	**Boiler Annual Maintenance**

661 North				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
662 North East				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
662 South				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
663 North				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
661 South				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
640 FUSA				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
663 South East				
AO Smith	18IFEAX2000	2009	Hot Water	$ 410.00
Pool Pump Room				
Lochinvar	ERN402-A	2011	Hot Water	$ 778.00
Lochinvar	ERN152-A	2014	Hot Water	$ 778.00

HOURLY LABOR RATE and MATERIALS

The following prices are for services that are not included in the normal preventative maintenance of ~~elevators~~ boilers, but would be incurred as a result of unusual circumstances requiring additional parts, components, materials, and labor.

Labor:

Straight time* hourly rate per qualified ~~elevator maintenance~~ boiler mechanic: $ 93.76

Straight time* hourly rate per ~~elevator maintenance~~ boiler mechanic helper: $ 84.00

Overtime** hourly rate per qualified ~~elevator maintenance~~ boiler mechanic: $ 140.00

Overtime** hourly rate per ~~elevator maintenance~~ boiler mechanic helper: $ 126.00

Materials:

Material Markup: Contractor shall invoice at MSRP/List*** minus 15 percent

Materials purchased at local retail outlets by Contractor field staff. Contractor shall invoice at cost (sales receipt/invoiced price).

Payment and Performance Bonds (if required): Contractor shall invoice at cost (sales receipt/invoiced price).

*Straight time is defined as 7:30 AM – 6:00 PM Monday through Friday.

**Overtime is defined as any hours that fall outside of Normal Hours or Weekends.

***MSRP/List – TFC reserves the right to request from Contractor any published or printed catalog that reflects MSRP/List price for verification purposes.

EXHIBIT C

TFC CONTRACT NO. 16-090-000

CRIMINAL BACKGROUND CHECKS AND APPLICATION GUIDELINES

Texas Facilities Commission

Criminal Background Checks and Application Guidelines

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FAST Pass Fingerprint Application C-1

Introduction

Texas Facilities Commission (TFC) has implemented new security procedures. Personnel and TFC contractors & subcontractors, who work in case-sensitive areas, may be required to submit to a criminal history background check. In addition, U.S Law requires companies to employ only individuals who may legally work in the United States; therefore employers must verify and show proof that employees are authorized to work. This package will begin the process for employers to authorize its employees to work for TFC.

Criminal History Criteria

Employers should use the following criminal history criteria when hiring employees to perform work for TFC. Any employee failing to meet the minimum standard will be denied. If special circumstances exist, please contact the TFC representative for clarification.

Contractor Screening Criteria

A conviction or deferred adjudication for one of the following offenses will result in the **permanent disqualification** of a person from eligibility to provide contractual services with Texas Facilities Commission:

1) any act causing death as defined in Texas Penal Code;

2) any felony or misdemeanor involving Arson, Burglary, Breach of Computer Security, Credit Card Abuse, Counterfeiting, Forgery, Kidnapping, Robbery, Stalking, Terroristic Threat, Theft, and any sexual offense designated as a felony in Texas Penal Code;

Additionally, anyone who has a current duty to register as a sex offender, is under indictment or is a fugitive from justice is disqualified.

For individuals who have a conviction or deferred adjudication for felonies not enumerated above, 10 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the Texas Facilities Commission

For individuals who have a misdemeanor conviction or deferred adjudication for misdemeanors not enumerated above, 5 years must have passed from the time of disposition or discharge of probation in order for that person to be eligible to provide contractual services with the Texas Facilities Commission

Employer Guidelines

FINGERPRINT APPLICANT SERVICES OF TEXAS, F.A.S.T.

The Department of Public Safety has entered into an exclusive contract with L-1 Enrollment Services to provide statewide electronic fingerprinting. The goal of the Fingerprint Applicant Services of Texas (F.A.S.T.) Program is to provide convenient applicant fingerprinting services throughout the state of Texas. L-1 Enrollment Services is committed to a 98% classifiable rate which means quality prints, less rejections, and quick responses. Appointments are available by scheduling on-line at **www.L1enrollment.com** or by calling **1-888-467-2080**.The cost of this service is $9.95 plus a $34.25 fee for the State and National Criminal History Record Information. You may pay for F.A.S.T. services online with a credit card or onsite with a check or money order made payable to L-1 Enrollment Services only. Cash is not accepted!

Here is how to get started:

1. You must obtain a FAST Pass from Texas Facilities Commission (located in forms C-1). This pass will contain all necessary instructions and information to schedule your fingerprint appointment.

2. You will need to schedule an appointment by logging on to the L-1 Enrollment Services website, **www.L1enrollment.com** or by calling **1-888-467-2080**. If you are scheduling by phone, please request an "**Electronic Fingerprint Submission**" appointment.

When scheduling an appointment you will be prompted by L-1 Enrollment Services for the following additional personal data: Date of Birth, Sex, Race, Ethnicity, Skin Tone, Height, Weight, Eye Color, Hair Color, Place of Birth and Home Address. Requested data is required by the Texas Department of Public Safety to process your background check.

3. Please complete the necessary fields on the FAST Pass, bring your completed pass and valid State Issued Identification. During your Fingerprint appointment you will be prompted for Social Security Number and Driver License Number. You are also required to have your photograph taken at the time of your appointment. Requested data is required by the Texas Department of Public Safety to process your background check.

4. Once you have completed your appointment you will be provided with a signed receipt which includes your Tracking Control Number (TCN), please retain this receipt for your records.

Your fingerprints, demographic information, and photograph will be sent to the Department of Public Safety and the Federal Bureau of Investigation for process. Criminal History Record Information based upon your submission will be provided to the requesting agency.

If you have any questions regarding the F.A.S.T. processes, please feel free to contact the Fingerprint Services Unit at fingerprint.service@dps.texas.gov or (512) 424 – 2365, Option 6.

A TFC representative will view criminal history information from DPS to determine if employee's clearance is accepted or denied. TFC will notify employer about the status of employee. The employee can submit a request to DPS to view their criminal history.

Employers must ensure that all employees are legally able to work in the United States. Employees must be a U.S. citizen or a foreign citizen who have the necessary authorization. Employers shall use E-Verify to check the status of employees. E-Verify is fast, free and easy to use. Employer will set up an account and go through the process. Employer must provide TFC with documentation the employee is authorized to work.

The Verification Process

Overview of the Verification Process

Using E-Verify to verify the employment eligibility of employees is a three-step process.

Create a Case

Before an employer can create a case in E-Verify, both the employer and employee must complete the Employment Eligibility Verification form (Form I-9). All U.S. employers, regardless of whether they participate in E-Verify must complete Form I-9 no later than 3 business days after the employee begins work for pay. Information about the employee from Form I-9 then serves as the foundation for an E-Verify case, which must be created also no later than 3 business days after the employee begins work for pay.

E-Verify guides the employer through a series of questions, which follow Form I-9, beginning with the employee's citizenship attestation, document type(s), then biographical information including name, date of birth, Social Security number and Alien or I-94 number (if a noncitizen). In some cases, the document number and expiration date are also required.

If E-Verify cannot initially match the information, the employer will be prompted to review and correct the information if necessary. Otherwise, E-Verify will display an initial response within three to five seconds.

Get Results

In most cases, E-Verify will instantly verify the employee's work authorization. If E-Verify returns an "Employment Authorized" response, the employer can continue to the last step in the verification process and close the case

Sometimes, E-Verify cannot immediately confirm the employee's work authorization and may require the employer or the employee to take action. In these cases, the employer will see one of the following responses on the employee's verification results screen:

- **DHS Verification in Process:** Sometimes, E-Verify's automated search of government records cannot immediately verify employment authorization, and a manual search is required. In this case, E-Verify will return a "DHS Verification in Process" response. The employer must check E-Verify until the employee's case is updated, which usually happens within 24 hours, though it may take as long as three business days. When the employee's case is updated, E-Verify will return either an "Employment Authorized" or "Tentative Nonconfirmation" response.
- **Tentative Nonconfirmation:** If the employee information does not match government records, the employer will see a tentative nonconfirmation (TNC) response. Visit the "Tentative Nonconfirmation" page in this section for more information.

To prevent unnecessary TNCs, the employer must carefully review all entered information for accuracy. Should the employer have made a typographical error or entered incorrect data, the employer should close the case and create a new case for the employee with the correct information.

- **Note: Employer will need to print verification and submit to TFC Representative.**

Close the Case

All E-Verify cases must be closed by the user in E-Verify when a final verification result is received, regardless of the result. Closing cases is very important because it helps E-Verify maintain statistics on program usage and outcomes.

E-Verify will ask if the employee is still working for the employer and will then instruct the employer to choose the reason why the case is being closed. Once the case is closed, the employer must either record the case verification number on the employee's Form I-9 or print the case details and keep it on file with the employee's Form I-9.

PROCEDURES FOR FINGERPRINT REJECTIONS
ELECTRONIC FINGERPRINT SUBMISSIONS

The Department of Public Safety will notify L-1 Enrollment Services when an applicant"s fingerprints are rejected by either DPS or the FBI, regardless of the purpose and/or agency the fingerprints were submitted for. L-1 Enrollment Services will contact the applicant by telephone and by letter to notify the applicant of the rejected prints and schedule an appointment to have the fingerprints re-taken. There is no additional cost for having their fingerprints rolled again; often the applicant will disregard contact attempts from L-1 Enrollment Services because they are not DPS or the requesting agency.

DPS REJECTS

When an applicant"s fingerprints are rejected for the first time on the DPS level their fingerprints are not submitted to the FBI. The requesting agency is notified of the rejection through Consolidated Response. Upon the second submission of fingerprints, whether the prints are rejected or deemed classifiable by DPS, they are sent to the FBI for process. The applicant has one year from the date of the last rejected fingerprint submission to complete the fingerprint based criminal history process. After one year, a new set of fingerprints and all fees must be resubmitted.

FBI REJECTS

The requesting agency is notified of the FBI rejection through Consolidated Response. Upon the second FBI rejection, it is the responsibility of the agency to request criminal history information based upon the applicant"s name and date of birth from the FBI directly. The requesting agency has 90 days from the date of the last rejected fingerprint submission to request the results from the FBI. After the 90th day, a new set of fingerprints and all fees must be resubmitted.

QUESTIONS

If you have any questions regarding the electronic fingerprint rejection process please contact the Fingerprint Services Unit at fingerprint.service@dps.texas.gov or (512) 424-2365, option 6.

CRIMINAL HISTORY ERROR RESOLUTION

The Error Resolution Unit (ER) is responsible for updating and evaluating possible errors in criminal history records. Potential errors are reported to ER by law enforcement, judicial agencies, as well as private citizens.

Requests Made by Applicants:

If an **applicant** needs to request that a criminal history record be updated or corrected, the applicant will need to supply certified documents to the Error Resolution Unit. Required forms and additional information to assist your applicant in retrieving the proper documentation to submit their requests to the Error Resolution Unit can be found at:

http://www.txdps.state.tx.us/administration/crime_records/pages/errorresolution.htm and through the links below.

Help us Help You (PDF)

Error Resolution Form (PDF)

CHRI Tips (PDF

Contact Information

L-1 Identity Solutions

Finance Department

15 Century Blvd., Suite 510

Nashville, TN 37214

Phone: (877) 512-6962

Fax: (615) 871-0845

Department of Public Safety

Access and Dissemination Bureau

Crime Records Service

Phone: 512-424-2000

Marlena Schoenfeld
Risk Management Specialist

Texas Facilities Commission

1711 San Jacinto

Austin, Texas 78701

Office: 512-463-7148

Cell: 512-828-1996

Fax: 512-236-6170

Email: marlena.schoenfeld@tfc.state.tx.us

Mark Gil
Director of Risk Management

Texas Facilities Commission

1711 San Jacinto

Austin, Texas 78701

Office: 512-463-1668

Cell: 512-563-4093

Fax: 512-236-6170

Email: mark.gil@tfc.state.tx.us

FAST
Fingerprint Applicant Services of Texas

L-1 IDENTITY SOLUTIONS™
ENROLLMENT SERVICES DIVISION

Account Application

Firm Name: _____

Agency ID/ORI: _____

Address: _____

City/State/Zip: _____

Contact Person: _____

Email Address: _____

Telephone: _____ Fax: _____

Average Monthly Volume Estimate (# of applicants): _____

Deposit Amount: _____

_____ _____
Authorized signature Date

Please remit draw account payments to:

L-1 Enrollment Services Division
Finance Department
15 Century Blvd., Suite 510
Nashville, TN 37214

Phone: (877) 512-6962
Fax: (615) 871-0845

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000

www.txdps.state.tx.us

Fingerprint Applicant Services of Texas *(FAST)*

The Department of Public Safety (DPS) entered into a contract with L1 Enrollment Services in 2005 to offer electronic fingerprinting services to our criminal and non-criminal justice customers. Since 2005, over 1.8 million customers have taken advantage of the *FAST* Program to satisfy criminal and non-criminal justice criminal history background check requirements. Currently, DPS and L1 Enrollment Services have 81 *FAST* locations strategically located around the state for customers to use. In addition to the statewide service, the DPS Denson Lobby at 108 Denson Drive provides walk-up fingerprinting services on a first come first serve basis

FAST Process:

1. *Obtain a FAST Fingerprint Pass.* This document is available from your contact at the Texas Facilities Commission.

2. *Schedule a FAST Fingerprinting Appointment.* Please utilize the statewide FAST service by scheduling an appointment at www.L1enrollment.com or by calling 1-888-467-2080. If you are located in the Austin area you may visit the DPS Denson Lobby at 108 Denson Drive. The Denson Lobby location provides *FAST* services on a first come first serve basis. It is very important that you follow the instructions on your FAST Fingerprint Pass.

3. *Attend Your Scheduled Fingerprint Appointment.* Attend the fingerprinting appointment selected during the scheduling process. At the fingerprinting location you ***must*** present a valid driver's license or state identification card to establish your identity. After your identity has been established, you will be electronically fingerprinted, digitally photographed, and additional biographical information will be requested.

4. *Keep Your Receipt.* At the end of the fingerprinting appointment the technician will provide you a receipt. If your fingerprints reject (<2% of the time) due to fingerprint abnormalities, you will need the TCN that is on the receipt to get fingerprinted again at no charge.

If you have any questions or need assistance please contact the Fingerprint Services Unit at fingerprint.service@txdps.state.tx.us or at (512) 424 – 2365, option 6.

IN STATE APPLICANT

Texas Facilities Commission

This document is your *FAST Fingerprint Pass* for a state and national criminal history record check. Please schedule a fingerprint appointment by visiting http://www.identogo.com or by calling 1-888-467-2080. **When scheduling an appointment you will be prompted by IdentoGO for the following additional personal data: Date of Birth, Sex, Race, Ethnicity, Skin Tone, Height, Weight, Eye Color, Hair Color, Place of Birth and Home Address. During your Fingerprint appointment you will also be prompted for Social Security Number and Driver License Number. Requested data is required by the Texas Department of Public Safety to process your background check.** These data elements have been omitted from this document in order to better protect the security of your personal information. You may pay for *FAST* services online with a credit card or onsite with a check or money order only. Your fingerprints will be submitted to the Texas Department of Public Safety and the Federal Bureau of Investigation.

1. Logon to http://www.identogo.com
2. Select: ***Texas***
3. Select: ***Online Scheduling***
4. Select: ***English or Espanol***
5. Enter: ***First and Last Name***
6. Select: ***All Others***
7. Select: ***Option A – Electronic Submission***
8. Select: ***Yes, I have a FAST Fingerprint Pass***
9. Enter: ***TX923605Z***
10. Follow the prompts to enter requested information
11. Bring this completed form with you to your appointment.

Section One: Qualified Entity Information

ORI#: TX923605Z **Original TCN:** _____
(If resubmission for rejected fingerprints)

Agency/Entity/Organization Name: _Texas Facilities Commission_____

Section Two: Applicant Name (To be completed by applicant)

Last: _____ First: _____ Middle: _____
(Please print) (Please print) (Please print)

Section Three: Waiver Information (To be completed and signed by applicant)

I certify that all information I provided in relation to this criminal history record check is true and accurate. I authorize the Texas Department of Public Safety (DPS) to access Texas and Federal criminal history record information that pertains to me and disseminate that information to the designated Authorized Agency or Qualified Entity with which I am or am seeking to be employed or to serve as a volunteer, through the DPS Fingerprint-based Applicant Clearinghouse of Texas and as authorized by Texas Government Code Chapter 411 and any other applicable state or federal statute or policy.

I authorize the Texas Department of Public Safety to submit my fingerprints and other application information to the FBI for the purpose of comparing the submitted information to available records in order to identify other information that may be pertinent to the application. I authorize the FBI to disclose potentially pertinent information to the DPS during the processing of this application and for as long hereafter as may be relevant to the activity for which this application is being submitted. I understand that the FBI may also retain my fingerprints and other applicant information in the FBI's permanent collection of fingerprints and related information, where all such data will be subject to comparisons against other submissions received by the FBI and to further disseminations by the FBI as may be authorized under the Federal Privacy Act (5USC 552a(b)). I understand I am entitled to obtain a copy of any criminal history record check and challenge the accuracy and completeness of the information before a final determination is made by the Qualified Entity. I also understand the Qualified Entity may deny me access to children, the elderly, or individuals with disabilities until the criminal history record check is completed.

Signature: _____ Date: _____

Section Four: Service Center Information (To be completed by *FAST* Enrollment Agent)

Date Prints Taken _____ Amount Charged For Service: **$41.45**

Paid by: ☐ Check ☐ Money Order ☐ Visa ☐ MasterCard ☐ Billing Acct _____

TCN: _____

☐ I HAVE COMPARED THE GOVERNMENT-ISSUED IDENTIFICATION PRESENTED BY THE APPLICANT AND ATTEST THAT TO MY BEST DETERMINATION, I HAVE FINGERPRINTED THE SAME PERSON.

E.A. Name: _____ E.A. Signature: _____
(Please print)

Revised10/13

EXHIBIT D

TFC CONTRACT NO. 16-090-000

TFC BOND FORMS

PAYMENT BOND

STATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal

and we _____ a corporation duly authorized to do business in this State, as Surety(s), are this date held and firmly bound unto the State of Texas in the amount of _____

_____ Dollars $ _____

for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.

Since a Contract, which by reference is made a part hereof, exists between Principal and the State of Texas, acting by and through the Texas Facilities Commission, and dated _____ for the _____

_____

_____

The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless and until the Principal shall faithfully perform the Contract in accordance with the Contract Documents.

The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 of the Texas Government Code, amended by Acts of 73rd Legislature, 1993 pursuant to which Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this instrument

this _____ day of _____

PRINCIPAL

By _____

SURETY

By _____

Bond Identification No. _____

_____
Address of Attorney-In-Fact

_____
Telephone No. of Attorney-In-Fact

(Use of this form for the purposes indicated has been approved by the Attorney General of Texas)

Revised 8-2007

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal

and we _____ a corporation duly authorized to do business in this State, as Surety(s), are this date held and firmly bound unto the State of Texas in the amount of _____

_____ Dollars $ _____

for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.

Since a Contract, which by reference is made a part hereof, exists between Principal and the State of Texas, acting by and through the Texas Facilities Commission, and dated _____ for the _____

_____

_____

The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless and until the Principal shall faithfully perform the Contract in accordance with the Contract Documents.

In the event of Principal's failure, as defined by the Contract Documents, to faithfully perform the Contract, Surety(s) will within fifteen (15) days of determination of default, assume full responsibility for completion of said Contract and become entitled to payment of the balance of the Contract amount.

The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 of the Texas Government Code, amended by Acts of 73rd Legislature, 1993 pursuant to which Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this instrument

this _____ day of _____

PRINCIPAL

By _____

SURETY

By _____

Bond Identification No. _____

_____
Address of Attorney-In-Fact

_____
Telephone No. of Attorney-In-Fact

(Use of this form for the purposes indicated has been approved by the Attorney General of Texas)

Revised 8-2007

EXHIBIT E

TFC CONTRACT NO. 16-090-000

HUB SUBCONTRACTING PLAN

HUB SUBCONTRACTING PLAN (HSP)
QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
  - ☐ Section 1 – Respondent and Requisition Information
  - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
  - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
  - ☐ Section 2 c. – Yes
  - ☐ Section 4 – Affirmation
  - ☐ GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract* in place for five (5) years or less meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
  - ☐ Section 1 – Respondent and Requisition Information
  - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
  - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
  - ☐ Section 2 c. – No
  - ☐ Section 2 d. – Yes
  - ☐ Section 4 – Affirmation
  - ☐ GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract* in place for five (5) years or less does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
  - ☐ Section 1 – Respondent and Requisition Information
  - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
  - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
  - ☐ Section 2 c. – No
  - ☐ Section 2 d. – No
  - ☐ Section 4 – Affirmation
  - ☐ GFE Method B (Attachment B) – Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.

- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete:**
  - ☐ Section 1 – Respondent and Requisition Information
  - ☐ Section 2 a. – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
  - ☐ Section 3 – Self Performing Justification
  - ☐ Section 4 – Affirmation

*__Continuous Contract__: *Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.*

Rev 02/12

HUB SUBCONTRACTING PLAN (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- *11.2 percent for heavy construction other than building contracts,*
- *21.1 percent for all building construction, including general contractors and operative builders contracts,*
- *32.7 percent for all special trade construction contracts,*
- *23.6 percent for professional services contracts,*
- *24.6 percent for all other services contracts, and*
- *21 percent for commodities contracts.*

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

SECTION 1 RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No

c. Requisition #: _____ Bid Open Date: _____ (mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2 SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

☐ - *Yes*, I will be subcontracting portions of the contract. (If *Yes*, complete Item b. of this SECTION and continue to Item c of this SECTION.)

☐ - *No*, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If *No*, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs .
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
	Aggregate percentages of the contract expected to be subcontracted:	%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at **http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/**)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

☐ - *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☐ - *No* (If *No*, continue to Item d. of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the **aggregate expected percentage** of the contract you will subcontract with Texas certified HUBs with which you have a continuous contract* in place with for five (5) years or less **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

☐ - *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☐ - *No* (If *No*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

*"Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 2 SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

a. **This page can be used as a continuation sheet to the HSP Form's page 2, SECTION 2, Item b.** Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
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		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

**Continuous Contract:* *Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.*

Enter your company's name here: _____ Requisition #: _____

SECTION 3 SELF PERFORMING JUSTIFICATION (If you responded "*No*" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

☐ - Yes (If *Yes*, in the space provided below **list the specific page(s)/section(s)** of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

☐ - No (If *No*, in the space provided below **explain how** your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

SECTION 4 AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at *http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls*).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)

REMINDER:

- If you responded "*Yes*" to **SECTION 2, Items c or d**, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "***No***" **SECTION 2, Items c and d**, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.

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HSP Good Faith Effort - Method A (Attachment A)

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "*Yes*" to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method A (Attachment A)" for <u>each</u> of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at ***http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-A.doc***

SECTION A-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: _____ Description: _____

SECTION A-2 SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID # (Required if Texas certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%

REMINDER: As specified in SECTION 4 of the completed HSP form, <u>if you (respondent) are awarded any portion of the requisition</u>, you are required to provide notice as soon as practical to <u>all</u> the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

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HSP Good Faith Effort - Method B (Attachment B)

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "***No***" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at **http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-B.doc**

SECTION B-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b of the completed HSP form for which you are completing this attachment.

Item #: _____ Description: _____

SECTION B-2 MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - Yes (If *Yes*, to continue to SECTION B-4.)

☐ - No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3 NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and minority or women trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at **http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/**

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and minority or women trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the minority or women trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at **http://www.window.state.tx.us/procurement//cmbl/cmblhub.html**. HUB Status code "A" signifies that the company is a Texas certified HUB.

b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID #	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			☐ - Yes ☐ - No
			☐ - Yes ☐ - No
			☐ - Yes ☐ - No

c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more minority or women trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to minority or women trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at **http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/**

d. List two (2) minority or women trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Minority/Women Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		☐ - Yes ☐ - No
		☐ - Yes ☐ - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Enter your company's name here: _____ Requisition #: _____

SECTION B-4 SUBCONTRACTOR SELECTION

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page

Item #: ____ Description: _____

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID # (Required if Texas certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%
	☐ - Yes ☐ - No		$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

Rev 02/12

HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of $100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more minority or women trade organizations or development centers at least seven (7) working days prior to submitting its bid response to the contracting agency.

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

Section A — Prime Contractor's Information

Company Name: _____ State of Texas VID #: _____

Point-of-Contact: _____ Phone #: _____

E-mail Address: _____ Fax #: _____

Section B — Contracting State Agency and Requisition Information

Agency Name: _____

Point-of-Contact: _____ Phone #: _____

Requisition #: _____ Bid Open Date: _____ (mm/dd/yyyy)

Section C — Subcontracting Opportunity Response Due Date, Description, Requirements and Related Information

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2, we must receive your bid response no later than Select Central Time on: _____ Date (mm/dd/yyyy)

In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, we must provide the same notice to two (2) or more minority or women trade organizations or development centers at least seven (7) working days prior to submitting our bid response to the contracting agency.

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the minority or women trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

☐ - Not Applicable

4. Bonding/Insurance Requirements:

☐ - Not Applicable

5. Location to review plans/specifications:

☐ - Not Applicable

EXHIBIT E-1

TFC CONTRACT NO. 16-090-000

HSP PROGRESS ASSESSMENT REPORT

HUB Subcontracting Plan (HSP)
Prime Contractor Progress Assessment Report

This form must be completed and submitted to the contracting agency each month to document compliance with your HSP.

Project/Contract/Requisition Number: ____________ Date of Award: ____________ (mm/dd/yyyy) PO Number: ____________

Contracting Agency/University Name: ____________

Contractor (Company) Name: ____________ State of Texas VID #: ____________

Point of Contact: ____________ Phone #: ____________

Reporting (Month) Period: ____________ Total Amount Paid this Reporting Period to Contractor: $ -

Report HUB <u>and</u> Non-HUB subcontractor information

Subcontractor's Name	Subcontractor's VID or HUB Certificate Number	*Texas Certified HUB? (Yes or No)	Total Contract $ Amount from HSP with Subcontractor	Total $ Amount Paid This Reporting Period to Subcontractor	Total Contract $ Amount Paid to Date to Subcontractor	Object Code (Agency Use Only)
			$ -	$ -	$ -	
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Signature: ____________ **Title:** ____________ **Date:** ____________

*Note: Prime contractors can verify subcontractor HUB certification status on-line at http://www2.cpa.state.tx.us/cmbl/hubonly.html

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