



PROGRAM MANAGEMENT AGREEMENT

BY AND BETWEEN

THE TEXAS FACILITIES COMMISSION

AND

MICHAEL BAKER INTERNATIONAL AND HUITT-ZOLLARS JV

FOR

PROGRAM MANAGEMENT SERVICES FOR TEXAS BORDER INFRASTRUCTURE

TFC CONTRACT NO. 22-035-000

RFP NO. 303-1-02423

PROJECT NO. 22-003-2535

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EXHIBITS. The following exhibits are attached to this Agreement and fully incorporated herein by reference:

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| Exhibit A. | 2015 Uniform General Conditions |
| Exhibit B. | 2018 Supplementary General Conditions |
| Exhibit C. | TFC 2018 Architectural/Engineering Guidelines, Edit Date: 3/19/18 |
| Exhibit D. | PM Services Schedule |
| Exhibit E. | PMF List of Key Personnel |
| Exhibit F. | Criminal Background Check and Application Guidelines |
| Exhibit G. | PMF Statement of Work and Cover Letter |
| Exhibit H. | Approved HUB Subcontracting Plan |
| Exhibit H-1. | HUB Subcontracting Plan Forms |
| Exhibit I. | PMF Insurance Requirements |

**AGREEMENT BETWEEN
THE TEXAS FACILITIES COMMISSION AND
PROGRAM MANAGEMENT FIRM**

This Agreement (this “**Agreement**”) is made as of the Effective Date (the “**Effective Date**”), by and between:

THE TEXAS FACILITIES COMMISSION (“TFC”), a state agency
1711 San Jacinto Boulevard
Austin, Texas 78701

as “**Owner**” (as is defined in UGC Section 1.28), and

the **Program Management Firm** (the “**PMF**”):

Michael Baker International & Huitt-Zollars JV, a joint venture comprised of Michael Baker International, Inc., a Pennsylvania corporation, and Huitt-Zollars, inc., a Texas corporation

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wherein PMF agrees to provide PM Services for the following Program:

Program Management Services for Texas Border Infrastructure (the “**Program**”).

TFC and the PMF agree as follows:

ARTICLE 1. DEFINITIONS

Unless specifically provided otherwise, all words and phrases in this Agreement in initial caps shall have the meanings set out in this Article 1. All undefined and capitalized terms used herein shall have the meaning given to them in the UGC. In the event of any conflict between the definitions in the UGC, the *2018 Supplementary General Conditions*, or in any other document that is referenced herein and incorporated for all purposes, and the definitions in this Agreement, the definitions used in this Agreement shall control.

Additional Services means those PM Services not included in Sections 2.1 to 2.2 of this Agreement which may be requested by TFC at any time for the duration of this Agreement, as discussed in Section 2.3 below.

A/E means the architect and/or engineer providing architectural and/or engineering services and exercising overall responsibility for the design and engineering of each Project as set forth in the A/E Agreement between the Design-Build Firm and the A/E for that Project.

A/E Guidelines means the TFC 2018 Architectural/Engineering Guidelines Edit Date March 19, 2018, attached hereto and incorporated herein for all purposes as “**Exhibit C**”.

A/E Record Drawings are those final, compiled drawings, prepared and approved by the A/E after review of the Design-Build Firm’s notes and drawings of the on-site changes to the Drawings provided in the record documents.

Agreement means this Agreement between TFC and PMF whereby PMF agrees to provide PM Services in connection with the Program and each Project, as set forth in more detail herein.

Applicable Law or Law(s) means any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders now in force or hereafter enacted by Authorities Having Jurisdiction (“Authorities Having Jurisdiction”), relating to or affecting the Program and each Project therein or arising from this Agreement, including those governing labor, equal employment opportunity, safety, and environmental protection, and further including (i) applicable building, fire, and life safety codes and zoning requirements of Authorities Having Jurisdiction; (ii) accessibility laws, codes, and ordinances including but not limited to the Texas Accessibility Standards of the Architectural Barriers Act, *Tex. Gov’t. Code Ch. 469*, Elimination of Architectural Barriers, and the Americans with Disabilities Act of 1990 (*42 U.S.C. § 12181*); (iii) occupational safety acts and requirements applicable to the Program and each Project, including United States Occupational Safety and Health Administration (“**OSHA**”) requirements and related federal and state regulations; (iv) requirements under Title VII of the Civil Rights Act of 1964, as amended; (v) requirements of the Fair Labor Standards Act and applicable state wage and hour laws including *Tex. Gov’t. Code § 2258.001 et seq.*; (vi) Environmental Laws, including all storm water, street, utility and other related infrastructure requirements, (vii) all requirements related to the use, removal, storage, transportation, disposal and remediation of Hazardous Materials; and (viii) any other applicable local, state or federal laws respecting the Program and each Project.

Authorities Having Jurisdiction is defined in UGC Section 1.5.

Baseline Schedule shall have the meaning set forth in UGC Section 1.6 applicable to the Program and each Project within it. Each Project shall have its own baseline schedule which shall be included within the Program Baseline Schedule.

Basic Services means those certain PM Services set forth in Section 2.2 below. Such Basic Services may include, without limitation, planning, management, and coordination of various aspects of the Program and each Project, development and use of communications and management methods, providing Project and Program status reports, adopting best practices to promote cost-effective design and construction solutions, formation and maintenance of the Project program and baseline scope, development and maintenance of a Program cost control system and cost control for each Project within the Program, preparation and maintenance of the Master Schedule and each Project Schedule, assessment of risk and effective measures for risk management, and preparation and monitoring of quality control plans for each Project, all as further indicated in Section 2.2 of this Agreement.

Building Information Model (“BIM”) means the computable, digital, multi-dimensional representation of the physical and functional characteristics of each Project’s facilities and their related life-cycle information in Autodesk Revit format and Autodesk Civil 3D, to be used as a repository of design and construction information for use by the Project Team during the design, bidding and construction phases of the Projects, and for TFC’s use throughout the life-cycle of the

Project. Members of the Project Team are required to coordinate all efforts with respect to the BIM in accordance with the guidelines set forth in the BIM Execution Plan developed for the Project.

Building Information Model (“BIM”) Execution Plan means that certain plan prepared by the Project Team with the guidelines and protocols for use by the Project Team to effectively utilize the BIM throughout the design, bidding, construction and life cycle of the Project.

Certificate of Substantial Completion means the certificate as defined in UGC Section 1.8, signed by the Design-Build Firm, A/E, and TFC establishing the date of Substantial Completion, as defined in UGC Section 1.44, for the applicable part of the Work on each Project and identifying responsibilities for security and maintenance as set out in UGC Section 12.1.1.2.

Close-Out Documents has the same meaning as defined in UGC Section 1.10 and includes the Design-Build Firm’s marked-up “as-builts” and A/E’s Record Drawings.

Communication Protocol means the communication and tracking procedures to be utilized for interaction and reporting between TFC, PMF, any Consultant, A/E and its consultants, and the Design-Build Firm, its contractors and subcontractors, including, but not limited to, the use of any EPMCS, as defined herein, utilized by TFC for each Project.

Compensation means the funds paid to PMF for the PM Services provided by PMF set forth in Article 4 of this Agreement.

Construction Documents means, collectively, the Drawings, Specifications, details, and other documents prepared by the A/E, its Consultants, and by TFC’s other consultants that describe the scope and quality of each Project and the materials, supplies, equipment, systems and other elements required for construction of the Work that are acceptable to TFC.

Consultant means any person or entity that enters into an agreement with PMF to perform any part of the PM Services described in this Agreement. The term *Consultant* excludes Consulting service and Consultant as defined in Chapter 2254.021, Texas Government Code.

Contract Documents is defined in UGC Section 1.13.

Cost Estimate(s) means the cost estimate(s) prepared by the appropriate Project Team member during various pre-construction phases of a Project based on the review of Drawings, Specifications and other Deliverables provided by A/E in the design process.

Day is defined in UGC Section 1.20. and includes the plural, “Days”.

Deliverables means preparation and updating of any and all programmatic items for the Program and each Project within it, which may include, but not be limited to, the following: (i) periodic reporting to TFC Executive Leadership, (ii) status reports on scope, budget, schedule and conformance to Program and each Project’s goals and objectives; (iii) Program and baseline scope descriptions for each Project; (iv) Program cost control system and control estimates for each Project; (v) Master Schedule for overall Program planning; (vi) Project Schedules and Project Budgets for each Project; (vii) quality control plans for each Project and within the Program overall; (viii) final report on baseline scope, Master Schedule, Master Budget and program of requirements; (ix) comprehensive HUB Outreach Program (“HUB Outreach Program”); (x) map and review approval processes; (xi) utility plan; (xii) building site concepts document; (xiii) peer design review reports; (xiv) Program and Project implementation plans; (xv) cash flow projections for each

Project; and (xvi) monthly updates on scope, budget, schedule and Project pro forma performance which are specified to be delivered by PMF pursuant to the terms of this Agreement.

Design-Build Firm means that certain entity providing preconstruction, design, and construction services for the construction, rehabilitation, alteration, or repair of a facility under the design-build project delivery method, in accordance with Subchapter G of Texas Government Code 2269.

Design Development Documents means the design development documents, prepared by A/E for each Project, including plans, elevations, and such other drawings, calculations, and outline specifications that, in TFC's sole opinion, are of such quality and detail that enable TFC to fix and illustrate the size and character of the Project in its essentials as to kinds of materials and assembly details, type of MEP Systems and type of structure and to coordinate the interface of all architectural, MEP and structural elements with all building systems.

Drawings means the plans, drawings, profiles, cross-sections, and supplemental drawings, or reproductions thereof, prepared by the A/E and approved by TFC, which show the locations, character, dimensions, and details of the Work for the particular Project.

Environmental Laws means any local, state, or federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, as may be amended from time to time including: (i) the Resource Conservation and Recovery Act of 1976 ("**RCRA**") (42 U.S.C. § 6901 et seq.), as amended by the Used Oil Recycling Act of 1980 (Pub. L. No. 96-463, 94 Stat. 2055 (1980)), the Solid Waste Disposal Act Amendments of 1980 (Pub. L. No. 96-482, 94 Stat. 2334 (1980)), and the Hazardous and Solid Waste Amendments of 1984 (Pub. L. No. 98-616, 98 Stat. 3221 (1984)), and regulations promulgated thereunder; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("**CERCLA**") (42 U.S.C. § 9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499, 100 Stat. 1613 (1986)), and regulations promulgated thereunder; (iii) the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (iv) the Endangered Species Act of 1973 (15 U.S.C. § 1531 et seq.) and its amendments; (v) laws, statutes, ordinances, rules, regulations, orders, or determinations relating to "wetlands," including without limitation those set forth in the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act") (33 U.S.C. § 1251 et seq.); (vi) the Texas Water Code; and (vii) the Texas Solid Waste Disposal Act (Tex. Health & Safety Code Ann. §§ 361.001–361.345 (West 2018)).

EPMCS means the TFC's electronic project management control system, "Projectmates".

Final Inspection means the process and procedure described in UGC Section 12.1.

Final Inspection Deadline means the date that is thirty (30) Days after the Substantial Completion Inspection and the date by which A/E must conduct a Final Inspection of a Project, unless such deadline is amended by TFC.

Hazardous Materials means (i) any "hazardous waste" as defined by RCRA, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by CERCLA, and regulations promulgated thereunder; (iii) any toxic substance as defined under or regulated by the Toxic Substances Control Act; (iv) asbestos, polychlorinated biphenyls, radon, or explosive or radioactive materials; (v) underground and above ground storage tanks, whether empty, filled or partially filled with any substance, including without limitation any petroleum product or any other "hazardous substance"; (vi) any substance the presence of which at any particular Project is prohibited by any Environmental Laws; and (vii) any other substance which by any Environmental Laws requires

special handling or notification of any Authorities Having Jurisdiction in its collection, storage, treatment, or disposal.

HUB Compliance Reporting System means the Texas Facilities Commission Historically Underutilized Business (“HUB”) online reporting system located at <https://www.tfc.texas.gov/divisions/commissionadmin/prog/hub/>. The HUB Compliance Reporting System is used to maintain business records documenting compliance with the HUB Subcontracting Plan (“HSP”) by submission of monthly Progress Assessment Reports (“PARs”).

Invoice means the invoice for payment for PM Services provided by PMF as submitted in conformance with Article 4 below.

Master Budget means the entire Program budget for all necessary costs to deliver programming, design, construction and tenant occupancy of each Project as provided by TFC and which may be amended from time to time by TFC as further assessments, design, and construction Cost Estimates are provided.

Master Schedule means the critical path method schedule developed and maintained by the PMF incorporating all items of administrative process, procurement, Owner approvals, permitting, A/E’s schedule for providing Deliverables and the construction Baseline Schedule as updated with Work Progress Schedules for the Projects.

MEP Systems means mechanical, electrical, and plumbing systems.

Notice to Proceed means the written notice to be issued at the onset of the Program and each Project by TFC notifying PMF to proceed with the commencement of PM Services described in this Agreement.

Person means an individual and includes a corporation, an organization, a business trust, an estate, a trust, a partnership, an association, or any other legal entity.

Program means the collection of one or more Projects over which PMF is retained to provide PM Services.

Program Management Firm (“PMF”) means the service provider identified on the cover page of this Agreement with whom TFC has entered into this Agreement for the providing of PM Services and to exercise overall responsibility for the program management of the Program and each Project, as set forth herein.

PMF Project Manager means the individual designated by PMF and approved by TFC, as the contact Person with specific authority to properly supervise and direct the duties and responsibilities of PMF, on behalf of PMF, pursuant to the terms and conditions of this Agreement, and who shall have decision-making authority to bind PMF with respect to the PM Services for a particular Project or Projects.

PM Services means project management services, the scope of which is set out in more detail in Article 2 below. PM Services shall include Basic Services and, as such services are approved by TFC, Additional Services as defined in Section 2.11.

PM Services Schedule or “Schedule” means the schedule/timeline set out in “**Exhibit D**”, and which schedule/timeline sets out the deadlines in terms of a fixed number of days after a preceding

deadline for completion and delivery of distinct portions of the PMF's Basic Services. At the discretion of the TFC Project Manager and as mutually agreed upon with the PMF, the Schedule may be revised and defined with more detail as each Project develops.

Project means those certain Work(s) identified by TFC as part of the Program that include the design, engineering, preconstruction efforts, and construction of each component design/construction package that may be prescribed by TFC for a particular Project.

Project Analysis has the same meaning as defined in *Tex. Gov't. Code § 2166.001(5)*.

Project Budget means the budget for necessary costs to deliver programming, design, construction and tenant occupancy of a particular Project within the Program as provided by TFC and which may be amended from time to time by TFC as further assessments, design, and construction Cost Estimates are provided.

Project Schedule means the critical path method schedule developed and maintained by the PMF incorporating all items of procurement, Owner approvals, permitting, A/E's schedule for providing Deliverables and the construction baseline schedule as updated with Work Progress Schedules for particular Projects within the Program.

Project Team are those entities who may be involved in the design, preconstruction, and construction process on each particular Project. Project Team members include TFC, Using Agency, PMF and its Consultants, the A/E and its consultants, the Design-Build Firm, contractors and subcontractors, any separate contractors employed by TFC, and other consultants employed for the purpose of programming, design, and construction of a Project. The members of the Project Team will be designated by TFC for any particular Project and may be modified from time to time by TFC.

Reimbursable Expenses means those reasonable and necessary out-of-pocket costs and expenses incurred by PMF for the provision of the PM Services approved by TFC.

RFI means a request for information as defined in UGC Section 1.35.

RFI Response means a written clarification, instruction, and/or interpretation, including, but not necessarily limited to, an architect's supplemental instructions issued in response to an RFI, which response must be consistent with the intent of the Construction Documents.

Schematic Design Drawings means, at a minimum, a Site development plan, building plans, elevations, sections, and perspective sketches sufficient to convey comprehensive design intent.

Site means the lands, areas, and/or buildings indicated in the Contract Documents as being furnished by TFC upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by TFC which are designated for the use of the Design-Build Firm.

Specifications is defined in UGC Section 1.41.

Standard of Care means that certain standard by which PMF shall perform all PM Services hereunder (i) with the professional skill and care ordinarily provided by competent program management professionals practicing under the same or similar circumstances and professional

license, and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent program management professional.

Substantial Completion is defined in UGC Section 1.44.

Substantial Completion Inspection means the process and procedure described in UGC Section 12.1.1.

Substantial Completion Inspection Deadline means the date that is a fixed number of days after proper written notification is delivered to TFC, the PMF, and A/E by the Design-Build Firm indicating that the Design-Build Firm has fully satisfied the requirements set out in UGC Section 12.1.1.1, and by which date a Substantial Completion Inspection must be performed.

TFC Project Manager means the individual designated by TFC as the contact Person for TFC with the direct responsibility to properly supervise the design and construction of each Project, and the services being provided to the Project, including, but not limited to, serving as the point of contact between TFC, the Using Agency, as defined below, (if any), PMF, A/E, and the Design-Build Firm, and supervising TFC's review and approval of all services. For the avoidance of doubt, the TFC Project Manager shall be the same Person as the Owner's Designated Representative (or "ODR") as defined in UGC Section 1.29.

Uniform General Conditions or "**UGC**" shall mean the 2015 Uniform General Conditions for Construction Contracts issued by the State of Texas, a copy of which is published on TFC's website and as may be modified by this Agreement and the Special Conditions.

Using Agency has the same meaning as defined in *Tex. Gov't. Code § 2166.001(10)*.

Utilities means water, sewer, gas, electric, telecom, cable, and like services.

Utility Providers means any and all entities that TFC desires to provide Utilities to any of the Projects within the Program.

Warranty Report means the comprehensive report of the findings of A/E pursuant to the inspections, and which must include, but not be necessarily limited to, a list of the items needing replacement, correction, or repair.

Work means, in addition to those items set forth in UGC Section 1.49, the provision of all, labor, materials, supplies, and equipment that are required of the to manage, implement, and fully construct a Project in accordance with the requirements of this Agreement and the Contract Documents for that Project. The Work may include the preconstruction, design, and construction services described in a Design-Build Agreement and all additional work required by any change orders, and any other work reasonably inferable from the Contract Documents.

Work Progress Schedule is defined in UGC Section 1.49.

ARTICLE 2. PMF RESPONSIBILITIES AND SCOPE OF SERVICES

2.1 **General Responsibilities.** PMF shall perform all PM Services on time and in accordance with the terms of this Agreement and all Exhibits and, in connection therewith, shall render all opinions, advice, and exercise its professional judgment at all times in accordance with the Standard of Care. PMF shall be

responsible for the professional quality, technical accuracy, and the coordination and completeness of all Deliverables and PM Services it provides and for their compliance with Applicable Laws and the Standard of Care. PMF represents that it is properly licensed to provide the PM Services required by this Agreement and shall cause all delegated PM Services to be performed by appropriately licensed design professionals.

2.1.1 Cooperation/Collaboration. PMF agrees to provide a high degree of cooperation, collaboration, coordination, and teamwork in the delivery of its PM Services. To this end, PMF shall perform PM Services in accordance with the PM Services Schedule and in keeping with TFC's design intent and Master Budget. PMF agrees to work collaboratively with the TFC, the Using Agency, Consultants, and the Design-Build Firm, its contractors, and subcontractors, and A/E and its consultants retained by TFC to (i) establish and maintain clear lines of responsibility, authority, and communication in accordance with the Contract Documents; (ii) engender a spirit of teamwork among all stakeholders; (iii) guide and provide valuable input to describe and satisfy the required function of each Project consistent with TFC's requirements of performance, reliability, and maintainability; and (iv) provide valuable input and professional insight in design, preconstruction, and construction meetings which the TFC, Consultants, Design-Build Firm, its contractors, subcontractors, and consultants, and A/E and its consultants.

2.1.2 Consultants. PMF shall review all Deliverables prepared by its Consultants so that each Project is appropriately coordinated among the various disciplines. PMF assumes responsibility for the coordination of the Consultants' documents as part of Basic Services. PMF further agrees to provide its program documents, background information, program goals and objectives for each Project to all consultants involved in each Project in order to achieve an integrated, consistent, overall design for each particular Project and throughout the Program. PMF shall direct all of its Consultants to make all revisions and modifications to such plans and drawings as may be necessary to comply with the permitting and other regulatory and legal requirements of the jurisdiction of the Project.

2.1.3 Key Personnel. PMF shall designate in writing to TFC those key employees and representatives who are authorized to act on PMF's behalf with respect to each Project within the Program.

2.1.3.1 Designation. PMF shall designate one or more PMF Project Manager(s) and employees who are responsible for the day-to-day management of the PM Services. The PMF Project Manager (or one of them as designated by PMF and approved by TFC) shall be authorized to act on behalf of and bind the PMF in all matters related to PM Services. The PMF Project Manager, and other staff and representatives, their titles, and a brief description of the limitations of each representative's authority shall be included in "**Exhibit E**" (the "**PMF List of Key Personnel**") to this Agreement. PMF shall not change designated assignments without TFC's written consent, which consent shall not be unreasonably withheld. PMF shall not assign or retain on any Project any person or entity to whom TFC reasonably objects.

2.1.3.2 Replacement. The PMF Project Manager and key employees shall be committed to the Program and each Project to which they have been assigned on such full- or part-time basis as mutually agreed between PMF and TFC to adequately fulfill its duties and obligations hereunder. TFC reserves the right to request that any PMF Project Manager and any of PMF's employees and Consultants (and their respective personnel) working within the Program, be removed and replaced if, in the sole opinion of TFC, their performance under the Program or any Project, is and/or was not adequate or their continued involvement with the Program or Project will, is, or has become, detrimental to the timely

and successful performance of PM Services or completion of the Program or Project, including, but not limited to, for such reasons as: (i) any past or present violation of any statute, rule, regulation, or ordinance of any city, county, the State of Texas or the United States, or any other Applicable Laws; (ii) TFC's reasonable belief that failure to obtain an acceptable criminal background check will occur; (iii) prior unsatisfactory performance on other TFC projects; and (iv) any other like reasons. PMF shall bear the costs associated with the replacement of any of its staff listed on the PMF List of Key Personnel.

2.1.4 No Assumption. No approvals or acceptances by, or on behalf of, TFC shall be deemed to be an assumption of any responsibility by TFC for any defect, error or omission in PMF's providing of Deliverables or any PM Services.

2.1.5 Notice to Proceed. PMF shall commence PM Services on the Program and on particular Projects within the Program only upon issuance by TFC of a Notice to Proceed. No PM Services shall be undertaken by PMF except with the prior written direction of the TFC Project Manager. PMF understands and agrees that any PM Services performed without the prior written direction of the TFC Project Manager is work outside the scope of this Agreement and shall be performed exclusively at PMF's sole and exclusive risk.

2.2 Basic Services. PMF's Basic Services consist of those described in this Section 2.2 and include the following phases: Initial Program Management Services, Final Report, Program Implementation Plan, Document Peer Review Services, and Continuing Program Management Services. No phase shall begin until all prior phases have been completed and approved by TFC, unless the TFC gives its prior written consent thereto.

2.2.1 General Overview/Planning. PMF shall provide a management solution that is lean, collaborative and Owner-centric while addressing the entirety of Program and planning of each Project, and procurement, monitoring, management, reporting and implementation of each Project within the Program. Update and properly manage the overall Program goals from beginning to end, including a system-wide approach for managing the risks and economic uncertainties associated with large, complex, capital design and construction projects.

2.2.1.1 The PMF must deliver all Projects on schedule and within budget and provide cost-effective high value solutions, innovation and resource stewardship while executing each Project and reporting results on a regularly scheduled basis to TFC Executive Leadership, Commission Oversight Committee, and the TFC Board. Generally, services will include project management; strategic project planning; project site planning; operational planning; capital expenditure planning; budgetary impact analysis; and project controls. Specific tasks will include, but not be limited to:

2.2.1.1.1 plan, manage, coordinate and control all aspects of the Program and each Project within it; develop and use communications and management methods that promote coordination, production, collaboration, efficiency and synergy in executing the Program and each Project;

2.2.1.1.2 maintain an open communication process and provide Project status reports throughout all phases to TFC Executive Leadership, Commission Oversight Committee, and the TFC Board;

2.2.1.1.3 adopt “lean construction” project principles, processes and best practices to promote more reliable, precise, integrated and cost-effective design and construction solutions;

2.2.1.1.4 form an initial total Program and baseline scope and develop a strategy to plan and control each Project and Project baseline scope within the Program;

2.2.1.1.5 develop a Project cost control system for each Project to establish a total Project cost model based upon the Project baseline scope and manage the model, reconcile design to cost, negotiate work packages, review payments and manage changes to ensure Master Budget compliance through completion of each Project and the Program overall;

2.2.1.1.6 prepare the Master Schedule for the Program and each Project Schedule to allow effective work progress monitoring, schedule performance assessment and schedule enforcement, particularly with respect to the Project’s Work Progress Schedule.

2.2.1.1.7 Integrate the Master Schedule with each Project cost control system for projected expenditure and develop bond funding draw down schedules for each Project within the Program. Include all Project-associated activities including administrative functions such as permitting, TFC approval processes, TFC procurement processes, bidding and negotiation, commissioning and Project closeout for each Project;

2.2.1.1.8 assess risk and advise TFC of effective and best practice measures for risk management;

2.2.1.1.9 prepare and monitor the quality control plans for each Project;

2.2.1.1.10 conduct all Program and Project business on a web-based IT infrastructure, TFC’s EPMCS that includes software, hosting and data storage sufficient for filing and retrieval of all Project correspondence, Drawings, specifications, submittals, RFIs, approvals, procurements, accounting transactions, reporting such that each Project within the Program can be appropriately monitored independently and in collaboration with other Projects in the Program; and

2.2.1.1.11 Provide comprehensive services for the full scope execution of each Project from engagement to Project closeout and warranty. Collaborate with TFC’s Facilities Design & Construction Division and Executive Leadership and work under their direction utilizing processes consistent with TFC’s policies and procedures.

2.2.2 Initial Project Management Services.

2.2.2.1 ***Project Leadership.*** Establish and properly staff the PM Services to be provided to TFC in keeping with the PMF List of Key Personnel assigned to each Project and the overall Program pursuant to §2.1.3 above;

2.2.2.1.1 Manage communications and coordination between the Design-Build Firm, its consultants, Consultants, design professionals, contractors, and all other stakeholders engaged in each Project within the Program over time as the single point of contact for the TFC;

2.2.2.1.2 Share knowledge and expertise of large, public, design and construction programs;

2.2.2.1.3 Provide consistency and coordination among all Work and work packages on each Project; and

2.2.2.1.4 Constantly monitor and routinely report on Project scope, budget, and schedule (and interconnection with Work Progress Schedules and Professional Services Schedules on each Project), and proforma conformance to the goals and objectives of the TFC; and

2.2.2.1.5 Constantly monitor and routinely report on overall Program scope, Master Budget, Master Schedule (and interconnection with Work Progress Schedules and Professional Services Schedules on each Project), and proforma conformance to the goals and objectives of the TFC.

2.2.2.2 ***Special PM Services.*** During the first three (3) months of the Program, for each Project, the PMF will be focused on the development of each Project's baseline scope, Project Schedule, Project Budget and proforma performance, final Project requirements and how each Project fits within the Program Master Budget and Master Schedule. In addition, PMF will:

2.2.2.2.1 Attend meetings as necessary with TFC Project Management, TFC Executive Leadership and the Commission Oversight Committee;

2.2.2.2.2 Work cooperatively with other Project Team members to produce a final report which will be used in the implementation of the Program and each Project within the Program; and

2.2.2.2.3 Review existing documentation, findings and recommendations (i.e. available documentation from on-going federal and state efforts towards border protection infrastructure construction) and undertake the following scopes of work:

2.2.2.2.3.1 Plan the Program and each Project within it, including developing options and recommendations for the most effective and efficient path, with locations for supporting infrastructure including but not limited to utilities, access roads for maintenance and patrols, gates, infrastructure for monitoring equipment (intrusion detection, etc.), lighting, etc.

2.2.2.2.3.2 Partner with State agencies and local officials to develop innovative approaches for land access and agreements for design and construction. Develop a streamlined coordination and approval process for land access, agreements and utilization, to include all categories of landowners. Manage all procurement and

approvals for land use as necessary to support completion of the Program in the most cost effective and timely manner. Acting as an agent for the State, negotiate all land use agreements and prepare documentation for final approval.

2.2.2.2.3.3 Determine the sequence of construction Projects and phased completion to balance operational priorities with efficient and effective construction execution. Collaborate with appropriate stakeholders to develop execution options for consideration by senior program decision-makers. Coordinate each Project development plan to integrate new construction with sections of the current Federal border control systems.

2.2.2.2.3.4 Make recommendations for Project procurement and delivery methods, to include potential alternative delivery methods. Develop separate “projects” for procurement and management best suited to effectively expedite completion of the overall program. The Project Managers may help manage the procurement process in conjunction with TFC and will follow all State of Texas procurement statutes.

2.2.2.2.3.5 Coordinate the design requirements of the Program for full compliance with the Customs and Border Protection – Tactical Infrastructure Design Standards.

2.2.2.3 **HUB/SMWBE/DBE Outreach and Compliance Consultation.** TFC maintains a policy of encouraging and engaging in business transactions with vendors who qualify and are certified under Applicable Law. As part of the PMF team, a HUB outreach and compliance consultant will develop, implement and monitor the HUB program to be undertaken by the TFC applying innovative solutions that promote contracting opportunities in this community in alignment with the statewide program goal of 26% HUB participation, including:

2.2.2.3.1 Creating and implementing a comprehensive outreach program to attract the HUB community to participate in the Program and the Projects within it on behalf of TFC including: (a) utilizing diverse supplier databases and relevant contract data information; (b) identifying and overcoming obstacles to HUB contracting; (c) developing outreach programs designed to attract HUB subcontractors to all packages in the Program; (d) working closely with TFC to advance HUB procurement policies; and (e) developing realistic HUB utilization goals during the early stages of procurement, on a contract-by-contract basis, by taking into consideration each Project’s scope and the availability of certified HUBs capable of performing the work in the region; and

2.2.2.3.2 Managing all aspects of the comprehensive HUB outreach program including, but not limited to, the following: (a) assist in establishing a sustainable strategy that will increase HUB utilization and foster TFC relationships with the HUB community; (b) serve as a single point of contact for interaction with all stakeholders; (c) act as a liaison between the TFC and HUB firms; (d) track HUB applications from inception through final approval;

(e) facilitate meetings with HUB vendors and Project Consultants and construction management service providers to discuss and identify vendor opportunities; (f) monitor all contracts on a monthly basis for compliance and produce monthly compliance reports; (g) coordinate and attend networking and outreach events; and (h) assist TFC in review of all requests for approval of subcontractors.

2.2.2.4 **Process Optimization Services.** PMF will provide the following PM Services to fulfill this function:

2.2.2.4.1 Review existing TFC policies and, using flow diagrams and schedule fragnets, create guiding program documents covering the following: (a) documents and reports review and approval; (b) professional services providers and contractor selection process; (c) contracts award and approval; (d) signature authority levels; and (e) meetings protocol;

2.2.2.4.2 Suggest alternate protocols and processes (i.e. modification of agenda filing requirements or calling of TFC meetings) to be adopted for the Program and each Project within it in the following areas: (a) schedule maintenance; (b) emergency situations during construction; and (c) authorization of contract and/or compensation amendments;

2.2.2.4.3 Obtain approval for alternate protocols and provide them to the scheduler for use in development of the Master Schedule; and

2.2.2.4.4 Map review and acceptance protocols for State leadership for program and conceptual designs.

2.2.2.5 **Land Agreements.** PMF will provide the following PM Services to fulfill this function:

2.2.2.5.1 Manage all right of way development to include negotiating land use agreements (easements, leases, etc.) and preparation of real estate documents. A GIS mapping capability is desired.

2.2.2.5.2 Manage all procurement and approvals for land use as necessary to support completion of the Program in the most cost effective and timely manner. Acting as an agent for the State, negotiate all land use agreements and prepare documentation for final approval.

2.2.2.6 **Coordination of Permitting and Code Compliance.** PMF will provide the following PM Services to fulfill this function:

2.2.2.6.1 Ensure adherence to all Authorities having Jurisdiction including, but not limited to, TFC requirements and Applicable Laws.

2.2.2.6.2 Research and develop complete plan and sequencing for engaging Authorities Having Jurisdiction and obtaining necessary approvals and permits.

2.2.2.7 **Accounting and Procurement Support.** PMF will provide the following PM Services to fulfill this function:

2.2.2.7.1 At TFC's discretion, provide necessary support to TFC for accounting from PMF's PMIS project controls staffing.

2.2.2.7.1.1 Staff augmentation shall possess experience managing multiple sources of appropriated funds, and lines of accounting including state, federal, grants, and private funds. Subject to full audit.

2.2.2.7.1.2 Staff augmentation shall possess experience in grant administration.

2.2.2.7.1.3 At TFC's discretion, provide necessary support to TFC for procurement from PMF's PMIS project controls staffing .

2.2.2.8 **Scheduling Services.** PMF will provide the following PM Services to fulfill this function:

2.2.2.8.1 Incorporate fragments of the review and approval processes and all other administrative and other processes impacting the Master Schedule and each Project Schedule; and

2.2.2.8.2 Develop the Program's Master Schedule using each Project's baseline scope and approved process optimization protocols.

2.2.2.8.3 Monitor, and obtain updates on each Project Schedule to incorporate into the Master Schedule.

2.2.2.9 **Estimating Services.** PMF will provide the following PM Services to fulfill this function:

2.2.2.9.1 Working with the TFC Fiscal Division, PMF will confirm the accounting rules for capitalization to be applied to the Program and each Project including: (a) capitalized interest; (b) capitalized labor; (c) capitalized leases; (d) initial building stocking (expendables); (e) warranties in excess of 1 year; and (f) software purchases.

2.2.2.9.2 With the TFC Fiscal Division, PMF will confirm the capital account structure to be used for the Program; and

2.2.2.9.3 Using the agreed upon capital account structure, PMF will develop the Master Budget and Project control estimates including costs for: (a) Site development; (b) legal; (c) permits and fees; (d) construction; (e) insurance; (f) other prime contracts; (g) public relations; (h) other expenses; (i) information systems; (j) furniture, furnishings and equipment; (k) consulting services and other soft costs; (l) Owner's contingency; and (m) escalation contingency.

2.2.2.10 **Document Peer Review Services.** PMF will provide peer review services in its review of the following Drawings and Specifications: (a) structural systems, (b) electronic

security systems, (c) civil and site development, (d) road and vehicular access controls and all other discipline documentation necessary for each Project in the Program.

2.2.2.11 **Independent Construction Inspection Services.** PMF will provide independent construction inspection, including, but not limited to (a) foundation excavations; (b) construction materials testing, and (c) engineer of record observations of the Work on each Project in the Program; (d) water quality sedimentation and erosion controls; (e) reinforcing steel; (f) structural steel; (g) welded and bolted connections; and all other customary and necessary testing and inspections to ensure compliance of the work.

2.2.2.12 **Coordination of Construction Documentation Efforts.** PMF will coordinate efforts with other members of each Project Team and TFC to successfully implement the construction documentation execution plan for each Project in the Program including the monitoring of the Design-Build Firm, engineering and contractor Deliverables as it concerns the functionality of the construction documentation of each Project such that the complete construction documents may be provided to TFC upon completion for TFC's use throughout the life-cycle of each Project.

2.2.2.13 **Coordination of Substantial Completion Inspection and Final Inspection.** PMF will coordinate with A/E and participate in a Substantial Completion Inspection of the Work on each Project in the Program to (a) ensure such inspection is conducted in accordance with the Master Schedule; (b) to enable A/E to determine whether the Work or a designated portion thereof has achieved Substantial Completion within the timing of the Substantial Completion Inspection Deadline; (c) to circulate and obtain appropriate signatures on the Certificate of Substantial Completion in such time so as to comply with the Master Schedule. PMF will, similarly, coordinate with A/E and participate in the Final Inspection of the Work to enable each Project Team to meet the Final Inspection Deadline.

2.2.3 **Final Report.** Within two (2) months of TFC's written Notice to Proceed on each Project, PMF will produce a fully vetted, fully balanced final report for each Project including the following items:

2.2.3.1 ***Strategic Project Plan ("SPP")*** describing overall Project operation analysis to include the selection and development of objectives and proper allocation of resources to achieve timely and efficient completion of each Project; preparation of an execution plan to achieve Project objectives; options and recommendations for the most effective and efficient path, with locations for supporting infrastructure including, but not limited to, access roads for maintenance and patrols, gates, infrastructure for monitoring equipment (intrusion detection, etc.), lighting, etc.; and periodic review of objectives to maintain timely and efficient execution of the SPP. The SPP will include information describing the progress of each Project and how each operates with others to meet overall Program goals.

2.2.3.2 ***Project Baselines*** illustrating balanced, integrated and coordinated scope, budget, schedule, and proforma performance including operational staffing models for each Project within the Program and the relationship of each Project to the others within the Program.

2.2.3.3 ***Project Program of Requirements***, including the following:

2.2.3.3.1 Review TFC solicitation documents for each Project and assist to produce final material for use in solicitation of consultants for and development

of each Project, including: (a) program of prioritized preliminary right of way alignments for expedited infrastructure construction (GIS mapping preferred), assessment of full border infrastructure status, i.e., alignments of existing walls, evaluation of natural terrain barriers and natural terrain obstacles; (b) Master Schedule; (c) Master Budget; (d) references to the Customs and Border Protection – Tactical Infrastructure Design Standards.; (e) Project implementation plan.

2.2.3.3.2 Review of contract templates and recommendations to TFC Legal for inclusion in agreements with professional service providers, construction management service providers and other consultants for purposes of describing coordinated scopes of work including: (i) detailed construction documentation execution plan standards and procedures; (ii) uniform file naming conventions; (iii) estimating standards and procedures; (iv) scheduling standards and procedures; (v) program information management system procedures; (vi) guaranteed maximum price procedures; and (vii) others, as requested.

2.2.4 Project Implementation Plan. PMF will provide the following plan to specifically focus on best managed practices and solutions. The plan will include:

2.2.4.1 A comprehensive HUB outreach program;

2.2.4.2 Contracting and design and construction services that influence and support cooperative team efforts;

2.2.4.3 A Project communication and information management system that provides all Project participants, particularly the TFC and Project stakeholders, real time access to all Project information and communication and that provides organized methods of archiving information to facilitate retrieval when needed (review of TFC's 9 EPMCS and develop systems and processes to make highest use of the existing system);

2.2.4.4 A Project quality control system that considers all aspects of quality from code and functional space program compliance through commissioning;

2.2.4.5 A Program cost and schedule control system and related policies to include estimating, cost reporting, comprehensive system for tracking and predicting the cost of all items of change whether in the design or construction process, value engineering and value analysis and master and detailed scheduling (with related responsibility assignments);

2.2.4.6 Independently formulated Cost Estimates and cash flow projections in early phases of each Project until Design-Build Firm is procured to provide estimates and, thereafter, that provide in-depth review of estimates submitted by the Design-Build Firm;

2.2.4.7 Routine comparison/monitoring of the Master Budget and each Project Budget with plans emerging from the concept phase;

2.2.4.8 Routine tracking of progress towards completion of all schedule milestones;

2.2.4.9 Procedures for identification of ways TFC can best utilize its limited financial resources;

2.2.4.10 Procedures to establish methods to reduce cost, shorten Project Schedule and/or substitute materials and systems such as value engineering and constructability review;

2.2.4.11 Tactics and approaches to coordinate day-to-day operations of the Project Team, as well as conduct and document Project Team meetings;

2.2.4.12 Formalized communication \protocols, including: (a) attendance and reporting at meetings; (b) written monthly reports for TFC Executive Leadership and Commission Oversight Committee; (c) executive conference calls and meetings; and (d) periodic updates on Master Schedule, Master Budget and scope.

2.2.4.13 Project communication outreach to include Project information within the Program website, the intent of which is to provide information about the Project and serve as a collection point for the history of the Project within the Program;

2.2.4.14 ***Approval to Proceed.*** Present the final report to TFC Executive Leadership and Commission Oversight Committee and obtain approval to proceed.

2.2.5 **Continuing Program Management Services.** PMF's continuing program management services include:

2.2.5.1 ***Program Leadership.*** PMF will continue to manage all facets of the Program and each Project on behalf of TFC and serve as the single point of contact for all service providers with such authority to act on behalf of TFC as described herein.

2.2.5.2 ***Selection of Project Professionals.*** Assist in the selection of design-build firms, engineers, contractors, subcontractors, and all other required consultants, including: a) assistance in drafting solicitations, requests for qualifications, and/or requests for proposals; b) recommendations for selection criteria; c) firm comparisons; d) participation in interviews; e) negotiation of contracts; and f) recommendations for subcontractor prequalification criteria.

2.2.5.3 ***Project Oversight.*** PMF shall direct and oversee the design, construction, commissioning, training, start up, and closeout of each Project in the Program, including all fixed and movable items required to provide fully functional facilities.

2.3 **Scope Management.** PMF will:

2.3.1 Maintain the baseline scope of each Project,

2.3.2 Manage reconciliation of scope to Master Budget.

2.3.3 Ensure modifications to scope maintain value, quality and reconcile with Project and Program goals and objectives.

2.4 **Budget Management.** PMF will provide overall management of costs and cost related processes, including:

2.4.1 Maintain detailed Master Budget and Project Budgets, updated regularly as additional project, design, and construction information becomes available;

- 2.4.2 Provision of estimates when and if not available from other members of the Project Team;
 - 2.4.3 Review all estimates provided by other team members;
 - 2.4.4 Lead the Project Team in an effective and timely manner;
 - 2.4.5 Oversee value engineering process to avoid cost-cutting efforts often required after bids are received when effective cost management techniques are not applied up-front;
 - 2.4.6 In collaboration with TFC Project Management, review and provide input into any proposed Work Package Authorization, Guaranteed Maximum Price Proposal (and Amendment) and Design-Build Proposal (and Amendment), both from a scope and budget perspective.
 - 2.4.7 Track all budgets (cost of work, fixed and movable equipment, permits, information technology active equipment, professional service fees and Project contingencies) for the duration of each Project and throughout the Program, and provide reports as needed to maintain optimal control;
 - 2.4.8 Provide and regularly update cash flow projections for each Project within the Program;
 - 2.4.9 In collaboration with TFC Project Management, review and, where warranted, approve or return for additional edits, all Applications for Payment received from each Project Design-Build Firm or Contractor;
 - 2.4.10 In collaboration with TFC Project Management and Fiscal Divisions, set up and manage a payment process that ensures expeditious payment of all contractors and vendors;
 - 2.4.11 Provide monthly updates to TFC Project Management, TFC Executive Leadership and the TFC Commission.
- 2.5 **Schedule Management.** PMF will maintain the Master Schedule, each Project Schedule, monitor the Work Progress Schedule on each Project, and develop a detailed phasing schedule with alternatives for accelerating completion of each Project within the Program. Provide monthly updates to TFC Project Management, TFC Executive Leadership and the TFC Commission.
- 2.6 **Risk Management.** PMF will perform Project scope, budget, schedule risk management as follows:
- 2.6.1 On a weekly basis, report to TFC any events which appear to have the potential to add scope, cost, time or complexity to any of the Projects;
 - 2.6.2 Log events and track to conclusion either by withdrawal of request or funding of the additional scope via amendment to the program baseline scope;
 - 2.6.3 Monitor RFIs and RFI Responses on each Project to confirm timely submittal, follow-up, and implementation;
 - 2.6.4 Provide to TFC monthly updates to the Master Schedule and each Project Schedule that include a narrative describing potential risks to Project completion dates;
 - 2.6.5 Develop mitigation plans for regaining lost time; and

2.6.6 Report to TFC on a weekly basis and any events which appear to have potential to add operating cost to the Program and each Project.

2.7 **Proforma Performance.** Based on industry best practices, metrics and techniques and utilizing current Project data, PMF will provide projections on the performance of each Project within the Program to completion and to bring each Project into conformance with TFC Program goals and objectives including the following:

2.7.1 On a weekly basis, report to TFC any events, trends or new information that have the potential to impact the performance of any Project and their effect on the Program.

2.7.2 Develop strategies to mitigate the impact of external and internal factors on Project performance.

2.7.3 Log these events and track to conclusion.

2.8 **Coordination with Authorities Having Jurisdiction.** PMF will coordinate with all Authorities Having Jurisdiction such that each Project is delivered in accordance with all Applicable Laws. Authorities Having Jurisdiction include, but are not limited to, the following:

2.8.1 Local Government Authorities

2.8.2 Texas Department of Transportation (TxDOT)

2.8.3 Texas Commission on Environmental Quality (TCEQ)

2.8.4 All other applicable federal agencies

2.9 **PMF Services Applicable to all Phases.** PMF shall timely deliver the following PM Services, as applicable, during all phases of the Program for each Project.

2.9.1 Critically review and closely scrutinize all documents submitted by third parties, the performance, schedules, and costs of other professional service providers, including Consultants, the Design-Build Firm, engineer, contractors, and all subcontractors, and evaluate the proposed schedule and costs as relevant to each discipline.

2.9.2 Actively participate in all meetings and/or teleconferences to bring the full measure of PMF's collective experience, expertise and recommendations to each Project as it pertains to the overall Program, each Project, and to specific disciplines. PMF shall promptly communicate with and respond to requests for information from all members of the Project Team. PMF shall make its PMF Project Manager and other employees available, as reasonably requested by TFC, at all meetings and conference calls scheduled by TFC.

2.9.3 Prepare and deliver all meeting agendas and meeting minutes, field reports, and other similar documentation within seven (7) Days of the respective work or event, unless directed otherwise by TFC.

2.9.4 Answer questions and provide clarifications for all professional service providers, Design-Build Firm, A/E, , contractors, and subcontractors to facilitate their thorough examination of all documents authored by PMF for accuracy and intended completeness.

2.9.5 Prepare protocols to formalize end-of-Project documentation efforts to ensure that the appropriate entity(ies) has collected, verified receipt of, and properly delivered to TFC all necessary certificates, punchlists, warranties, the Warranty Report, and Close-Out Documents, including, but not limited the Certificates of Substantial and Final Completion and any other documents required to appropriately verify compliance with the Contract Documents and UGCs.

2.10 **PMF's Basic Services Requiring Additional Detail.** Any additional details required to properly document or describe the scope of PMF's Basic Services provided in this Section 2.2 shall be provided in "**Exhibit G**" which is provided for additional detail for and not in lieu of the Basic Services descriptions set forth in this Agreement.

2.11 **Additional Services.** PM Services may be required for the management of the Program or a particular Project that are not included as part of the Basic Services described in Section 2.2. If such services are required, they will either be provided by TFC, contracted for separately from a third party, or authorized in writing to be performed by the PMF and paid for by TFC as hereinafter provided. If authorized in writing to be performed by the PMF pursuant to an amendment or otherwise, such services will be subject to this Section 2.11. Upon request by TFC for Additional Services, PMF shall prepare and submit a proposal for such Additional Services to TFC for approval that would include proposed rates for such Additional Services. Once the Additional Services and applicable rates are approved by TFC, in writing, in advance of the service, payment shall be made monthly, in accordance with the *Tex. Gov't. Code Ch. 2251*.

ARTICLE 3. TFC RESPONSIBILITIES, INFORMATION, AND APPROVALS

3.1 **Information and Documents to be Provided by TFC.** TFC shall, with reasonable promptness, provide information and documents to PMF:

3.1.1 **TFC Documents to PMF.** When available and applicable, TFC will furnish to PMF copies of or reasonable access to, the following information and documentation regarding the Program and each Project therein:

3.1.1.1 The UGC, Supplementary General Conditions, any Special Conditions, and the A/E Guidelines.

3.1.1.2 Contract forms, bond forms, bidding information and instructions, minimum wage rates for inclusion in the Specifications, and design and construction standards.

3.1.1.3 The HUB Progress Assessment Report for inclusion in the Specifications.

3.1.1.4 The Master Budget, any Project Budget, and any required delivery schedules.

3.1.1.5 Information concerning the Communication Protocol and EPMCS.

3.1.1.6 Necessary environmental, geotechnical or civil engineering information that would constitute professional engineering by the PMF or that is not provided by a design-builder or design professional of record.

3.1.2 **TFC Services to PMF.** TFC may further assist PMF as follows:

3.1.2.1 Upon PMF's receipt of general and criminal background check clearance, TFC may provide assistance to PMF to obtain access to any Project Site as is reasonably necessary to enable PMF to provide the PM Services.

3.1.2.2 Upon issuance of the Notice to Proceed with the Program, TFC shall designate the TFC Project Manager.

3.1.2.3 As necessary, TFC may review and comment on Deliverables submitted by the PMF in such a manner as to avoid unreasonable delay in the progress of the PMF's work. No approvals, comments, decisions or acceptances by, or on behalf of, TFC shall be deemed to be an assumption of responsibility by TFC for any defect, error, or omission in said Deliverables or in PMF's performance of PM Services.

3.2 **Actions of TFC.** No inspections of any Project or review of Deliverables by TFC shall reduce the level or extent of PMF's responsibilities arising pursuant to this Agreement. Neither the approval and/or final acceptance of a Project or any Deliverables, nor the payment of any Invoice by TFC shall constitute or be deemed, a release of PMF's obligation to perform and timely deliver the PM Services and any Additional Services in accordance with the Standard of Care and this Agreement.

3.3 **Consents, Revisions, Approvals by TFC.** Any provisions in this Agreement to the contrary notwithstanding, all consents, revisions, and/or approvals by TFC shall be in its sole and absolute discretion and shall not be valid or enforceable unless evidenced by a fully executed written amendment to this Agreement. PMF acknowledges that the TFC Project Manager shall not have any express or implied authority to vary or otherwise amend or waive compliance with the terms of this Agreement in any way, except for identified deadlines in Section 2.2 herein, and then only as evidenced in writing, signed by TFC Project Manager.

3.4 **No Warranties by TFC.** PMF acknowledges that any and all tests, maps, reports, and drawings in the possession of TFC that reflect or depict any Project Site boundaries, recorded easements, topography, utility locations, and other Site conditions and/or restrictions which may impact the design and/or construction of any Project within the Program were prepared solely for TFC's benefit and for information only purposes, and that PMF shall have no right to rely upon such and that any reliance thereon shall be at PMF's own risk. **TFC HEREBY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE ABOVE-MENTIONED REPORTS, TESTS, MAPS AND DRAWINGS.**

ARTICLE 4. COMPENSATION AND PAYMENT

4.1 **Compensation for Basic Services.** For PMF's timely performance of Basic Services described under Section 2.2 and in accordance with the schedule set forth in "**Exhibit D**", TFC shall pay PMF a stipulated sum of Ten Million Three Hundred Ninety-Three Hundred Thirty-Seven and No/100 Dollars (\$10,390,337.00), which may be further categorized on a Project basis. PM Services performed or delivered by PMF prior to the Effective Date of this Agreement or after it terminates cannot be compensated.

4.1.1 **Proportional Payments.** Payments shall be made to PMF monthly upon submission of an Invoice as set forth in Section 4.1.2 below. Payments shall be made in proportion to the Basic Services performed on each Project and for those administrative services within the Program so that the Compensation for Basic Services is the following stipulated amounts subject to completion and acceptance of each Deliverable for each Project:

| | |
|--|----------------|
| Core Team | \$3,307,354.00 |
| Program Management Plan | \$46,298.00 |
| Program Kick Off/Vision & Partnering Workshop | \$50,891.00 |
| Project Controls | \$1,251,889.00 |
| Comprehensive Plan | \$361,168.00 |
| Texas Border Infrastructure Playbook | \$1,091,295.00 |
| Design Build RFPs & Land Agreements | \$3,872,897.00 |
| Procurement Assistance/Bidder's RFIs/DB contractor award | \$408,545.00 |

4.1.2 Submission of Invoices. No more frequently than once per month, PMF shall submit an Invoice to TFC for PM Services performed relative to each Project and the Program administration services, and reasonable and necessary costs and expenses incurred through the last day of the previous month. TFC agrees to pay PMF in accordance *with Tex. Gov't. Code Ch. 2251* also known as the "Prompt Payment Act."

4.1.3 Payments to Consultants. For all services rendered, PMF shall make payment to Consultants within ten (10) calendar days after receipt of payment from TFC. Should it become necessary, and in the sole discretion of TFC and after five (5) day notice to PMF, TFC may issue joint checks to PMF and Consultants.

4.2 Reimbursable Expenses. Reasonable lodging and traveling expenses shall be considered a Reimbursable Expense under this Agreement when professional and technical personnel of PMF are away from the cities in which they are permanently assigned and are conducting authorized business directly connected with this Agreement. For the purposes of this Agreement, no travel reimbursement shall be made for travel within 100 miles of the location identified as the principal place of business or branch office of PMF, except for overnight stays, which require prior TFC Project Manager approval. The maximum amount for each Reimbursable Expense for travel and lodging shall be the rates established by the Texas Comptroller of Public Accounts, and outlined in Texttravel, <https://fm.xcpa.state.tx.us/fmx/travel/texttravel/index.php>, formerly known as the State of Texas Travel Allowance Guide for state employees. No Reimbursable Expenses shall exceed actual cost. In addition to those items specifically identified above as a Reimbursable Expense, permit fees and associated costs, certain other incidental direct expenses including, but not limited to, copying, telephone, data, and express mail services, and rental of special equipment or tools required in connection with provision of the Basic Services for a particular Project, may constitute a Reimbursable Expense; provided however, PMF must obtain the written approval of TFC prior to incurring the expense. Approval may be granted only under those limited circumstances wherein such costs are not considered normal or customary Basic Services under this Agreement. All requests for reimbursement must be accompanied by such documentation which, in the judgment of the TFC, allows for complete substantiation of the costs incurred.

4.3 Notice of Depletion. Within seven (7) calendar days of when the accumulated amount of fees and Reimbursable Expenses reaches eighty percent (80%) of the not-to-exceed amount(s) set forth above, PMF

shall deliver written notice thereof to TFC. Nothing herein shall be construed to require TFC to increase the approved amount(s) established pursuant to this Agreement.

4.4 **Taxes.** TFC is an agency of the State of Texas and materials and services utilized with respect to the Projects in the Program may be exempted from state and local taxes. PMF is responsible for taking full advantage of all tax exemptions applicable to the Program and/or the Projects. TFC will deduct from the applications for payment and from the request for final payment any taxes paid for materials or services that were entitled to tax exemption.

4.5 **Debts or Delinquencies Owed to the State.** Any payment due under this Agreement may be withheld and applied toward payment of any debt that is owed to the State of Texas including, but not limited to, delinquent taxes and child support pursuant to *Tex. Gov't. Code § 403.055*.

4.6 **State Funding.** This Agreement shall not be construed as creating any debt on behalf of the State of Texas and/or TFC in violation of the 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 Agreement 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. Further, any damages due under this Agreement should not exceed the amount of funds appropriated for payment under this Agreement but not yet paid to PMF, for the fiscal year budget in existence at the time of the breach.

ARTICLE 5. COPYRIGHTS/TRADEMARKS/INSTRUMENTS OF SERVICE

5.1 **Copyrights.** PMF agrees that all Deliverables provided pursuant to this Agreement are subject to the rights of TFC in effect on the date of execution of this Agreement. These rights include the right to use, duplicate and disclose such subject matter and data, in whole or in part, in any manner for alterations, additions, remodels or maintenance; and to have others do so including production of Deliverables in response to a public information request pursuant to *Tex. Gov't. Code Ch. 552*. If the Deliverables produced by PMF are subject to copyright protection, PMF hereby grants to TFC a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such and to authorize others to do so. PMF shall include appropriate provisions to achieve the purpose of this condition in all subcontracts entered into that produce information subject to copyright protection.

5.1.1 **Disclaimers.** All such Deliverables furnished by PMF pursuant to this Agreement shall be considered instruments of its services in respect to the Program and the Project(s). It is understood that PMF does not represent such Deliverables to be suitable for reuse on any other study or for any other purpose(s).

5.1.2 **Delivery to TFC.** PMF shall promptly provide copies of the Deliverables to TFC upon completion, suspension, termination, or cancellation of this Agreement for any reason, including all copies of the Deliverables in any form or medium specified by TFC in this Agreement, whether written, digital, or electronic.

5.1.3 **TFC Right to Use.** Any provision herein to the contrary notwithstanding, TFC shall be authorized to make subsequent use of the Deliverables for any and all future renovations, modifications, alterations, maintenance, repairs, and the like of the Project.

5.2 **No Use of TFC's Name or Trademark.** PMF agrees not to make any written use of or reference to TFC or the Using Agency names or registered or unregistered trademarks for any marketing, public

relations, advertising, display or other business purpose or make any use of TFC's or Using Agency's facilities for any activity related to the express business purposes and interests of TFC/Using Agency pursuant to this Agreement, without the prior written consent of TFC/Using Agency which consent may be withheld or granted in TFC and/or Using Agency's sole discretion. PMF shall not advertise that it is doing business with TFC or use this Agreement as any sort of marketing or sales tool without the prior written consent of TFC.

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

ARTICLE 6. RECORDS, AUDIT, PROPRIETARY INFORMATION AND PUBLIC DISCLOSURE

6.1 **Books and Records.** PMF shall keep and maintain under Generally Accepted Accounting Principles full, true and complete records, as are necessary to fully disclose to TFC or the United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms and conditions of this Agreement and all Applicable Laws.

6.2 **Inspections and Audits.** PMF agrees that all relevant records related to this Agreement or any work product under this Agreement, including practices of its Consultants, shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of PMF where such records may be found, with or without notice by the Texas State Auditor's Office ("SAO"), the contracting agency or its contracted examiners, or the Office of the Attorney General of Texas, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All consulting agreements shall reflect the requirements of this section. PMF's records shall be organized and maintained in its files by each Invoice period and shall be kept on the basis of Generally Accepted Accounting Principles and in conformance with the SAO requirements. In addition, pursuant to *Tex. Gov't. Code § 2262.154*, the SAO may conduct an audit or investigation of any entity receiving funds under this Agreement, including direct payments to PMF and indirect payments under a consulting agreement; acceptance of such monies acts as acceptance of SAO authority, under legislative audit committee direction, to audit and investigate related to those funds and the entity subject to the audit or investigation must provide SAO with access to any information SAO considers relevant to the scope of the audit or investigation.

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

6.4 **Confidentiality Provisions Applicable to PMF.**

6.4.1 Protection of Confidential Information. PMF hereby acknowledges, understands and agrees: (i) that in the course of conducting its due diligence regarding the provision of services to TFC, certain Confidential Information (as defined below) will be disclosed to PMF; and (ii) that whether developed by TFC or others employed by or associated with TFC, all Confidential Information is, and shall remain, the exclusive and confidential property of TFC, and shall be at all times regarded, treated and protected as such by PMF in accordance with this Agreement. Failure to mark any information “Confidential” shall not affect the confidential nature of such information.

6.4.2 Definition of Confidential Information. “Confidential Information” shall mean all information, whether or not originated by TFC, which is used in, or a part of, TFC’s business and operations and is: (i) proprietary to, about, or created by TFC; (ii) gives TFC some competitive advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of TFC; (iii) designated as “Confidential Information” by TFC, or from all the relevant circumstances should reasonably be assumed by PMF to be confidential and proprietary to TFC; or (iv) not generally known by PMF. “Confidential Information” shall not include information that: (i) is or becomes available to the public generally, other than as a result of disclosure by PMF in breach of the terms of this Agreement; (ii) becomes available to PMF from a source (other than TFC) which source is not, to the best of PMF’s knowledge, subject to any legally binding obligation to keep the same confidential; or (iii) has been independently acquired or developed by PMF. Such Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing or designated as “Confidential”):

6.4.2.1 Work product resulting from, or related to, work, projects, or services performed or to be performed by TFC for PMF and/or for actual and potential Using Agencies that are related to the business and/or operations of TFC, including but not limited to, methods, processes, procedures, analysis, techniques, and audits used in connection therewith.

6.4.2.2 Computer software of any type or form in any stage of actual or anticipated research and development, including, but not limited to, programs and program modules, routines and subroutines, processes, algorithms, design concepts, design specifications (design notes, annotations, documentation, flowcharts, coding sheets, and the like), source code, object code and load modules, programming, program patches, and system designs.

6.4.2.3 Information relating to TFC’s proprietary rights prior to any public disclosure thereof, including, but not limited to, the nature of the proprietary rights, production data, technical and engineering data, test data and test results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights, and trade secrets).

6.4.2.4 Internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services, and agreements), customer lists and contacts, business plan(s), purchasing and internal cost information, internal services and operational manuals, pricing, marketing, and all other manner and methods of conducting TFC’s business.

6.4.2.5 Marketing and development plans, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of

obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of TFC which have been or are being discussed.

6.4.2.6 Any information obtained from TFC regarding its pursuit or negotiation of agreements with any potential “Contracting Person” regarding a potential “Qualifying Project” as those terms are defined in the *Tex. Gov’t. Code § 2267.001*, as the same may be amended from time to time, including, but not necessarily limited to: (i) the names of the Contracting Person, including their representatives (collectively referred to as “Business Customers”); (ii) the parties to and substance of any agreements between TFC and said Business Customers; (iii) services and data provided, or to be provided, by or to said Business Customers; and (iv) the type, quantity and specifications of products and services purchased, leased, licensed or received, or to be purchased, leased, licensed or received, by Business Customers.

6.4.2.7 In accordance with *13 TAC § 6.94(a)(9)*, PMF shall provide to TFC the descriptions of its business continuity and disaster recovery plan as it regards TFC’s vital state records as defined in *Tex. Gov’t. Code § 441.180(13)*.

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

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

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

6.4.3.3 PMF agrees not to make any written use of or reference to TFC’s name or registered or unregistered trademarks (or any names under which TFC conducts business or operations) for any marketing, public relations, advertising, display or other business purpose or make any use of TFC’s facilities for any activity related to the express business purposes and interests of TFC pursuant to this Agreement, without the prior written consent of TFC, which consent may be withheld or granted in TFC’s sole and absolute discretion.

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

6.4.4 Open Records Request or Similar Requests for Information. In the event that PMF receives a request to disclose all or any part of the Confidential Information under the terms of the Texas Public Information Act, a subpoena or other order issued by a court of competent jurisdiction or by another governmental agency, PMF shall: (i) notify TFC of the existence, terms, and circumstances surrounding such a request within one (1) business day of the receipt of the request; (ii) notify the entity requesting the information that such a request for information should be submitted to TFC, not PMF; (iii) provide the entity requesting the information the contact information of TFC's public information coordinator; and (iv) forward all responsive information to TFC within two (2) business days of the receipt of the request.

6.5 Confidentiality Provisions Applicable to TFC. Subject to the provisions of Section 6.6 below, TFC shall keep confidential all information, in whatever form, produced, prepared, or observed by PMF to the extent that such information is confidential by law.

6.6 Public Records. Notwithstanding any provisions of this Agreement to the contrary, PMF understands that TFC will comply with the Texas Public Information Act, *Tex. Gov't. Code Ch. 552*. If contacted by TFC, PMF will cooperate with TFC in the production of documents responsive to the request. PMF agrees to provide the documents responsive to the request in the format and within the time frame specified by TFC. PMF may request that TFC seek an opinion from the Office of the Attorney General of Texas. However, the final decision whether to seek a ruling from the Office of the Attorney General of Texas will be made by TFC in its sole discretion to comply with the legal requirements of the Texas Public Information Act. Additionally, PMF 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 Agreement and/or any amendment to this Agreement. This Agreement and/or any amendment to this Agreement and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. PMF agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, PMF is required to make any information created or exchanged with the State pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public as specified by TFC at no additional charge to the State.

6.7 Electronic and Information Resources Accessibility Standards. Effective September 1, 2006, all state agencies and institutions of higher education shall procure products which comply with the State of Texas accessibility requirements for electronic and information resources specified in *Tex. Admin. Code Title 1, Ch. 213* when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. If applicable, PMF shall provide the Texas Department of Information Resources with the universal resource locator ("URL") to its Voluntary Product Accessibility Template ("VPAT") for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under the *Rehabilitation Act of 1973*, 29 U.S.C. § 701 *et seq.*, as amended, or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<https://app.buyaccessible.gov/baw/Main.jsp>). Consultants not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

6.8 **Cybersecurity Training Required.** If PMF has “access,” as that term is defined in *1 Tex. Admin. Code § 202.1*, to any state computer system or database, then, pursuant to *Tex. Gov’t Code § 2054.5192*, PMF and its Consultants, subcontractors, officers, and employees shall complete a cybersecurity training program certified under *Tex. Gov’t Code § 2054.519*. The cybersecurity training program must be completed by the PMF and its Consultants, officers and employees during the term and any renewal period of this Agreement. PMF shall verify completion of the training program to TFC pursuant to, and in accordance with, *Tex. Gov’t Code § 2054.5192*.

ARTICLE 7. INSURANCE AND INDEMNITY

7.1 **Insurance.** PMF shall maintain in effect, and shall require its Consultants to maintain in effect, at all times during the full term of this Agreement, insurance policies providing the coverages with the policy limits not less than those specified in “**Exhibit I**”. PMF will comply and will require its Consultants comply fully with all requirements of “**Exhibit I**”.

7.2 **Indemnity.**

7.2.1 **TO THE FULLEST EXTENT PERMITTED BY LAW, PMF INDEMNIFIES AND HOLDS HARMLESS TFC, THE STATE OF TEXAS, AND THEIR EMPLOYEES, AGENTS, ASSIGNEES, DESIGNEES AND REPRESENTATIVES (HEREINAFTER REFERRED TO INDIVIDUALLY AS AN “INDEMNITEE” AND COLLECTIVELY AS THE “INDEMNITEES”) FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS’ FEES AND COSTS, INCURRED BY TFC AND ANY INDEMNITEE, CAUSED BY OR RESULTING FROM:**

7.2.1.1 **THE INTENTIONAL OR NEGLIGENT VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT IN THE PERFORMANCE OF THIS AGREEMENT, BY PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL;**

7.2.1.2 **ANY NEGLIGENT OR INTENTIONAL TORT, ACT, OR OMISSION IN VIOLATION OF PMF’S STANDARD OF CARE, BY THE PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT WITH PMF, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL;**

7.2.1.3 **ANY CLAIM ASSERTING INFRINGEMENT OR ALLEGED INFRINGEMENT OF A PATENT, TRADEMARK, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHT IN CONNECTION WITH THE INFORMATION FURNISHED BY OR THROUGH PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT WITH PMF, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL;**

7.2.1.4 **THE FAILURE OF PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT WITH PMF, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL TO PAY ITS CONSULTANTS OR SUBCONSULTANTS AMOUNTS DUE FOR SERVICES PROVIDED IN CONNECTION WITH THE PROGRAM OR ANY PARTICULAR PROJECT;**

7.2.1.5 THE FAILURE OF PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT WITH PMF, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL TO PAY ANY TAXES, TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKER'S COMPENSATION ARISING OUT OF THE PERFORMANCE OF THE SERVICES HEREUNDER; OR

7.2.1.6 THAT OTHERWISE ARISE OUT OF OR RESULT FROM THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, LOSSES, COSTS, AND/OR EXPENSES ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT SUCH CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARE CAUSED BY OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF THE PMF, ITS AGENT, ANY CONSULTANT UNDER CONTRACT WITH PMF, OR ANY OTHER ENTITY OVER WHICH THE PMF EXERCISES CONTROL.

NOTHING CONTAINED IN THIS SECTION 7.2.1 SHOULD BE CONSTRUED TO REQUIRE PMF TO INDEMNIFY OR HOLD HARMLESS TFC OR ANY INDEMNITEES FROM ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF TFC OR INDEMNITEES (*TEX. GOV'T. CODE § 2254.0031*).

7.2.2 **Reimbursement of Governmental Agency's Fees In and Coordination of Defense of Claims.** To the extent TFC and/or any Indemnitee incurs attorney's fees in defense of any claim asserted against TFC and/or any Indemnitee which arises or results from the alleged acts or omissions of the PMF described in Section 7.2 above, PMF shall reimburse TFC and Indemnitee their reasonable attorneys' fees in proportion to the PMF liability found after a final adjudication of liability. Any defense shall be coordinated by PMF with the office of the Attorney General when Texas state agencies are named defendants in any lawsuit. PMF must obtain the concurrence from the Attorney General's office before agreeing to any proposed settlement. PMF and TFC agree to furnish timely written notice to each other of any such claim.

7.3 **Additional Insured Status.** PMF shall name TFC, the State of Texas and their employees, agents, assignees, designees and representatives as an additional insureds on the PMF's general liability policy using ISO Additional Insured Endorsements as required in "**Exhibit I**" and provide TFC and the Indemnitees any defense allowed under said policy. Any endorsement to PMF's general liability policy prohibiting or limiting the coverages required herein shall be modified such that the policy will respond to the obligations of the PMF as set forth in this Section to the full extent allowed under Texas law.

7.4 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Section 7.2 or the additional insured requirements in Section 7.3, such legal limitations are made a part of the contractual obligations and shall operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect. Should any provision or any part of any provision of this Agreement be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, Section and/or Agreement shall not be affected thereby and shall remain valid and fully enforceable.

7.5 **Survival.** The obligations contained in this Article 7 shall survive the expiration, suspension, completion, abandonment and/or termination of the Agreement and final completion of the PM Services and

any other services to be provided pursuant to this Agreement to the extent and for the time periods provided allowed under Texas law.

ARTICLE 8. DISPUTE RESOLUTION

8.1 **Dispute Resolution.** Claims, disputes, and other matters in question arising out of or relating to this Agreement shall be subject to the process set forth in this Article 8. Failure to follow the dispute resolution process shall result in any claim filed by PMF in a court of law having jurisdiction over the claim to be summarily dismissed.

8.1.1 **Texas Government Code Chapter 2260.** Except to the extent *Tex. Civ. Prac. & Rem. Code Ch. 114* applies to any such unresolved claim, in accordance with *Tex. Gov't Code § 2260.004*, the dispute resolution process provided for in *Tex. Gov't. Code Ch. 2260* shall be used by the parties to resolve a dispute under this Agreement. TFC hereby designates general counsel as its officer for examining, negotiating and resolving claims and counterclaims in accordance with *Tex. Gov't. Code § 2260.052(a)*.

8.1.1.1 **Mediation.** The parties hereby agree to mediate any claim or dispute arising under this Agreement in accordance with *Tex. Gov't. Code § 2260.056*. TFC's administrative rules located at *1 Tex. Admin. Code, Part 5, § 111.31* apply to this Agreement and govern the mediation of any dispute arising from this Agreement.

8.1.2 **Texas Civil Practice & Remedies Code Chapter 114.** In accordance with *Tex. Gov't. Code Section 2260.002(3)* and/or in the event *Tex. Civ. Prac. & Rem. Code Ch. 114* applies to any such unresolved claim, the parties shall follow the dispute resolution process set forth below:

8.1.2.1 ***Claims for Breach of Contract and Counterclaims.*** PMF may make a claim against TFC for breach of a contract between TFC and PMF. TFC may assert a counterclaim against PMF.

8.1.2.1.1 PMF must provide written notice to TFC of a claim for breach of contract not later than one hundred eighty (180) calendar 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 PMF seeks as damages; and (iii) the legal theory of recovery.

8.1.2.1.2 TFC must assert, in a writing delivered to PMF, any counterclaim not later than the sixtieth (60th) calendar day after the date of notice of a claim under Section 8.1.2.1.1 above.

8.1.2.2 ***Negotiation.*** TFC's general counsel shall examine the claim and any counterclaim and negotiate with PMF in an effort to resolve them. The negotiation must begin no later than one hundred twenty (120) calendar days after the date the claim is received. TFC's administrative rules located at *1 Tex. Admin. Code, Part 5, § 111.31* apply to this Agreement and govern the negotiation of any dispute arising from this Agreement. 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.

8.1.2.3 **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 hereby agree to mediate a claim made under this Agreement. TFC's administrative rules located at *Tex. Admin. Code Title 1, Part 5, § 111.31* apply to this Agreement and govern the mediation of any dispute arising from this Agreement.

8.1.2.4 **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, PMF may adjudicate any claim in accordance with and to the extent permitted under the *Tex. Civ. Prac. & Rem. Code Ch. 114* or *Tex. Gov't. Code Ch. 2260* only after the parties have completed mediation of the claim or dispute in question.

8.1.2.4.1 **Payment of Claims.** In accordance with *Tex. Civ. Prac. & Rem. Code § 114.011*, TFC may pay a claim resolved under this Section 8.1.2 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. *Tex. Fin. Code Ch. 304* applies to a judgment awarded to a claimant, except that the applicable rate of interest may not exceed the maximum rate allowed by Applicable Laws and regulations. Consistent with the *Tex. Civ. Prac. & Rem. Code § 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.

8.1.2.4.2 All other provisions and requirements of *Tex. Civ. Prac. & Rem. Code Ch. 114* shall apply to such unresolved claims. To the extent the terms and conditions of *Tex. Civ. Prac. & Rem. Code Ch. 114* conflicts with the terms or conditions contained in Section 8.1.2, the terms and conditions of *Tex. Civ. Prac. & Rem. Code Ch. 114* shall control and apply.

ARTICLE 9. TERM, SUSPENSION, AND TERMINATION

9.1 **Term.** This Agreement shall be effective as of the Effective Date and shall terminate thirty (30) Days after expiration of the Contractor's Warranty Period set forth in UGC Article 13, unless otherwise provided by mutual written agreement of the parties.

9.2 **Suspension of Services.** TFC may, without cause, or by reason of a Force Majeure event, order the PMF in writing to suspend, delay, or interrupt the PM Services, in whole or in part, for such period of time as TFC may determine in its sole and absolute discretion. Upon receipt of such notice, the PMF shall, unless the notice requires otherwise, immediately discontinue services to the extent specified in the notice. PMF shall promptly and orderly arrange all Deliverables, data accumulated, and products of its PM Services prepared and paid for to the date of suspension and deliver the same to the TFC. PMF shall be compensated for PM Services performed prior to the date of the notice of such suspension. When the Program or Project resumes, PMF shall be compensated for reasonable expenses incurred in the interruption and resumption of PMF's PM Services so long as said expenses are those of the nature allowed under Article 4. If TFC suspends the Program or any Project for more than 180 cumulative days for reasons other than the fault of PMF, PMF may terminate this Agreement by giving not less than seven (7) days' written notice. No additional

Compensation shall be paid in the event PMF so terminates other than for PM Services provided prior to the notice of suspension as set forth herein.

9.2.1 TFC, may, without cause or duty to be reasonable, or by reason of events beyond its control, order in writing the suspension in part of certain categories of services for such period of time as TFC may determine in its sole and absolute discretion. All other services shall continue upon scheduled performance unless impacted by the partial suspension of other services. All other services shall continue upon scheduled performance to the maximum extent possible if impacted by suspension of other services. Suspensions in part will seek to maintain long range and strategic planning activities along scheduled performance and seek to maintain core team participation as much as practically feasible. Suspension, if possible, in TFC's sole and absolute discretion, will reserve suspension of core team activities to a total suspension of services.

9.3 **Termination**

9.3.1 **TFC Termination for Convenience.** This Agreement may be terminated by TFC for its convenience, in whole or in part, at any time without cause, upon delivery of a notice of termination (a "**Notice of Termination**") to PMF at the address of record as specified in this Agreement. Upon receipt of a Notice of Termination, PMF will immediately cease all Professional Services and undertake to terminate any relevant Consulting Agreements and will incur no further expense related to this Agreement. PMF shall promptly and orderly arrange all Deliverables, data accumulated, and products of its Professional Services prepared and paid for to the date of the Notice of Termination and deliver the same to the TFC within fourteen (14) calendar days within the receipt of the Notice of Termination. Upon such termination and assuming all such Deliverables are provided to TFC, the PMF shall be compensated for Professional Services performed prior to the date of the Notice of Termination together with Reimbursable Expenses incurred prior to the Notice of Termination. No other damages, costs, losses, or expenses will be paid by TFC.

9.3.2 **Termination for Cause.** Either party may terminate this Agreement upon not less than fourteen (14) calendar days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

9.3.3 **Force Majeure.** Any delays in or failure of performance by either party, except in respect of the obligation of payments under this Agreement, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused solely by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, herein called "Force Majeure" including acts of God or the public enemy, sabotage, war, mobilization, revolution, civil unrest, riots, strikes, lockouts, pandemics, epidemics, fires, accidents breakdowns, or floods, earthquakes, hurricanes, or any other natural disaster, or governmental actions.

9.3.3.1 **Notice.** In any such event, the party claiming force majeure shall notify the other of the Force Majeure event in writing within seventy-two (72) hours of the earlier of (a) the commencement of the Force Majeure event or (b) the entry of any order by Authorities Having Jurisdiction of an emergency or Force Majeure event. In the event PMF fails to timely provide said notice, such failure shall constitute, without further notice or action, a waiver of the right to claim Force Majeure for such event. If possible, such notice shall set forth the extent and duration thereof. TFC shall determine, in the exercise of reasonable discretion and based upon an order entered by Authorities Having Jurisdiction as available, the termination of the Force Majeure event.

9.3.3.2 ***Due Diligence.*** PMF shall exercise due diligence to prevent, eliminate, or overcome any Force Majeure event where it is possible to do so and resume performance of Professional Services at the earliest possible date. However, if nonperformance continues for more than thirty (30) calendar days, TFC may terminate this Agreement immediately upon written notification to PMF.

ARTICLE 10. SPECIAL PROVISIONS

10.1 **Compliance with Laws.** PMF has determined what licenses, patents and permits are required under this Agreement and shall procure and maintain for the duration of this Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by PMF and its Consultants to provide the PM Services required hereunder. PMF will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. PMF agrees to be responsible for payment of any such government obligations not paid by its Consultants during performance of this Agreement. As part of its delivery of PM Services, PMF shall make itself familiar with and at all times give all notices required by, and shall observe and comply with, all Applicable Laws that in any manner affect performance under this Agreement.

10.1.1 Neither PMF, nor any firm, corporation, partnership, or institution represented by PMF, or anyone acting for them has: (i) violated the antitrust laws of the State of Texas under the *Tex. Bus. & Com. Code Ch. 15*, or the federal antitrust laws; or (ii) communicated directly or indirectly its response to the RFP for this Program to any competitor or any other person engaged in such line of business during the procurement process for this Agreement.

10.1.2 TFC reserves the right, in its sole discretion, to unilaterally amend this Agreement throughout its term to incorporate any modifications necessary to address TFC's or PMF's required compliance with all Applicable Laws.

10.2 **Licensure of Architects.** The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Phone (512) 305-9000, has jurisdiction over individuals licensed under the Regulation of the Practice of Architecture Law, *Tex. Occ. Code § 1051*.

10.3 **Licensure of Engineers.** The Texas Board of Registration for Professional Engineers, 1917 IH35 South, Austin, Texas 78741, Phone (512) 440-7723, has jurisdiction over individuals licensed under the Texas Engineering Registration Law, *Tex. Occ. Code § 1001*.

10.4 **Responses to RFP.** All statements, representations and certifications contained in, or otherwise set out in, PMF's response(s) to the RFP for this Program were true and correct when made, and shall remain true and correct throughout the term of this Agreement.

10.5 **Certification of No Asbestos Containing Materials or Work.** PMF shall comply with the requirements of the UGC (see Article 13) concerning Asbestos Certification. PMF shall provide a certification statement, included with each materials submittal, stating that no asbestos containing materials or work is included within the scope of the proposed submittal. All materials used shall be certified as non-asbestos containing building materials.

10.5.1 The PMF shall insure compliance with the following acts from all of its Consultants and assigns:

10.5.1.1 Asbestos Hazard Emergency Response Act (AHERA—40 CFR 763-99 (7));

10.5.1.2 National Emission Standards for Hazardous Air Pollutants (NESHAP—*EPA 40 CFR 61, National Emission Standard for Asbestos*); and

10.5.1.3 Texas Asbestos Health Protection Rules (TAHRP—Tex. Admin. Code Title 25, Part 1, Ch. 295C, Asbestos Health Protection).

10.6 **General and Criminal Background Checks.**

10.6.1 PMF represents that PMF and PMF's employees have not been convicted of a felony criminal offense, or of a crime involving moral turpitude, or that, if such a conviction has occurred, PMF has fully advised TFC as to the facts and circumstances surrounding the conviction. All of PMF's employees and Consultants that will perform any work on-site at a State-owned property shall be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by PMF.

10.6.2 All criminal background check forms for all of PMF's employees and Consultants that will initially commence any work on-site must be fully completed and submitted to TFC within fifteen (15) calendar days of the date of the appropriate notice of award, and the process thereafter must be diligently pursued by PMF. All criminal background checks must be completed before any employee or Consultant performs any services at the Site.

10.6.3 All criminal background checks must be accomplished by the Texas Department of Public Safety (the "DPS"), which includes fingerprint processing by an independent third-party company selected by DPS. Upon receipt of the fingerprints of PMF's employees and/or Consultants, DPS, or TFC, will adjudicate the results of the criminal background searches in accordance with the criteria set forth in the Texas Facilities Commission Criminal Background Checks and Guidelines, a copy of which is attached hereto as "**Exhibit F**" and incorporated herein for all purposes. Failure to timely secure criminal background check clearance shall not be considered a legitimate delay in the performance of PM Services.

10.7 **Drug-Free Work Place.** PMF, PMF's employees, and Consultants shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (*Public Law No. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.*) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (*32 CFR Part 280, Subpart F*) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and PMF, PMF's employees, and Consultants shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

10.8 **E-Verify.** By entering into this Agreement, PMF certifies and ensures that it utilizes and will continue to utilize, for the term of this Agreement, 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 this Agreement; and (ii) all Persons (including Consultants) assigned by the PMF to perform work pursuant to this Agreement, within the United States of America. PMF 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 PMF, and PMF's Consultants, as proof that this provision is being followed. If this certification is falsely made, this Agreement may be immediately terminated, at the discretion of TFC, and at no fault to TFC, with no prior notification. PMF shall also be responsible for the costs of any re-solicitation that TFC must undertake to replace the terminated Agreement. For Persons not eligible for E-

Verify screening, PMF (including Consultants) shall provide, upon request by TFC, another form of documentation of proof of eligibility to work in the United States of America.

10.9 Equal Opportunity. PMF shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. PMF shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief. Such action shall include, but not be limited to, the following: (i) employment, upgrading, demotion, or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of Compensation; and (v) selection for training, including apprenticeship. PMF shall post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination subsection. PMF shall include the above provisions in all consulting agreements pertaining to the PM Services to be provided under this Agreement.

10.10 Nondiscrimination. In their execution of this Agreement the parties and others acting by or through them shall comply with all federal and state laws prohibiting discrimination, harassment, and sexual misconduct. To the extent not in conflict with federal or state law, the parties agree not to discriminate on the basis of race, color, national origin, age, sex, religion, disability, veterans' status, sexual orientation, gender identity or gender expression. Any breach of this covenant may result in termination of this Agreement.

10.11 Immigration Reform. The Immigration Reform and Control Act of 1986 (Pub. L. 99-603, 100 Stat. 3445 (1986)), as amended, the Immigration Act of 1990 (Pub. L. 101-649, 104 Stat. 4978 (1990)), and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009-546 (1996)) require that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. TFC is committed to complying with all applicable immigration laws of the United States and requires compliance by all Contractors, subcontractors, and Consultants who contract with the State. PMF shall not place any employee of PMF at a worksite, nor shall PMF permit any employee, nor any Consultant, to perform any work on behalf of, or for the benefit of, TFC without first confirming said employee's authorization to lawfully work in the United States. PMF states that PMF: (i) maintains and follows an established policy to verify the employment authorization of its employees and to ensure continued compliance for the duration of employment; (ii) has verified the identity and employment eligibility of all employees in compliance with Applicable Law; (iii) has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to PMF's senior management; and (iv) is without knowledge of any fact that would render any employee or Consultant ineligible to legally work in the United States. PMF further acknowledges, agrees, and states that it: (i) has complied, and shall at all times during the term of this Agreement comply, in all respects with the Immigration Reform and Control Act of 1986 and 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules, and regulations relating thereto; (ii) has properly maintained, and shall at all times during the term of this Agreement properly maintain, all records required by the Department of Homeland Security, Immigration and Customs Enforcement, including, without limitation, the completion and maintenance of the Form I-9 for each of PMF's employees; and (iii) has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of this Agreement, PMF shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by TFC or any state agency of PMF or any of its employees. PMF acknowledges, agrees, and represents that all Consultants permitted by it to perform PM Services hereunder will be required to agree to these same terms as a condition to being awarded a contract for the performance of such PM Services.

10.12 **Historically Underutilized Businesses.** PMF will proactively comply with TFC's established policies regarding the utilization of HUB and all other applicable administrative rules and statutes relating to utilization of HUB's by TFC for the Program or any particular Project, including (i) TFC's HUB program, and (ii) the HUB Compliance Reporting System as described in UGC Article 4. A digital copy of the approved HSP is attached hereto as "**Exhibit H**" and incorporated herein for all purposes. When required, PMF shall submit an updated HSP. Upon TFC approval of HSP update(s), such update(s) shall become, without further notice or action, a part of the incorporated "**Exhibit H**". PMF shall provide the HUB program of TFC with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder on the HUB Subcontracting Plan Forms, a copy of which is attached hereto as "**Exhibit H-1**" and incorporated herein for all purposes. No changes to the HSP can be made by the PMF without the written approval of TFC.

10.13 **Requirement to Utilize HUB Compliance Reporting System.** Pursuant to *Tex. Admin. Code Title 34 §§ 20.85(f)(1)(2) and 20.287(b)*, TFC administers monthly HSP to include the PARs compliance monitoring through a HUB Compliance Reporting System known as B2G. PMF and PMF's subcontractors must submit required PARs information into the B2G system as a condition of payment. Any delay in the timely submission of PARs information into the B2G system will be treated as a deficiency and the payment request will be subject to suspension until such deficiency has been resolved.

10.14 **Human Trafficking Prohibition.** Pursuant to *Tex. Gov't. Code § 2155.0061*, PMF certifies that it is not ineligible to receive an award of this Agreement and acknowledges that this Agreement may be terminated and payment withheld if PMF's certification in this matter is inaccurate. TFC may not award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a Person who, during the five-year (5) period preceding the date of the award, has been convicted of any offense related to the direct support or promotion of human trafficking.

10.15 **Family Code Certification.** By signing this Agreement PMF is certifying, pursuant to *Tex. Fam. Code § 231.006*, that it is not ineligible to receive the award of or payments under this Agreement by reason of its family support requirements and acknowledges that this Agreement may be terminated and/or payments may be withheld if this certification is inaccurate.

10.16 **Franchise Tax Certification.** By signature hereon, PMF hereby certifies that it is not currently delinquent in the payment of any franchise taxes due under Chapter 171 of the *Tex. Tax Code Ch. 171*, or that it is exempt from the payment of such taxes, or that it is an out-of-state corporation or limited liability company that is not subject to the Texas franchise tax, whichever is applicable.

10.17 **Entities that Boycott Israel.** Pursuant to *Tex. Gov't. Code § 2271.002*, PMF certifies that either (i) it meets an exemption criteria under *Tex. Gov't. Code § 2271.002*; or (ii) it does not boycott Israel and will not boycott Israel during the term of this Agreement. PMF shall state any facts that make it exempt from the boycott.

10.18 **Nondiscrimination Against Energy Companies.** Pursuant to *Tex. Gov't. Code § 2274.002*, PMF certifies that either (i) it meets an exemption criteria under *Tex. Gov't. Code § 2274.002*; or (ii) it does not boycott companies that engage in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and do not commit or pledge to meet environmental standards beyond applicable federal and state law ("Energy Companies") and will not boycott Energy Companies during the term of this Agreement. PMF shall state any facts that make it exempt from verification.

10.19 **Nondiscrimination against Firearms Entities or Trade Associations.** Pursuant to *Tex. Gov't. Code § 2274.002*, PMF certifies that either (i) it meets an exemption criteria under *Tex. Gov't. Code § 2274.002* or (ii) it does not have a practice, policy, guidance, or directive that discriminates against a firearm

entity or firearm trade association (as defined under *Tex. Gov't Code § 2274.001*) and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. PMF shall state any facts that make it exempt from verification.

10.20 COVID-19 Vaccine Passport Prohibition. Under Section 161.0085 of the Texas Health and Safety Code, PMF certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery entry to, to gain access to, or to receive service from the PMF's business. PMF acknowledges that such a vaccine or recovery requirement would make PMF ineligible for a state-funded contract.

10.21 Prohibition Against Contracting with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organizations. In accordance with *Tex. Gov't. Code § 2252.152*, TFC is prohibited from entering into a governmental contract (as defined in *Tex. Gov't. Code § 2252.151(3)*) with a company that is identified on a list prepared and maintained under *Tex. Gov't. Code §§ 806.051, 807.051, or 2252.153*. If PMF is on the above-referenced list, this Agreement will be considered void or voidable and TFC will not be responsible to pay PMF for any work performed.

10.22 Domestic Iron and Steel Certification. Pursuant to *Tex. Gov't. Code §2252.201-2252.205*, PMF shall require that any iron or steel product produced through a manufacturing process and used on any Project is produced in the United States. PMF will require that the bid documents provided to all bidders and each applicable subcontract include this same requirement.

10.23 Buy Texas. If PMF is authorized to make purchases under this Agreement, PMF certifies that PMF will buy Texas products, services, and materials when available at a comparable price and in a comparable period of time pursuant to *Tex. Gov't. Code Ch. 2155*.

10.24 Use of State Property. PMF is prohibited from using State Property for any purpose other than performing services authorized under this Agreement. "State Property" includes, but is not limited to: TFC's office space, identification badges, TFC information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any TFC issued software, and the TFC Virtual Private Network (VPN client)), and any other resources of TFC. PMF shall not remove State Property from the continental United States. In addition, PMF may not use any computing device to access TFC's network or e-mail while outside of the continental United States. PMF shall not perform any maintenance services on State Property unless this Agreement expressly authorizes such services. During the time that State Property is in the possession of PMF, PMF shall be responsible for (i) all repair and replacement charges incurred by TFC that are associated with loss of State property or damage beyond normal wear and tear; and (ii) all charges attributable to PMF's use of State Property that exceeds the scope of this Agreement. PMF shall fully reimburse such charges to TFC within ten (10) calendar days of PMF's receipt of TFC's notice of amount due. Use of State Property for a purpose not authorized by agreement shall constitute breach of contract and may result in termination of the Agreement and the pursuit of other remedies available to TFC under contract, at law, or in equity.

10.25 Eligibility Certifications.

10.25.1 No Financial Participation in Preparing RFP. By signing this Agreement PMF certifies that, pursuant to *Tex. Gov't. Code § 2155.004*, the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

10.25.2 Disaster Relief Contract Violation. Under *Tex. Gov't. Code §§ 2155.006 and 2261.053*, PMF certifies that the individual or business entity named in the response to the RFP and this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

10.25.3 Excluded Parties. PMF certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

10.25.4 Suspension and Debarment. PMF certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

10.25.5 No Conflicts. PMF represents that PMF has no actual or potential conflicts of interest in providing services to the State of Texas under this Agreement and that PMF's provision of services under this Agreement would not reasonably create an appearance of impropriety.

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

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

10.28 Antitrust and Assignment of Claims. PMF represents and states that neither PMF nor any firm, corporation, partnership, or institution represented by PMF, or anyone acting for such firm, corporation or institution has (i) violated the antitrust laws of the State of Texas under *Tex. Bus. & Com. Code Ch. 15*, or the federal antitrust laws; or (ii) communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business during the procurement process for this Agreement. PMF assigns to the State of Texas all of PMF's rights, title, and interest in and to all claims and causes of action PMF may have under the antitrust laws of Texas or the United States for overcharges associated with this Agreement.

10.29 Disclosure of Former State Executives. Pursuant to the *Tex. Gov't. Code § 669.003* relating to contracting with an executive of a state agency, no Person who, in the past four (4) years served as an executive of TFC or any other state agency was involved with or has any interest in this Agreement or any contract resulting from this Agreement. If PMF employs or has used the services of a former executive head of TFC or any other state agency, then PMF has provided the name of the former executive, the name of the

state agency, the date of separation from the state agency, the position held with PMF, and the date of employment with PMF.

10.30 Certification Concerning Restricted Employment for Former State Officers or Employees Under *Tex. Gov't. Code § 572.069*. PMF certifies that it has not employed and will not employ a former TFC or State officer who participated in a procurement or contract negotiation for TFC involving PMF within two (2) years after the State officer or employee left state agency employment or service. This certification only applies to former State officers or employees whose service or employment ceased on or after September 1, 2015.

10.31 Financial Interests/Gifts. Pursuant to *Tex. Gov't. Code §§ 572.051 and 2255.001* and *Tex. Penal Code § 36.09*, PMF has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement. In addition, pursuant to *Tex. Gov't. Code Ch. 573 and § 2254.032*, if applicable, PMF certifies that PMF knows of no officer or employee of TFC, nor any relative within the second degree of consanguinity or affinity of an officer or employee of TFC, that has a financial interest in PMF's company or corporation. PMF further certifies that no partner, corporation, or unincorporated association which employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which PMF will be dealing on behalf of TFC.

10.32 Prior Employment. PMF knows of no officer or employee of TFC, nor any relative within the second degree of consanguinity or affinity of an officer or employee of TFC, that has a financial interest in PMF's firm or corporation. PMF further certifies that no partner, corporation, or unincorporated association that employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which PMF will be dealing on behalf of TFC pursuant to the *Tex. Gov't. Code Ch. 573 and § 2254.032*. Furthermore, PMF certifies and agrees that if it employs any former employee of TFC, such employee will perform no work in connection with this Agreement during the twelve (12) month period immediately following the employee's last date of employment at TFC.

10.33 Disclosure of Interested Parties. PMF certifies that, if the value of this Agreement or the anticipated value this Agreement is \$1 Million or more or is awarded a Contract that would require the PMF to register as a lobbyist under Texas Government Code Chapter 305, it has complied with *Tex. Gov't. Code § 2252.908* of the *Tex. Gov't Code* and *1 Tex. Admin. Code §§ 46.1 through § 46.3* as implemented by the Texas Ethics Commission (TEC), if applicable, and has provided the TFC with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the PMF.

10.34 Safety. PMF, its Consultants of every tier, and all of their employees shall comply with all OSHA rules and regulations provided by the Department of Labor, OSHA, Code of Federal Regulations Chapter 29. Employees of PMF and its Consultants of every tier, and all of their employees and subcontractors shall be trained in accordance with OSHA Chapter 29. PMF and subcontractors and its Consultants shall inform the TFC Project Manager of their Hazardous Electrical Energy Control, Lockout/Tag-out Procedures. PMF's procedure must meet or exceed TFC's procedure as determined by the TFC Project Manager. Details provided by PMF or its Consultants regarding de-energization of equipment must comply with OSHA Regulations 29 CFR §§ 1910.331 – 1910.399.

10.35 No Smoking. All facilities where work is to be performed or PM Services rendered are nonsmoking buildings. PMF, its Consultants, and their employees are prohibited from smoking in all areas except in areas designated for smoking.

ARTICLE 11. MISCELLANEOUS PROVISIONS

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

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

If to TFC: Legal Services division
 Texas Facilities Commission
 1711 San Jacinto Boulevard, Suite 400
 Austin, Texas 78701

With Copies to: John S. Raff
 Deputy Executive Director
 Texas Facilities Commission
 1711 San Jacinto Boulevard, Suite 200
 Austin, Texas 78701

If to PMF: Craig N. Trimble, AIA, NCARB, Vice President
 Michael Baker International & Huitt-Zollars JV
 500 West 7th Street, Suite 300
 Fort Worth, Texas 76102-4773
 Cell: (214) 914-2394
 Email: ctrimble@huitt-zollars.com

Any party may make reasonable changes in the Person or place designated for receipt of notices upon five (5) business days advance written notice to the other party.

11.3 **Name and Organizational Changes.** PMF must provide TFC with written notification of all name changes and organizational changes relating to the PMF including, but not limited to, merger, acquisition, or sale, no later than sixty (60) calendar days of such change. PMF, in its notice, shall describe the circumstances of the name change or organizational change, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform under this Agreement. If the change entails personnel changes for personnel performing the responsibility of this Agreement for PMF, PMF shall identify the new personnel and provide resumes to TFC, if resumes were originally required by the solicitation. TFC may request other information about the change and its impact on this Agreement and PMF shall supply the requested information within seven (7) calendar days of receipt of the request. All written notifications of organizational change must include a detailed statement specifying the change and supporting documentation evidencing continued right of PMF or successor entity, as applicable, to maintain its status as a party to this Agreement. TFC may terminate this Agreement due to any change to PMF that materially alters PMF's ability to perform under this Agreement.

11.4 **No Assignment or Delegation by PMF.** PMF shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Agreement without the prior written consent of TFC. Notwithstanding the foregoing, it is mutually understood and agreed that PMF may subcontract with third parties for some or all of the PM Services to be performed. All services under this Agreement shall be performed in the principal offices of the PMF and its Consultants. If PMF or Consultant offices exist out of the State of Texas, services shall be performed in offices within Texas in so much as proper expertise and timeliness can be accomplished. Services performed outside the State of Texas shall be limited to offices and personnel located in the United States. Outsourcing or subcontracting outside the United States shall not be permitted unless approved in writing by the TFC. PMF will provide written notification to TFC of any such Consultant performing work under this Agreement, including the name and taxpayer identification number of Consultant, the task(s) being performed, and the number of Consultant employees expected to work on the task.

11.5 **Relationship of the Parties.** PMF is associated with TFC only for the purposes and to the extent specified in this Agreement, and with respect to performance of the contracted services pursuant to this Agreement, PMF is and shall be an independent contractor. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for TFC whatsoever with respect to the indebtedness, liabilities, and obligations of PMF or any other party. PMF shall be solely responsible for, and TFC shall have no obligation with respect to the following: (i) withholding of income taxes, FICA, or any other taxes or fees; (ii) industrial or workers' compensation insurance coverage; (iii) participation in any group insurance plans available to employees of the State of Texas; (iv) participation or contributions by the State to the State Employees Retirement System; (v) accumulation of vacation leave or sick leave; and (vi) unemployment compensation coverage provided by the State.

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

11.7 **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between PMF and TFC and shall constitute the entire Agreement and understanding between the parties with respect to the Program and the Projects within it. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by PMF and TFC.

11.8 **Governing Law and Venue.** This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought pursuant to this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. PMF hereby irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of, or responding to, any action or proceeding in such jurisdiction with respect to this Agreement or any document related hereto.

11.9 **Waivers.** No delay or omission by either party in exercising any right or power arising from non-compliance or failure of performance by the other party with any of the provisions of this Agreement shall impair or constitute a waiver of any such right or power. The failure of a party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement shall not be construed as a waiver or a relinquishment thereof for the future. Notwithstanding any provision of this Agreement, nothing herein constitutes a waiver of the constitutional, statutory or common law rights, privileges, defenses or immunities of the parties.

11.10 **No Waiver of Sovereign Immunity.** Nothing in this Agreement shall be construed as a waiver of sovereign immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas, TFC, or the Using Agency. 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 Agreement 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.

11.11 **No Third-Party Beneficiaries.** This Agreement is made solely and specifically among and for the benefit of the parties named herein and the Using Agency, and their respective successors and assigns, and no other Person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of this Agreement as a third-party beneficiary or otherwise, except as otherwise provided herein for the benefit of TFC only.

11.12 **Abandonment and Default.** If PMF defaults on this Agreement, TFC reserves the right to cancel this Agreement without notice and either re-solicit or re-award this Agreement to the next best responsive and responsible respondent. The defaulting PMF will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work.

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

11.14 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors.

11.15 **Unenforceable or Invalid Term / Severability.** Should any term or provision of this Agreement be held invalid or unenforceable in any respect, the remaining terms and provisions shall not be affected and this Agreement shall be construed as if the invalid or unenforceable term or provision had never been included.

11.16 **Multiple Counterparts.** This Agreement 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.

11.17 **Captions.** The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

11.18 **Survival.** Termination of this Agreement for any reason shall not release PMF from any liability or obligation set forth in this Agreement 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, insurance, transition, records, audit, property rights, dispute resolution and Invoice and verification.

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

11.20 **False Statements; Breach of Representations.** By signature to this PMF, PMF makes all the representations, warranties, guarantees, certifications and affirmations included in this Agreement. If PMF signs this Agreement with a false statement or it is subsequently determined that PMF has violated any of

the representations, warranties, guarantees, certifications or affirmations included in this Agreement, PMF shall be in default under this Agreement, and TFC may terminate or void this Agreement for cause and pursue other remedies available to TFC under this Agreement and Applicable Law.

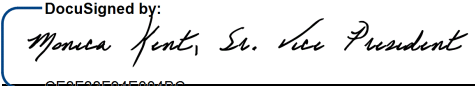
11.21 **Authority to Execute Agreement.** The parties hereto represent that the Person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement. PMF acknowledges that this Agreement is effective for the period of time specified in this Agreement. Any services performed by PMF before this Agreement is effective or after it ceases to be effective are performed at the sole risk of PMF.

[INTENTIONALLY BLANK – SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed and bound themselves to this Agreement effective as of the date the last party signs this Agreement the Effective Date.

PMF:

**MICHAEL BAKER INTERNATIONAL &
HUITT-ZOLLARS JV**

By: 
CE9F33F94E004BC...
(original signature)


Name: Monica Kent

Title: Senior Vice President

Date: 09/20/2021 | 12:54 PM CDT

OWNER:


THE TEXAS FACILITIES COMMISSION

By: 
07CF7E0553204CB...
(original signature)

Name: Mike Novak

Title: Executive Director

Date: 09/20/2021 | 12:59 PM CDT

GC: 

DED: 

EXHIBIT A

2015 UNIFORM GENERAL CONDITIONS

Located at this Link in PDF:

<http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/2015%20UGC%2003.07.2017.Final.pdf>

EXHIBIT B

2018 SUPPLEMENTARY GENERAL CONDITIONS|

Located at this Link in PDF:

[http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/2018%20Supplementary%20Modifications%20to%20Article%205%203-23-2018%20\(003\).pdf](http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/2018%20Supplementary%20Modifications%20to%20Article%205%203-23-2018%20(003).pdf)

EXHIBIT C

TFC 2018 ARCHITECTURAL/ENGINEERING GUIDELINES, EDIT DATE: 3/19/18

Located at this Link in PDF:

<http://www.tfc.state.tx.us/divisions/facilities/prog/construct/formsindex/01%20-%202018%20A-E%20GUIDELINES.pdf>

EXHIBIT D

PMF SERVICES SCHEDULE

TFC Contract No. 22-035-000 – Exhibit D - PM Service Schedule by Durations

TABLE of DELIVERABLES and SCHEDULE by DURATIONS

| DELIVERABLES | SCHEDULE by DURATION (Calendar Days) |
|--|--|
| <u>Core Team</u> | |
| Program Management Plan (PMP) | 14 calendar days from NTP |
| PMP Updates | Quarterly (as needed for new processes) |
| Monthly Status Reports | Monthly ongoing |
| Internal Program Updates | Weekly |
| Program Manager RFI Log | Weekly |
| Executive Program Brief | Monthly |
| <u>Project Controls</u> | |
| Notional Master Schedule P6 | 21 calendar days from NTP - ongoing |
| Updated P6 Master Schedule | Monthly |
| Master Schedule Status Reports | Monthly |
| 3-Week Schedule Look-Aheads | Weekly |
| Issue Tracking Reports (Action Items) | Weekly |
| Activate full PMIS Online | 60 calendar days from NTP |
| Cost Control-Budget Forecasting Report | Monthly |
| Updated Market Conditions Report | Quarterly |
| <u>Comprehensive Planning/Playbook</u> | |
| 2-Day Planning Workshop Meeting Minutes | 7 calendar days from Workshop |
| Draft Comprehensive Plan | 14 calendar days from Workshop |
| Draft Comprehensive Plan Review Conference Meeting Minutes | 7 calendar days after Review Conference |
| Final Comprehensive Plan | 7 calendar days after Review Conference |
| Draft Texas Border Infrastructure Playbook | 30 calendar days after Planning Workshop |
| Draft Texas Border Infrastructure Playbook Review Conference Meeting Minutes | 7 calendar days after Playbook Review Conference |
| Final Texas Border Infrastructure Playbook | 21 calendar days after Review Conference |
| Final Texas Border Infrastructure Playbook Review Conference Meeting Minutes | 7 calendar days after Final Playbook Review Conference |
| Corrected Final Texas Border Infrastructure Playbook | 7 calendar days after Final Playbook Review Conference |
| <u>Design/Build RFPs</u> | |
| Draft DB RFP(s) Submittal | 63 calendar days after NTP |
| Draft DB RFP(s) Review Conference Meeting Minutes | 7 calendar days after Draft DB RFP Review Conference |
| Final DB RFP(s) Submittal | 14 calendar days after Draft DB RFP Review Conference – pending property acquisition |
| <u>Land Access / Acquisition</u> | |
| Land Valuations (Appraisals or Appraisal Waivers) for State Approval | Ongoing – subject to identification of land rights needed to support DB RFP |
| Conveyance Documents providing land rights to the State of Texas | Ongoing – completed prior to DB advertisement (confirm TXDOT approach with TFC) |
| Closed File - all required notices, property contact records and recorded documents. | Ongoing – per land in DB RFP 60 calendar days after acquisition |

- *Exclusive of Environmental, survey or geotech deliverables*

EXHIBIT E

PMF LIST OF KEY PERSONNEL

TFC Contract No. 22-035-000 – Exhibit E – PMF List of Key Personnel

TBW Program Management Key Personnel:

| | |
|--------------------------|--------------------|
| Program Manager | Craig Trimble, AIA |
| Design Manager | Al Riera, PE |
| Construction Manager | Bob Sims, RA |
| Project Controls Manager | Ian Davis |

EXHIBIT F

CRIMINAL BACKGROUND CHECK AND APPLICATION GUIDELINES

[http://tfc.texas.gov/divisions/facilities/prog/construct/fonnsindex/TEXAS%20FACILITIES%20COMMISSION%20CRIMINAL %20BACKGROUND%202016.pdf](http://tfc.texas.gov/divisions/facilities/prog/construct/fonnsindex/TEXAS%20FACILITIES%20COMMISSION%20CRIMINAL%20BACKGROUND%202016.pdf)

EXHIBIT G

PMF Statement of Work and Cover Letter

.



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities
Date: 7 September 2021

Statement of Work

General

This Statement of Work (SOW) sets forth the performance requirements for the Program Management services required for the Texas Facilities Commission (TFC) Texas Border Program. The Program Management PM (PM) shall furnish all labor, management, investigations, analysis, travel, facilities, supplies, equipment, and materials to perform the required services. The Program Management PM is responsible to determine what disciplines and skill sets are required for accomplishing the work under this SOW and form a team accordingly. The PM shall accomplish the required services and furnish to TFC reports and other data together with supporting material developed during the period of service as set forth herein. During the execution of work, the PM shall provide adequate supervision and quality control to assure the accuracy, quality, timeliness, and completeness of the work. Services included in this SOW are exclusive of services in the contract which are required to implement other specific Task Orders.

Period of Performance

The period of performance is 18 months. Should all or any of the options be awarded, the period of performance will be extended based on the options.

Project Location

The TFC's area of responsibility for the Texas Border Program covers the entire Texas from El Paso to the Gulf of Mexico.

References

Some applicable Federal, State, and industry standards are referenced in this scope of work. All applicable standards, including those that are not referenced or listed, constitute criteria for the execution of this task order.

Precedence

This Scope of Work included as part of "Exhibit G" to the contract provides additional detail to and is not provided in lieu of the descriptions set forth in Section 2.2 Basic Services of the Agreement. The revised cover letter to MBHZ JV's fee proposal, dated September 14, 2021, is included as "Exhibit H" to the contract to add additional detail to the Scope of Work reached during negotiations.

Amendments

Additional work may be added to this scope as needed by the Program.

Texas Facilities Commission Point(s) of Contact

TBD



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities
Date: 7 September 2021

Program Manager Point of Contact

Michael Baker International and Huitt-Zollars, Joint Venture (MB/HZ)

Craig Trimble, AIA, NCARB

Program Manager

ctrimble@huitt-zollars.com

214.914.2394

Al Riera

Design Manager

ARiera@mbakerintl.com

817.217.9671

List of Tasks

- I. Core Team
- II. Program Management Plan (PMP)
- III. Program Kickoff Meeting/Vision and Partnering Workshop
- IV. Project Controls Tasks
- V. Comprehensive Plan
- VI. Texas Border Infrastructure Playbook (Program Execution Plan)
- VII. Develop Design Build Request For Proposals
- VIII. Procurement Assistance/Bidder's RFIs/DB Contractor Award
- IX. Options

Scope of Work

I. Core Team

Objective: Provide single point of interface and accountability between program implementation efforts for the TFC's Texas Border (TBP) Program Team. Provide strong leadership to manage financial and quality expectations while meeting the schedule. Manage the program resources in accordance with funding flows obligated by TFC and assist TFC in responding to, and planning for changing scenarios.

The Program Manager for the TBP will provide a Core Team (defined by positions below). The Core Team will manage the planning and implementation of the program. Key personnel listed shall be utilized and shall provide services as required by TFC.

The Core Team shall be supported by specialists as required for the implementation of the listed work items and personnel listed will be utilized as needed and will perform the designated Core Team duties cited below. Services shall be provided as required under the contract and as identified in the Program Management Plan (PMP).



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Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities
Date: 7 September 2021

The Core Team shall consist of, as a minimum, the personnel listed below to accomplish the tasks listed in Core Team scope of work (other personnel will be utilized for Project Controls and Early Activities cited under specific scope for those elements). Based on the current workload projections, the Core Team shall consist of:

Key Personnel:

Program Manager
 Design Manager
 Construction Manager*
 Project Controls Manager
 Administrative Assistant

**50% until initial construction advertised for award*
All other personnel are full-time

Other team members in support of the Core Team are:

Principal-in-Charge/JV Board Member
 Quality Manager
 Public Outreach Manager

All support personnel are part-time

The following list of services generally defines the expectations of TFC:

II. Program Management Plan (PMP)

Clearly document expectations and objectives of all team members and foster a sense of urgency of the importance of the program. Develop an overall plan for program implementation addressing such things as TFC mandates, implementation strategies, schedule priorities, budget limitations, user needs, risk management and mitigation.

Provide a common platform for program implementation by preparing standard procedures to be used by all team members and ensure standardization of requirements and implementation procedures across all projects. Provide standard forms and direction to individual teams working on assigned projects. Incorporate a Quality Control system into the plan to ensure regular review and feedback on the quality and progress of the work (this will be covered under the Quality Controls Plan). The PMP elements include;

- Description of the program and its features
- Statement of TBP program aims, objectives and standards
- Team Organization; Roles and Responsibilities (including sub-PMs)
- Controlling conditions such as codes, laws, other agency authorities
- Overall Program Schedule
- Change Management Plan
- Risk Management Plan
- Security/Safety Management Plan



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

- Quality Control Plan
- Project Controls Plan
- Communications Plan

a. Quality Control Plan

Provide a Quality Control Plan to address quality control during the planning, RFP development and construction management phases. The plan shall include a program-specific “roadmap” for quality processes including:

- Which documents should be reviewed
- Who will review them, when and durations
- Which design interdisciplinary checklists are to be used for the reviews
- What schedule for addressing quality review comments prior to submission to TFC

b. Project Controls Plan

The PM will be responsible for facilitating and coordinating input from all members of the team to develop the Project Controls Plan, which will include;

- Delegation of Authority Guidelines for Project Controls Decision Making
- Compliance, Revision Control processes
- Organization of the Project Controls staff (tied to PM overall organization chart)

PCP will cover functional applications of project controls including;

- Project planning for project controls (scope and execution strategy)
- Account development
- Master (P6) schedule and cost planning (WBS structure)
- Schedule Controls Plan
- Cost Control plan
- Cost estimating/budgeting procedures
- Resource planning
- Document Controls Plan

Other Functional Applications will address performance assessment, forecasting (including EVM – Earned Value Management if required on longer term construction segments) and Change Management.

The PCP will also discuss PMIS/document control systems and data integrity (backup and file transfer), communications unique to Project Controls functions (reporting types and frequencies) and the list of deliverables. Implementation processes shall be developed for review and validation, training and audits.

- Schedule Controls Plan: Provide a Schedule Control Plan to describe and detail approach to developing the master schedule and using it in a disciplined process for schedule



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Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

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control, risk analysis for timelines and impacts due to changes and schedule reporting. Explain methodology establishing computerized critical path method (CPM) master schedule that combines all work activities with resources needed to complete the program. Utilize the Primavera P6 scheduling software that ties with a standard required for most construction contractors. Tie Activities to a WBS (work breakdown structure) and then produce reports on related functions by Activity Codes.

- **Cost Control Plan:** Provide a Cost Control Plan to include development and discussion of cost reporting system providing budget analyses, forecasts, and financial records for the program as well how these elements tie to cost estimating software. Identify and quantify cost trends from dynamic market factors or resulting from design or field changes (if provided) and plan for them in the cost-to-complete forecast using EVM in this methodology. Describe integrated approach in controlling field change requests by routinely assisting PM's CM team in review of contractor submitted estimates for Change Orders, aid in the negotiation of changes, and in helping to facilitate equitable settlements. Describe tracking Change Orders and generating reports for each contract and the total program.
- **Document Control Plan:** Provide a Document Controls Plan that will identify the system of filing and retaining documents, both paper and electronic. It shall identify how documents are received, processed, reviewed, stored and eventually updated. The plan shall also address version control, file structural and nomenclatures.

c. Communications Plan

Delineation of methods of communication and documentation between PM team members, TFC, other Stakeholders and special processes for Media and Public Outreach as directed and approved by TFC.

Communication Plan shall include:

- Establishing a strong framework for communications using electronic means where possible while maintaining the necessary face-to-face meeting on a regular basis.
- Provide in PM's Monthly Reports status in agreed format with particular reference to documenting public outreach activities (if any)
- Coordinate with and support TFC "communications" program to the media and the public to ensure that all local views and opinions are consulted and accommodated within the parameters of the TBP program.

III. Program Kickoff Meeting/Vision and Partnering Workshop

The Program Manager will conduct a Kickoff Meeting/Vision and Partnering Workshop at program initiation to set the tone for an expedited, aggressive program with a cohesive, integrated team in processes and culture between PM team and TFC to develop a partnership between the team members. It is anticipated that this partnership would involve TFC and its leadership, the PM team and any other major decision maker or stakeholders. This partnership would strive to develop a cooperative management team drawing on the strengths of each team member in an effort to achieve a quality project within budget and on schedule. The meeting shall include the elements and activities listed below;



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Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

a. Kickoff Meeting:

- Facilitate introductions of both the PM team and TFC leadership to begin to build a culture unique to this program
- Present the major Roles & Responsibilities of our PM Core Team's management leadership, key PM team leads and of specialty PMs
- Conduct strategic discussion on first 3 months of TBP program related to program goals and milestones and early PM Planning activities
- Conduct discussions on TFC's needs and expectations for Community Outreach services and deliverables.
- Review TFC's budget assumptions/ considerations for land acquisition and construction by fiscal years for the program

b. Vision and Partnering Workshop:

- Identify Key personnel from PM and TFC necessary to make Partnering successful. Identify partnering leader from each party.
- Provide an Independent Facilitator with experience in conducting Partnering Workshops
- Facilitate discussion on TFC's expectations including the political realities of the program and sensitivities
- Present Lines of Communication coming from our PM team to TFC and seek direction from TFC to confirm assumptions and provide input for other key Stakeholders and those communications.
- Identify plan for timely resolution of issues at the lowest level possible
- Develop a Program Vision Statement that identifies the mission statement, mutual goals and objectives
- Identify benchmarking measurement for program success tied to mutual goals and objectives
- Develop initial program risk register and establish acceptable methods of managing risks

IV. Project Controls Tasks

a. Integrated Program Schedule

Schedule control shall incorporate a computerized critical path method (CPM) master program schedule that combines all work activities with resources and costs (provided from TFC and other contractor's contracts) needed to complete the program. Develop a master CPM schedule in Primavera P6, which identifies major project milestones for all team members (including TFC and major Stakeholder activities related to TBW) and incorporate detailed activities related to; program management, design, design-build, procurement and construction schedules that all parties use throughout the duration of the program. Attend all key early activities meetings, including Planning meetings and Workshops.

Work elements of the integrated program schedule shall include;

- Build/Maintain a Master schedule that encompasses all facets of the program



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- The Master schedule shall be a Critical Path Method (CPM) schedule, which identifies major program milestones for all team members, and it incorporates detailed construction schedules that all parties use throughout the duration of the program.
- Review contractors Schedule to ensure contract activities are logical, durations are realistic, construction document Specifications are adhered to, and critical path is not compromised.
- Analyze cost-loaded schedules (as provided by TFC and other contractors information) to determine that the contractor has not “front loaded” the schedule as well as check costs and labor hours (if provided), ensuring they are reasonable in relation to the activity duration and scope.
- Upon Acceptance, the schedule will be incorporated into master Schedule
- Measure planned performance against actual performance (EVM if data provided) throughout the program
- Update the CPM master schedule and analyze and implement schedule workarounds from Risk Mitigation efforts. Report on this schedule in PMIS with
 - Weekly Updates
 - 3-Week Look-Aheads
 - Monthly Updates
- Inform/train all team members on the critical path of their responsibilities tied to other schedule related activities.

b. High Level Program Schedule (Benchmarks)

Incorporate in the master CPM schedule, major project milestones at the start of the program. Status benchmarks to measure all proceeding schedule from and for change management issues.

c. Risk Register

Develop and maintain a Risk Register in support of Core Team, Tiger Team, Planning under Design Management Team and Construction Management.

d. Document Controls/PMIS

Lead the identification and documentation of TFC reporting and document control requirements and ensure that such requirements are addressed in a Project Management Information System (PMIS, ProjectMates or other as needed). This shall include a short, small Workshop on; selection of a preferred industry-standard PMIS software, TFC reporting and document control requirements, TBW Program Management Team requirements and sensitive interface with Community Outreach reporting (if any).

Document control service shall allow TFC (and their designated Stakeholders) and TBW Program Management team the ease of navigating information in a structured way. Identify reporting and documentation needs and tailor the nomenclature and style to what best fits the TBW program. Provide a competent professional to champion the system and be the center for document control. This person shall engage, organize, file and instruct individuals as needed to;

- Champion the Document control process
- Develop file structure and nomenclature, in conjunction with the TBW Program Team to use for the life of the Program



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- Provide an individual point of contact for TBW team members

e. PMIS/Reporting

Implement a project management information system (PMIS, ProjectMates) with coherent organization of the information required for a program team to execute projects successfully. These electronic systems "help to plan, execute, and close project management goals."

Dashboards should be developed. Cost dashboard should compare actual expenditures against budget and identify potential overruns or underruns in each construction element or contract. Progress and narrative dashboards should identify problems and solutions, as well as include schedule and cost status. Other reporting elements should include;

- Identify proper tool or tools to use on Program.
- Project Controls Workshop with TFC to actively listen to their needs.
- Provide effective project controls reporting system
- Develop a cost dashboard to compare actual expenditures against budgeted
- Dashboard will include schedule and cost status

f. Cost Control – Budget Forecasting/Tracking

Provide cost reporting system for budget analyses, forecasts, and financial records for the project. Identify and quantify cost trends resulting from design or field changes and plan for them in the cost to complete forecast.

- Provide budget analysis, forecasting, and financial records for the program
- Identify and quantify cost trends resulting from design or field changes
- Using PMIS track change orders and generate reports for each contract and the total project
- Provide ongoing estimating validation to assess budget baselines against regional construction cost factors
- Provide review of D-B's RFP estimates

g. High Level Programmatic Spending Forecast

Provide a forecast which generates spending throughout the project based on schedule percentage complete which will allow for reporting that gives an accurate predication of the long range program. Build/maintain a forecasting spreadsheet based on the schedule progress that systemically distributes program cost through the life of the program.

V. Comprehensive Plan

The PM shall prepare a Comprehensive Plan for all five U.S. Border Patrol Sectors from El Paso to the Gulf of Mexico. This Comprehensive Plan will follow the Tactical Infrastructure Design Standards modified to meet the needs of the State, Texas Department of Public Safety Operational needs, Texas Department of Transportation (TXDOT) Design Standards, International Boundary & Water Commission (IBWC) requirements and Lessons Learned from previous border programs executed by CBP and U.S. Corps of Engineers (USACE). The objectives of the Comprehensive Plan include:

- Providing timely and correct information and real property support for TFC



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- Promote cooperative and interactive intra and inter-agency relationships
- Incorporates all aspects of border security and field operations considerations
- Incorporates environmental planning to identify environmental impacts and protect and enhance natural, cultural, and environmental resources while supporting mission requirements
- Supports and encourages minimal impacts to current property owners
- Promotes learning and training of the Texas Border Program personnel on Tactical Infrastructure planning during workshops
- Provide Operations & Maintenance considerations and requirements

Services include developing concepts, stakeholder coordination and interviews, data collection workshops, site and data analysis. The Comprehensive Plan will take into consideration the goals and objectives set forth by the Texas Facilities Commission Texas Border Program to ensure consistency and compliance and include:

a. Planning Workshop:

The PM shall facilitate a Planning Workshop to identify the planning mission, planning goals and planning objectives. This will be accomplished by collecting and reviewing relevant data, and reports, conducting stakeholder interviews during an onsite workshop. Activities of the workshop will result in identification of overall constraints and opportunities list, a priorities of work list, a real property information list and map(s), a border infrastructure alignment and section along each Border Patrol Sectors and any new additional information or data that will contribute to the plan. At the end of the workshop, the PM shall identify the priorities for immediate development of DB RFPs.

The PM shall develop an agenda and lead the workshop. The hands-on workshop format will give TFC personnel and stakeholders an opportunity to collaborate toward the overall practical application of the Comprehensive Plan. The PM shall:

- Present Existing Data (limits):
- Discuss Priorities
 - DHS/Operational needs,
 - Counties,
 - Identify Driving Factors
 - Discuss Decision Matrix Variables for Prioritization Decision Making
- Present CBP TI Design Standards and Section and Discuss Texas Enforcement Zone Section Definition
- Identify Design/Construction Standards and Criteria
- Establish Environmental Criteria/Clearance Requirements/Required Assessments
- Present Land Acquisition Approach
- Present Public Communications Approach

The approach will be predicated upon discussion from the Kickoff meeting where this topic was introduced to gain high-level guidance from TFC. This approach will tie to the Public Outreach / Communications Plan. This will be an



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interactive discussion and also should include sensitive communications approach with Stakeholders.

- Present Initial Analysis of Observations and Potential Early Projects

The PM shall deliver the initial Comprehensive Plan and provide a Draft copy for review by the TFC management team. The plan will include an executive summary, as well as maps and tables identifying the priorities and a GIS database. The PM shall send the draft comprehensive plan for TFC and key stakeholder review and collect comments. The PM shall address any comments, concerns, or issues, and make all of the necessary edits to produce a Final Comprehensive Plan for distribution to the TFC and key stakeholder team.

VI. Texas Border Infrastructure Playbook (Program Execution Plan)

The PM shall develop an Execution Plan covering all five US Border Patrol Sectors across the state of Texas along the Rio Grande and US/Mexico border. The intent of the plan is to:

- Summarize the future Texas Border Program,
- identify the priorities based on available data and operational needs
- Identify data needs to support the priorities
- Identify potential construction packages
- Establish rough order magnitude costs.

Activities required include:

a. Existing Conditions Analysis:

The PM shall perform Data Collection and Research and validate existing border data for the following elements:

- Current Status of Texas Border

The PMs shall verify limits of existing border fence and tactical infrastructure along the entire Texas border delineating between the five US Border Patrol Sectors. Types of infrastructure shall be identified and status of current construction shall be summarized.

- Status of Real Estate Information

The PM shall verify limits of real estate tracts that has fence and tactical infrastructure connecting through the property and those tracts that could potentially connect to new fence and tactical infrastructure alignments.

- Location and Limits of Existing Data (topo, geotech, floodplain, utilities, environmental)

The PM shall verify existing data relevant to Texas Border Program including topography, geotechnical, floodplain, utilities and environmental.

- Included Additional State Data into Database



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The PM shall add any additional data obtained from State of Texas sources into the GIS database to include State owned land, real estate, topographic, geotechnical, and environmentally sensitive areas.

b. Texas Border Infrastructure Playbook Components:

- Existing Data Limits - The PM shall present existing data, using US Border Patrol Sectors and counties along the Rio Grande. This data will help identify existing gaps and future requirements.
- Priorities and Decision Matrix - Based on the workshop, the priorities could be based on DHS or State Operational Security needs, County's security needs, speed of land acquisition, speed of environmental assessments, budget, and other possible variables. PM shall develop a decision matrix and use GIS produced maps to present the information.
- Texas Enforcement Zone Section - The PM shall work with TFC and key stakeholders to define the specific requirements of the Texas Enforcement Zone. Using the current CBP TI Design Standards, the team shall produce a recommended TI design standard to include all of the elements that are integral to the security and operational mission of the end user. The PM shall analyze the data and information collected and produce a ROM Cost per Mile of Tactical Infrastructure.
- Floodplain Limits/Analysis - The PM shall provide current available floodplain limits and to develop new floodplain limits and conduct floodplain analysis as needed.
- Design/Construction Standards – The PM shall work with TFC and key stakeholders to clearly define the approved elements of the design and construction standards to include in the DB RFPs that are applicable to the Texas Border Program to include CBP TI Design Standards, TxDOT, TFC design standards, IBWC requirements and all other applicable standards, requirements, and guidelines.
- Environmental Criteria/Clearance Requirements/Required Assessments - The PM shall work with TFC and key stakeholders to develop an environmental plan that includes environmental criteria within the Tactical Infrastructure mobility corridor, access roads and contractor laydown yards, and drainage crossings. Establish a clearance requirement and provide a mitigation assessment and execution plan. Provide GIS produced maps or live Google Earth with this information for presentations.
- Land Acquisition Plan - Overview of the acquisition and access plan for each identified project.
- Public Communications and Outreach Plan - Identify types of intervals of the communications needed for each stakeholder, including cities, counties, agencies, land owner and public.
- Final Comprehensive Plan as approved by TFC
- Project Packages – The PM shall identify potential project packages and limits of each project for future RFPs. Each project should include a summary of Enforcement Zone Elements.
- Data needs to accomplish each Project - The PM shall identify needs for each project including land acquisition, floodplain limits, topographic, geotechnical, environmental or



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any information that would help streamline the process of RFP Development and Project execution.

- ROM Costs Estimates of each Project
- Schedule and Phasing of each Project
- GIS maps and database

c. Land Acquisition:

Based on the limits identified in the Comprehensive Plan for the early packages, the PM shall preform Land Acquisition services to support the DB RFPs. Consolidate all available information concerning status of “acquisition” for all parcels that we may currently have data on to establish a line list of all property owners potentially affected by the initial project.

- Establish procedures acceptable with TFC including the potential use of the Possession and Use agreement (PUA) and if approved, establish parameters of PUA, the use of incentives.
- Establish how TXDOT Connect (State Land Database) will be updated.
- Contact property owners to secure new or reconfirmed right of entry for Survey, Geotech and appraisal inspections.
- Verify/Obtain Rights of Entry
- Meets and Bounds Survey
 - Determine priority of parcels for RFP
 - Secure survey for impacted parcels including Legal Descriptions for parcels needed for RFP
 - Verify/Establish Legal Descriptions
- Obtain Appraisals and start sales data gathering to be used in valuation reports
- Receive and Review Appraisals
- Complete the ownership information for any parcels which may include obtaining records from court house.
- Obtain Title Companies to establish relationships to order title commitments, assist with liens and encumbrances releases.
- Secure Title commitments from Title company
- Prepare Title Curative plan to assess parties who will need to be contacted for offer, parties to be contacted for partial release of any liens affecting the property, identification of any encumbrances that may need to be addressed before closing.
- Upon approval to acquire parcels and receipt of the approved legal description to be acquired, secure appraisal reports:
 - Determine which parcel require full appraisal report and secure report
 - Assign Right of Way agent to complete appraisal waivers for parcels that qualify
 - Submit reports for review and approval by TFC
- Prepare Written Offers/Packages (Senate Bill 18)
 - Upon TFC approval of land value, prepare written offer package to be delivered Via Certified Mail Return Receipt to owner
- Negotiate Agreed Settlements



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

- Explain appraisal, show location of acquisition
- Address all issues concerning value, construction, access, etc.
- Prepare any counter offers if necessary
- Submit Administrative settlement packages/counter offers to approving authority.
- Submit all payment packages to TFC to order warrants for payment of PUA, Deed, Temporary construction easements, Drainage easements, Etc.
- **Manage Closing/Title Policy**
 - Record all documents upon payment for PUA or any easements that do not require a Title Policy.
 - Coordinate with property owner and Title company to get all required releases, deliver payments and releases to the Title company secure Title Policy and Recorded Deeds, Easements, PUA's for the State (TFC)

VII. Develop Design Build Request For Proposals

The PM shall utilize the Design Build Request for Proposal (DB RFP) Method of Delivery for procurement.

The PM shall follow the following subtasks to develop the DB RFP:

- Convert the planning level alignment into digital data.
- Prepare the schematic data using publicly available imagery and LiDAR survey for further ground truthing and review by stakeholders.
- Conduct site visit to ground truth the data and information along the alignment and document any additional information to be included.
- Finalize the alignment and data and prepare the draft DB RFP, including the front-end specifications for review by stakeholders.
- Include updated Rio Grande floodplain data for any alignment changes.
- Prepare the final ready-to-advertise DB RFP.

General: The PM will develop Design Build (DB) Request for Proposals (RFP) for the construction of the Texas Border Infrastructure incorporating the Texas Enforcement Zone components. Geographical locations for construction of the Texas Border will be determined during the Comprehensive Planning phase. RFP documents used for advertising shall not be sealed, only conceptual data and scope definition are required for the RFP.

a. Site Verification of Priority Section

The PM shall verify and validate all data pertaining to the Texas Border Tactical Infrastructure through ground truthing.

- **Walk Sites** - The PM shall perform ground truthing activities once permission is granted by the real property owner through a signed Right of Entry.
- **Verify Alignment** - The PM shall verify current and planned border alignment to include its enforcement zone limits, its pertinent access roads and all drainage crossings.
- **Photo Documentation** - The PM shall perform photo documentation activities and add applicable information to each photo that will be included in the DB RFP.



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

- Verify Existing Data, Utility Information, Drainage Crossings - The PM shall verify existing data of above and below ground utilities and existing structures within the project area. In addition, the PM shall verify existing data on all drainage crossings.

b. Alignment

The PM shall develop an approved border alignment as a result of the data verification, research and workshop with buy in from TFC and key stakeholders. Identify construction items during the RFP development.

c. Identify Construction Laydown Areas, Batch Plants, Storage, Utilities, Locations for Jobsite Trailers

The PM shall identify possible locations for construction laydown areas, access routes, batch plants, storage and storage yards, contractor area utilities and jobsite trailers for construction inspectors.

d. Environmental Inspection-Potential Wetland Identification or Endangered Species/Cultural/Archeological Resources

The PM shall identify and manage environmental activities to help identify potential wetlands, endangered species, cultural and archeological sites.

e. Coordinate with IBWC to Validate Data

The PM shall coordinate with the International Boundary & Water Commission to validate current floodplain data and review any updates to their requirements.

f. Prepare RFP data and documents

The PM will develop conceptual documents containing the following requirements, note; all design shall be the responsibility of the DB Contractor:

- Border Fence and Roadway Alignments – The PM shall develop Border Fence and Roadway alignments and sections in accordance with the approved standards.
- Drainage Crossings- The PM shall identify potential drainage crossings in accordance with requirements of the approved standards. Information may include drainage basins, drainage area, flow direction, location of drainage crossings, and storm events.
- Lighting – The PM shall determine the enforcement zone lighting in accordance with the approved standards.
- Public/Private Utilities – The PM will utilize available sources of public record data to identify existing utilities, including but not limited to pipelines, electrical transmission lines, sewer lines and water mains.
- Utility Service Connection Points – The PM shall identify utility connection points and new infrastructure requirements to service the project.
- Communication Requirements – The PM shall indicate required information related to communication conduits for video surveillance and detection technology as based on the approved standards.
- Lightning Protection, Grounding – The PM shall identify proper lightning protection and grounding requirements in the RFP.



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

- Planimetric and Topographic Survey – The PM will include available topographic survey data. If topographic survey data is not available, the PM will utilize publicly available data to prepare draft RFP. Additional survey data can be added by amendment per the options.
- Geotechnical Investigation – The PM will in available geotechnical data in the RFP for use by the DB Contractor. Additional geotechnical data can be added by amendment per the options.

g. Cost Estimates

The PM will assemble and review construction cost estimates with the Draft and Final DB RFP submittals.

h. Specifications

The PM will compile specifications for each DB RFP in conjunction with TFC. The PM will assemble performance specification necessary to denote specific criteria the DB contractor is required to meet.

i. Construction Schedules

The PM will provide the period of performance within the specifications for each DB RFP. A separate Period of Performance will be provided for the Design Phase and Construction Phase of each project. Bid Options and other interim construction deliverable will be identified.

VIII. Procurement Assistance/Bidder's RFIs/DB Contractor Award

The PM will assist TFC with procurement and award of the DB Contractor for each RFP.

a. Pre-Proposal Conference

PM will facilitate and coordinate the preproposal Construction Conference and Site Visit for potential Offerors after the RFP is advertised.

b. Bidder's Inquiries and Amendments

The PM shall respond to Bidder Inquiries via the PMIS and will provide updated documents if an amendment is required.

c. Review Technical Approach/Bids/Selection Support

The PM will provide technical representatives as members of the Selection Board. The PM's representatives will provide technical review support to the Selection Board. The PM will assist TFC with final selection and award of the DB Contractor.

IX. Options

1. Obtain 10 geotechnical borings to a depth of 25 feet
2. Obtain 10 geotechnical borings to a depth of 25 feet
3. Obtain 10 geotechnical borings to a depth of 25 feet
4. Obtain 10 geotechnical borings to a depth of 25 feet
5. Obtain 10 geotechnical borings to a depth of 25 feet
6. Obtain 5 miles of LIDAR Aerial Mapping approximately 1000 feet wide
7. Obtain 5 miles of LIDAR Aerial Mapping approximately 1000 feet wide
8. Obtain 5 miles of LIDAR Aerial Mapping approximately 1000 feet wide



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities

Date: 7 September 2021

9. Obtain 5 miles of LIDAR Aerial Mapping approximately 1000 feet wide

TABLE of DELIVERABLES and SCHEDULE by DURATIONS

| DELIVERABLES | SCHEDULE by DURATION (Calendar Days) |
|--|--|
| <u>Core Team</u> | |
| Program Management Plan (PMP) | 14 calendar days from NTP |
| PMP Updates | Quarterly (as needed for new processes) |
| Monthly Status Reports | Monthly ongoing |
| Internal Program Updates | Weekly |
| Program Manager RFI Log | Weekly |
| Executive Program Brief | Monthly |
| <u>Project Controls</u> | |
| Notional Master Schedule P6 | 21 calendar days from NTP - ongoing |
| Updated P6 Master Schedule | Monthly |
| Master Schedule Status Reports | Monthly |
| 3-Week Schedule Look-Aheads | Weekly |
| Issue Tracking Reports (Action Items) | Weekly |
| Activate full PMIS Online | 60 calendar days from NTP |
| Cost Control-Budget Forecasting Report | Monthly |
| Updated Market Conditions Report | Quarterly |
| <u>Comprehensive Planning/Playbook</u> | |
| 2-Day Planning Workshop Meeting Minutes | 7 calendar days from Workshop |
| Draft Comprehensive Plan | 14 calendar days from Workshop |
| Draft Comprehensive Plan Review Conference Meeting Minutes | 7 calendar days after Review Conference |
| Final Comprehensive Plan | 7 calendar days after Review Conference |
| Draft Texas Border Infrastructure Playbook | 30 calendar days after Planning Workshop |
| Draft Texas Border Infrastructure Playbook Review Conference Meeting Minutes | 7 calendar days after Playbook Review Conference |
| Final Texas Border Infrastructure Playbook | 21 calendar days after Review Conference |
| Final Texas Border Infrastructure Playbook Review Conference Meeting Minutes | 7 calendar days after Final Playbook Review Conference |
| Corrected Final Texas Border Infrastructure Playbook | 7 calendar days after Final Playbook Review Conference |
| <u>Design/Build RFPs</u> | |
| Draft DB RFP(s) Submittal | 63 calendar days after NTP |
| Draft DB RFP(s) Review Conference Meeting Minutes | 7 calendar days after Draft DB RFP Review Conference |
| Final DB RFP(s) Submittal | 14 calendar days after Draft DB RFP Review Conference – pending property acquisition |
| <u>Land Access / Acquisition</u> | |
| Land Valuations (Appraisals or Appraisal Waivers) for State Approval | Ongoing – subject to identification of land rights needed to support DB RFP |
| Conveyance Documents providing land rights to the State of Texas | Ongoing – completed prior to DB advertisement (confirm TXDOT approach with TFC) |



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities
Date: 7 September 2021

| DELIVERABLES | SCHEDULE by DURATION (Calendar Days) |
|--|---|
| Closed File - all required notices, property contact records and recorded documents. | Ongoing – per land in DB RFP 60 calendar days after acquisition |

- *Exclusive of Environmental, survey or geotech deliverables*

TABLE of SCHEDULED MEETINGS, WORKSHOPS and CONFERENCES

| Event | Location | Duration | SCHEDULE |
|---|--------------------------------|-----------------|--|
| Program Kickoff, Vision/Partnering Workshop | In Person, Austin, TX | 1 day | Within 7 calendar days of NTP |
| Project Controls Workshop | Virtual | 1 day | Within 10 calendar days after Program Kickoff |
| Planning Workshop /RFP Development Kickoff | In Person, Austin, TX | 3 days | Commence workshop within 14 calendar days after NTP |
| Draft Comprehensive Plan Review Conference | Virtual | 1 day | Within 7 calendar days of Draft Comprehensive Plan Submittal |
| Draft Playbook Review Conference | In person, Austin, TX | 2 days | Within 14 calendar days of Draft Playbook Submittal |
| Final Playbook Review Conference | Virtual | 1 day | Within 7 calendar days of Final Playbook Submittal |
| Draft DB RFP(s) Review Conference | In Person, Austin, TX | 1 day | Within 7 calendar days of Draft DB RFP Submittal |
| DB RFP Contractor Site Visits/Preproposal Conferences | In Person, TBD based on DB RFP | 1-2 days | Within 7 calendar days of DB RFP Advertisement |
| DB Contractor(s) Selection Board Review Conference | Virtual | 1 day | Within 5 days of Bid Due Date |
| Internal Working Program Updates | Virtual | 1 hour | Weekly |
| Executive Program Updates | In Person | 1 hour | Monthly |

Information Furnished By the State of Texas (TFC):

General Data: When available and applicable, TFC will furnish the APM with data and information concerning functions and principal features of each identified project. All such data or correspondence that are marked "For Official Use Only" shall be protected for use by only those personnel needing the data. All TFC furnished materials shall be returned to the TFC within 30 days after completion of the Contract unless otherwise specified.

Engineering Data: When available and applicable, TFC shall provide engineering data in accordance with Section 3.1.1.6 of the Agreement including coordination of the data collected and delivery of pertinent reports and studies to the PM. Should assistance in acquiring environmental studies, permits, etc. be needed, TFC will request PM's action.



TFC Contract No. 22-035-000 – Exhibit G
Texas Border Program – Program Management Services

Task Order XXXX: Core Team, Project Controls, Comprehensive Planning, and Early Activities
Date: 7 September 2021

PM Request for Information (PM RFI Log). When the PM needs additional, or a clarification of, information from TFC to facilitate the services required by this contract, the PM shall contact TFC's TBW Project Manager via email and request the needed information.

Review Comment Annotation and Compliance. TFC's review will consist of quality assurance (QA) checks and will center primarily on the functional aspects. TFC will prepare written comments for evaluation and response by the PM after each submittal. The PM shall annotate and respond to the review comments in the development of data. If clarification is needed, the PM is encouraged to contact the Project Manager or the reviewer and arrange a telephone conference to discuss comments with the person making the comment. TFC shall do this for each individual package for each review on each project.

It is anticipated that the PM shall receive comments in advance of conferences to enable at least a partial response prior to conferences. PM shall enter responses in advance of the review conference and distribute copies of all comments at the conference. Final annotation will be completed within fourteen days of the conference. Comments to which the PM does not agree shall be fully justified. Annotations will also address specific correction actions taken to comply with the comment.

Progress Payments: Progress payments will be administered in accordance with Section 4.1.1 of the Agreement.



500 West 7th Street | Suite 300 |
Fort Worth TX 76102-4728
817.335.3000

September 14, 2021

Texas Facilities Commission
P.O. Box 13047
Austin, TX 78711-3047
Attention: Mr. John Raff

**Subject: REVISED 091421: Program Management Services for the Texas Border Infrastructure
A/E RFP# 303-1-02423**

Dear Mr. Raff:

The Joint Venture of Michael Baker International and Huitt-Zollars (MB/HZ) is pleased to submit our revised cost proposal for the startup activities related to the subject opportunity. We are very excited to assist the TFC team in the success of this program and thank the board for the selection.

The attached fee proposal found within includes the following services as identified in the Scope of Work dated September 7, 2021 with the exception of the period of performance shall be 18 months to coincide with the delivery of the initial \$250M program. The summary below of the fee proposal reflects the updated fee based on negotiations which occurred on September 14, 2021:

| Task | Total Price |
|--|-------------|
| I. Core Team | \$3,307,354 |
| II. Program Management Plan | \$46,298 |
| III. Program Kickoff/Vision & Partnering Workshop | \$50,891 |
| IV. Project Controls | \$1,251,889 |
| V. Comprehensive Plan | \$361,168 |
| VI. Texas Border Infrastructure Playbook | \$1,091,295 |
| VII. Design Build RFPs & Land agreements | \$3,872,897 |
| VIII. Procurement Assistance/Bidder's RFIs/DB Contractor Award | \$408,545 |
| IX. Option 1 – 10 Geotechnical Borings (25 feet depth) | \$61,229 |
| IX. Option 2 – 5 Miles LIDAR Aerial Mapping (1000 feet wide) | \$81,736 |

The total fee proposal is \$10,390,337, without Options.

Of note, we have identified 27% or \$2,847,938.15 of the fee to be subcontracted to our HUB partners, which exceeds our good faith HUB plan.

Below is a summary of changes to this proposal based on the negotiations on September 14, 2021:

- General: Reduced escalation for Year 2 rates to 2% assuming this does not set a precedent for future purchase orders.
- Core Team: Reduced Construction Manager from 2940 hours to 2720 hours
- Core Team: Reduced JV Principal from 750 hours to 450 hours
- Project Controls: Reduced Master Scheduler from 2450 hours to 1920 hours
- Project Controls: Reduced Chief Estimator and Sr Estimator from 600 hours each to 450 hours each
- Project Controls: Clarified the assumption related to accounting support for TFC is included as part of the PMIS Support

A summary of the scope and assumption that shall be incorporated with the award are below:

MB/HZ

Texas Facilities Commission, Texas Border Infrastructure



I. Core Team

Core Team includes the following staff for a total period of performance of 18 months:

| Title | Labor Category | Name | Hours |
|--------------------------|--------------------------|----------------|-------------------|
| Program Manager | Project Executive | Craig Trimble | Full Time - 3120 |
| Project Director | Planning Manager | Al Riera | Full Time - 3120 |
| Construction Manager | Construction Manager | Bob Sims | Part Time – 2720* |
| Project Controls Manager | Project Controls Manager | Ian Davis | Full Time - 3120 |
| Administrative | Admin Support | Blanca Berumen | Full Time - 3120 |
| Quality Manager | Quality Manager | Larry Rogers | Part Time – 180 |
| JV Board Member | JV Principal | Monica Kent | Part Time – 450 |

*The Construction Manager will be part time during early RFP activities through the first three months to attend the workshop, provide input during planning and DB RFP development, assist with master scheduling, and begin mobilization of field team and services. Once the first DB Contractor award is made, the Construction Manager will be full time to manage field services.

II. Program Management Plan

The Program Management Plan will include the following:

- Description of the program and its features
- Statement of TBP program objectives and standards
- Team Organization; Roles and Responsibilities (including subs)
- Controlling conditions such as codes, laws, other agency authorities
- Overall Program Schedule
- Change Management Plan
- Risk Management Plan
- Security/Safety Management Plan
- Quality Control Plan
- Project Controls Plan
- Communications Plan

III. Program Kickoff/Vision & Partnering Workshop

The intent of the workshop is to kick off the program with the MB/HZ and key stakeholder as identified by TFC. MB/HZ will provide an independent facilitator and meeting location for the workshop.

IV. Project Controls

Project Controls Team includes the following staff for a total period of performance of 18 months:

| Title | Labor Category | Name | Hours |
|----------------------|--------------------|------------------|------------------|
| Project Controls PIC | PIC | Keith Usher | Part Time - 420 |
| Master Scheduler | Sr. Scheduler | Guy Mapstone | Part Time - 2450 |
| Cost Control | Chief Estimator | Stuart Hoevelman | Part Time – 600 |
| Cost Control | Sr. Estimator | Bob Gaiser | Part Time – 600 |
| Document Controls | Sr Project Support | TBD | Part Time – 2600 |
| PMIS Support | Project Manager | Wilson Garcia | Part Time – 1600 |
| Reporting | Project Support | Emilie Chau | Part Time - 1500 |



A project controls workshop will be held with the MB/HZ and the applicable TFC personnel to identify the reporting structures, document control protocols, external document management and ProjectMates integration.

The project controls team will provide the following services:

- Integrated Program Schedule
- High Level Program Schedule (Benchmarks)
- Risk Register
- Document Controls
- PMIS (ProjectMates) Reporting
- Remote accounting support in PMIS and other systems
- Cost Control – Budget Forecasting/Tracking
- High Level Programmatic Spending Forecast

MB/HZ assumes the PMIS specialist will provide accounting support to TFC remotely.

V. Comprehensive Plan

The Comprehensive Planning will identify the immediate priorities of the TBI program. The team will identify the sections of border infrastructure for the first \$250M of construction and land agreements for development of the initial design build RFPs. The initial priority locations shall be coordinated with DPS and focus on rural areas to allow for rapid initial land agreements and construction. The Planning Workshop and RFP Development Kickoff will be combined into one event in order to meet the schedule.

VI. Texas Border Infrastructure Playbook

The data developed in the Comprehensive Plan will be the framework to support the Playbook. The intent of the playbook is to provide the long-range plan for the TBI program and provide a guide for execution of the plan.

Public Outreach/Communications scope is limited to support service in support of comprehensive planning and to establish communications plans and protocols for the future phases of work.

VII. Design Build RFPs & Land Agreements

MB/HZ has assumed a maximum of four design build RFP(s) will be prepared. In addition, MB/HZ has assumed a maximum of 20 miles of border alignment will be included in the RFP(s) based on the \$250M program.

Some alignment section are previously approved via IBWC. Any new sections located within the Rio Grande floodplain would require additional analysis and approval. The MBHZ team assumes no new floodplain analysis will be required due to the anticipated schedule for the first design build RFPs.

The MB/HZ will perform site investigation and due diligence on the selected alignments and properties, however, periodically, there are structures or other assets that may be discovered during construction. MB/HZ, within the limits reasonable professional care, cannot take responsibility for differing site conditions.

Environmental services are limited to cultural, endangered species, wetland and hazmat initial investigation and delineations for inclusion in the DB RFPs. Any environmental assessments and final permitting, including Section 404, shall be completed by the DB contractor.

MB/HZ assumes TFC will assist the team with expediting any reviews or approvals through TCEQ. All permitting will be completed by the selected DB Contractor(s).



Public Outreach/Communications scope is limited to supporting the Design Build RFP development and land agreements activities related to agency and landowner communications. Additional support activities include assistance with DB Contractor meeting and site visits.

Land agreements and real estate survey scope is limited to no more than 50 parcels assuming the alignment is located in rural locations targeted from comprehensive planning activities to acquire construction rights for approximately 20 miles. Land agreements team will provide the following:

- Identify potential land access to be acquired for the DB RFPs
- Develop a plan to streamline land access right to construct
- Perform land valuations (appraisals or appraisal waivers) for State Approval.
- Establishes Fair Market Value for offer to purchase which must be approved by the State before offer can be made.
- Perform negotiations
- Prepare Conveyance Documents
- Assist TFC with Payment
- Assist with communications for land access during site investigations and site visits

The land agreements proposal assumes the following for ROW/acquisition costs:

Appraisal - 50 @ \$6,000 ea. = \$300,000

Appraisal Review - 50 @ \$2,500 ea. = \$125,000

Negotiations - 50 @ \$7000 ea. = \$350,000

Title/Closing - 50 @ \$ 800 ea. = \$40,000

Title Policy - 50 @ \$1000 ea. - \$ 50,000

Actual land costs or condemnation costs have been excluded.

VIII. Procurement Assistance

MB/HZ will prepare the RFP packages with the applicable TFC front end specifications and general conditions.

MB/HZ assumes one preproposal contractor site visit per RFP.

MB/HZ will coordinate DB Contractor site visit with landowners.

MB/HZ will rent meeting space for preproposal site visit and presentations to DB Contractors.

MB/HZ will assist TFC with DB Contractor award by providing evaluation of the DB Contractors proposals and making recommendations to TFC for DB Contractor selection.

IX. Options

The options are intended to be awarded if there is need for data along the alignment for the initial DB RFPs.

Option 1 – The cost includes 10 geotechnical borings up to 25 feet deep and associated geotechnical report for including in the DB RFP.

Option 2 – The cost includes 5 Miles LIDAR Aerial Mapping up to 1000 feet wide for planning and inclusion in the DB RFP.

The personnel authorized to negotiate and sign for this action include the following MB/HZ personnel:

Craig Trimble, AIA
Program Manager
Michael Baker International & Huitt-Zollars, JV

MB/HZ

Texas Facilities Commission, Texas Border Infrastructure



Board Member

And/or,
Alfonso Riera
Design Manager
Michael Baker International & Huitt-Zollars, JV
Board Member

And/or,
Monica Kent, PE
JV Board Representative
Michael Baker International & Huitt-Zollars, JV
Board Member

We look forward to further discussion with TFC on the subject fee proposal and scope. We appreciate TFC and the Teams' transparency and assistance during this early phase. We look forward to working with the Team in the coming months.

Please feel free to contact me at any time on my cell – 214.914.2394

Regards

A handwritten signature in blue ink, appearing to read "Craig Trimble", with a long horizontal flourish extending to the right.

Craig Trimble, AIA
Program Manager

Enclosures: Proposal

Copies to: Monica Kent

EXHIBIT H

APPROVED HUB SUBCONTRACTING PLAN

Texas Facilities Commission (TFC) - HUB Program EVALUATION OF RESPONDENT'S HUB SUBCONTRACTING PLAN (HSP)

Instructions: This evaluation must be completed for each response before it can be considered further. Please complete a separate evaluation sheet for each response within five (5) business days after the opening date of the solicitation.

Section I: Name of Respondent: Michael Baker & Huitt-Zollars Joint Venture

Name of Project: TBW Program Management Services

Contract # 22-035-000

Req #: 303-1-02423

PO #:

PROJECT/WO #:

RFQ #:

RFP #:

IFB #:

SERVICES ☒ **AE:** ☐ **CMR** ☐ **RC** ☐ **IDIQ**

Assignment #:

Amendment #:

GMP#:

POCN#:

TFC HUB Coordinator has reviewed the above referenced HSP response to this solicitation and finds that the HSP:

☒ **complies with**

☐ **does not comply with**

Method Used to Achieving HUB Compliance:

HSP – Meet the Goal Other Services - Respondent has met the 26.0 % Meet the Goal with HUB Participation (per TAC Rules 20.285(d)(1)(D)(iii))

Print/Type Name:

TFC HUB Coordinator/Date:

Yolanda Strey

Section II: Does the respondent intend to subcontract? ☒ **YES** ☐ **NO** ☐ **N/A**

Instructions: If “Yes,” do not proceed to the following questions. If “No,” proceed to the next question.

Comments:

Did the respondent verify that no subcontractors would be used in the performance of the work (verification must be provided on the form prescribed in the solicitation).

YES ☐

NO ☐

N/A ☒

Section III: Respondents who DO intend to subcontract: ☒ **YES** ☐ **NO**

1. Did the respondent divide the work into reasonable portions, consistent with prudent industry practices (Identified the areas of subcontracting)?

Comments:

Texas Facilities Commission (TFC) - HUB Program
EVALUATION OF RESPONDENT'S HUB SUBCONTRACTING PLAN (HSP)

2. Did the respondent provide notice to HUBs of the work that the respondent intends to subcontract, in accordance with 1 T.A.C. Section 111.14?

YES ☐NO ☒N/A ☐

Comments:

3. Did the respondent include an executed Mentor Protégé Agreement (per Section 2161.065 Government Code), registered with TPASS? Does the HUB subcontracting plan identify the area(s) of subcontracting the protégé will perform? (Submission of a protégé as a subcontractor constitutes a good faith effort for the particular area to be subcontracted with the protégé).

YES ☐NO ☒N/A ☐

Comments:

4. Did the respondent provide written justification of the selection process if a non-HUB subcontractor was selected by a process other than by competitive bidding, or a HUB bid was the best value responsive bidder to a competitive bid invitation, but was not selected?

YES ☒NO ☐N/A ☐

Comments:

5. Did the respondent provide notice to minority or women trade organizations or development centers to assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants? Did the notice in all instances, include the scope of the work, specifications, and identify a contact person? Did Respondent provide notice to organizations or development centers no less than five (5) working days for construction contracts prior to submission of the response (bid, proposal, offer, or other applicable expression of interest)?

YES ☒NO ☐N/A ☐

Comments:

REQUEST FOR PROPOSALS

TEXAS FACILITIES COMMISSION

PROGRAM MANAGEMENT SERVICES FOR TEXAS BORDER WALL

PACKAGE 3

RFP #303-1-02423

AUGUST 20, 2021





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 do not have a continuous contract* in place for more than five (5) years 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 do not have a continuous contract* in place for more than five (5) years 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 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. - 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 (i.e., employees, supplies, materials and/or equipment), 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, to include 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.



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) §20.284 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,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.285(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 the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

In accordance with 34 TAC §20.284, the goal below are applicable for the Texas Facilities Commission.

The HUB Goal for this solicitation has been identified as: OTHER SERVICES: 26.0%

-Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered non-responsive.

- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.

- Cursory reviews requests and questions can be sent to: HUB@tfc.state.tx.us

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: Michael Baker & Huitt-Zollars Joint Venture State of Texas VID #: 32080536330
 Point of Contact: Monica Kent Phone #: 214-871-3311
 E-mail Address: mkent@huitt-zollars.com Fax #: 214-871-0757
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☒ - No
- c. Requisition #: 303-1-02423 Bid Open Date: 08/20/2021
 (mm/dd/yyyy)

Enter your company's name here: Michael Baker & Huitt-Zollars Joint VentureRequisition #: 303-1-02423**SECTION 2: RESPONDENT'S 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 contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "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, including employees, goods and services. (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 do not have a continuous contract* in place for more than five (5) years. | 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 | Project Controls | 18 % | % | % |
| 2 | Community Outreach | 1 % | % | % |
| 3 | Land Access / Acquisition | % | % | 5 % |
| 4 | Cost Estimating | 2 % | % | % |
| 5 | Communications and Electrical | 2 % | % | % |
| 6 | Materials Testing and Geotechnical | % | % | 2 % |
| 7 | Environmental / Cultural Resources / Archaeological | 2 % | % | % |
| 8 | Survey | 1 % | % | % |
| 9 | | % | % | % |
| 10 | | % | % | % |
| 11 | | % | % | % |
| 12 | | % | % | % |
| 13 | | % | % | % |
| 14 | | % | % | % |
| 15 | | % | % | % |
| | Aggregate percentages of the contract expected to be subcontracted: | 26 % | % | 7 % |

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

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 **do not** have a **continuous contract*** in place with for **more than five (5) years**, **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: Michael Baker & Huitt-Zollars Joint VentureRequisition #: 303-1-02423**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS** (CONTINUATION SHEET)

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 do not have a continuous contract* in place for more than five (5) years . | 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. |
| 16 | | % | % | % |
| 17 | | % | % | % |
| 18 | | % | % | % |
| 19 | | % | % | % |
| 20 | | % | % | % |
| 21 | | % | % | % |
| 22 | | % | % | % |
| 23 | | % | % | % |
| 24 | | % | % | % |
| 25 | | % | % | % |
| 26 | | % | % | % |
| 27 | | % | % | % |
| 28 | | % | % | % |
| 29 | | % | % | % |
| 30 | | % | % | % |
| 31 | | % | % | % |
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| 34 | | % | % | % |
| 35 | | % | % | % |
| 36 | | % | % | % |
| 37 | | % | % | % |
| 38 | | % | % | % |
| 39 | | % | % | % |
| 40 | | % | % | % |
| 41 | | % | % | % |
| 42 | | % | % | % |
| 43 | | % | % | % |
| 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: Michael Baker & Huitt-Zollars Joint VentureRequisition #: 303-1-02423

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.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

Monica Kent, PE

Printed Name

Senior Vice President

Title

08/20/2021

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.

Exhibit H
HSP Good Faith Effort - Method A (Attachment A)

Rev. 2/17

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture

Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

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 the attachment.

Item Number: 1 Description: Project Controls

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/lpsscmbsearch/index.jsp>. HUB status code "**A**" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Exhibit H

HSP Good Faith Effort - Method A (Attachment A)

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-ofe-achm-a.pdf>

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 the attachment.

Item Number: 2 Description: Community Outreach

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture

Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-ofe-achm-a.pdf>

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 the attachment.

Item Number: 3 Description: Land Access / Acquisition

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture

Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

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 the attachment.

Item Number: 4 Description: Cost Estimating

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-of-achm-a.pdf>

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 the attachment.

Item Number: 5 Description: Communications and Electrical

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Exhibit H

HSP Good Faith Effort - Method A (Attachment A)

Rev. 2/17

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-of-achm-a.pdf>

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 the attachment.

Item Number: 6 Description: Materials Testing and Geotechnical

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

HSP Good Faith Effort - Method A (Attachment A)

Rev. 2/17

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-of-achm-a.pdf>

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 the attachment.

Item Number: 7 Description: Environmental / Cultural Resources / Archaeology

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture

Requisition #: 303-1-02423

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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-of-achm-a.pdf>

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 the attachment.

Item Number: 8 Description: Survey

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

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 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.

Enter your company's name here: Michael Baker & Huitt-Zollars Joint VentureRequisition #: 303-1-02423

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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

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 the attachment.

Item Number: _____ 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*, 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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and 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 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 you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. 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 Texas Vendor Identification (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 | Texas VID (Do not enter Social Security Numbers.) | Date Notice Sent (mm/dd/yyyy) | Did the HUB Respond? |
|--------------|--|----------------------------------|--|
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more 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 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 <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List two (2) 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.

| Trade Organizations or Development Centers | Date Notice Sent (mm/dd/yyyy) | Was the Notice Accepted? |
|--|----------------------------------|--|
| | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |

Enter your company's name here: Michael Baker & Huitt-Zollars Joint Venture

Requisition #: 303-1-02423

SECTION B-4: SUBCONTRACTOR SELECTION

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 the attachment.

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

Item Number: _____ 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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

| Company Name | Texas certified HUB | Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small> | Approximate Dollar Amount | Expected Percentage of Contract |
|--------------|--|---|------------------------------|---------------------------------------|
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - 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.



HUB Subcontracting Opportunity Notification Form

MBHZ-IV

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, §20.285 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, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

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: Michael Baker & Huitt-Zollars Joint Venture

State of Texas VID #: 32080536330

Point-of-Contact: Monica Kent

Phone #: 214-871-3311

E-mail Address: mkent@huitt-zollars.com

Fax #: 214-871-0757

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____

Point-of-Contact: _____

Phone #: _____

Requisition #: 303-1-02423

Bid Open Date: 08/20/2021

(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 _____ on _____ .
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, 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, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(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 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



| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1760295547200 / 08526 |
| Vendor Name | SUNLAND GROUP, INC. |
| Vendor Address | 1812 CENTRE CREEK DR SUITE 350 AUSTIN, TX 78754-5112 USA |
| County | TRAVIS |
| Contact | Brandy Waters |
| Phone/Fax | 512-494-7951 / 512-494-0406 |
| Email Address | bwaters@sunlandgrp.com |
| Website | http://www.sunlandgrp.com |
| Business Description | Sunland Group is a multidisciplinary company of professionals providing program and project management, engineering, architecture and construction management services for a variety of clients. |
| Business Category | <u>Architectural/Engineering And Surveying (05)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 23-AUG-2022 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 29-NOV-2022 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>F</u> |
| | Commodity items shown above are available for district(s) 12,14,15,18 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1742845838800 / 25104 |
| Vendor Name | BLANTON & ASSOCIATES, INC. |
| Vendor Address | 5 LAKEWAY CENTRE CT STE 200 AUSTIN, TX 78734-2616 USA |
| County | TRAVIS |
| Contact | Kolleen Wilwerding |
| Phone/Fax | 512-264-1095 / 512-264-1531 |
| Email Address | administrator@blantonassociates.com |
| Website | http://www.blantonassociates.com |
| Business Description | B&A provides a broad range of environmental consulting, planning, and project management with a focus on regulatory compliance and permitting. We are experienced in developing cost-effective solutions related to compliance with environmental regulations. |
| Business Category | <u>Other Services Including Legal Services (06)</u> |
| Small Business | <u>N</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 11-JAN-2022 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 04-SEP-2023 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>F</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1752810595400 / 85647 |
| Vendor Name | APEX COST CONSULTANTS, INC. |
| Vendor Address | DBA EUDACORP 707 WEST VICKERY BLVD., SUITE 102A FT WORTH, TX 76104 USA |
| County | TARRANT |
| Contact | Claude Eudaric |
| Phone/Fax | 469-718-5562 / 214-242-2585 |
| Email Address | ceudaric@eudacorp.com |
| Website | http://www.eudacorp.com |
| Business Description | ADMINISTRATIVE MANAGEMENT AND GENERAL MANAGEMENT CONSULTING SERVICES Cost Estimating, Project Managment, Scheduling |
| Business Category | <u>Other Services Including Legal Services (06)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Inactive (F -Deleted for non-payment of annual fee)</u> |
| Date Removed From CMBL | 27-NOV-2015 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 04-AUG-2024 |
| HUB Eligibility | <u>BL (Black American)</u> |
| HUB Gender | <u>M</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1710951013500 / 81893 |
| Vendor Name | M.E.P. CONSULTING ENGINEERS, INC. |
| Vendor Address | 2928 STORY RD W IRVING, TX 75038-3511 USA |
| County | DALLAS |
| Contact | SHAHIN NEMATI |
| Phone/Fax | 972-870-9060 / 972-870-9056 |
| Email Address | snemati@mepce.com |
| Website | http://www.mepce.com |
| Business Description | M.E.P. Consulting Engineers are dedicated to providing the most quality services including ELECTRICAL, MECHANICAL, PLUMBING, IT and FIRE PROTECTION ENGINEERING as well as COMMISSIONING SERVICES and DESIGN |
| Business Category | <u>Architectural/Engineering And Surveying.(05)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 07-FEB-2022 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 06-DEC-2023 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>F</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1465170820900 / 503863 |
| Vendor Name | Cypress Environmental Consulting LLC |
| Vendor Address | 10605 Grant Road, Suite 106 HOUSTON, TX 77070-3920 USA |
| County | HARRIS |
| Contact | Melissa Fontenot |
| Phone/Fax | 832-661-5639 / |
| Email Address | melissa.m.fontenot@gmail.com |
| Website | |
| Business Description | Environmental Consulting Services |
| Business Category | <u>Other Services Including Legal Services (06)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 22-AUG-2022 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 27-JUL-2025 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>E</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|---|
| Vendor ID / Vendor Number | 1742532120900 / 03833 |
| Vendor Name | HICKS & COMPANY, ENVIRONMENTAL/ |
| Vendor Address | ARCHEOLOGICAL CONSULTANTS 1504 WEST 5TH ST AUSTIN, TX 78703-5159 USA |
| County | TRAVIS |
| Contact | Pres./Sandra E. Hicks |
| Phone/Fax | 512-478-0858 / 512-474-1849 |
| Email Address | hicks@hicksenv.com |
| Website | http://www.hicksenv.com |
| Business Description | Hicks & Company is a woman-owned, Texas-based environmental consulting firm that provides a broad range of environmental management, archeological and planning services. |
| Business Category | <u>Other Services Including Legal Services (06)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 08-JUL-2022 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 19-DEC-2021 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>F</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1453967706300 / 473438 |
| Vendor Name | AMATERRA ENVIRONMENTAL, INC. |
| Vendor Address | 11842 RIM ROCK TRL AUSTIN, TX 78737-2827 USA |
| County | TRAVIS |
| Contact | Jill S. Madden |
| Phone/Fax | 512-329-0031 / 512-329-0012 |
| Email Address | jmadden@amatterra.com |
| Website | http://www.amatterra.com |
| Business Description | Environmental Consulting including biological, archeological, historic structures, permitting |
| Business Category | <u>Other Services Including Legal Services (06)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Active Bidder</u> |
| CMBL Expires | 27-DEC-2021 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 19-DEC-2023 |
| HUB Eligibility | <u>WO (American Woman)</u> |
| HUB Gender | <u>E</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

| CMBL/HUB Vendor Detail | |
|----------------------------------|--|
| Vendor ID / Vendor Number | 1261474107700 / 505958 |
| Vendor Name | AEROTECH MAPPING TECHNOLOGIES, LLC |
| Vendor Address | 5100 WESTHEIMER RD SUITE 200 HOUSTON, TX 77056-5596 USA |
| County | HARRIS |
| Contact | Pres./Leo Torres |
| Phone/Fax | 713-969-5004 / |
| Email Address | leotorres@atmlv.com |
| Website | |
| Business Description | Aerial Mapping / Topography / Photogrammetry / LiDAR |
| Business Category | <u>Architectural/Engineering And Surveying (05)</u> |
| Small Business | <u>Y</u> |
| Service Disabled Veteran | <u>No</u> |
| CMBL Status | <u>Inactive (F -Deleted for non-payment of annual fee)</u> |
| Date Removed From CMBL | 23-MAY-2019 |
| HUB Status | <u>Active Bidder (A-Approved; Active Texas certified HUB)</u> |
| HUB Expires | 16-FEB-2022 |
| HUB Eligibility | <u>HI (Hispanic American)</u> |
| HUB Gender | <u>M</u> |
| | Commodity items shown above are available for district(s) 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 |

EXHIBIT H-1

HUB SUBCONTRACTING PLAN FORMS



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 do not have a continuous contract* in place for more than five (5) years 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 do not have a continuous contract* in place for more than five (5) years 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 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. - 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 (i.e., employees, supplies, materials and/or equipment), 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, to include 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.



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) §20.284 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,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(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 the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** 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: RESPONDENT'S 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 contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "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, including employees, goods and services. (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 do not have a continuous contract* in place for more than five (5) years . | 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 <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

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 **do not** have a **continuous contract*** in place with for **more than five (5) years**, **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: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

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 do not have a continuous contract* in place for more than five (5) years . | 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. |
| 16 | | % | % | % |
| 17 | | % | % | % |
| 18 | | % | % | % |
| 19 | | % | % | % |
| 20 | | % | % | % |
| 21 | | % | % | % |
| 22 | | % | % | % |
| 23 | | % | % | % |
| 24 | | % | % | % |
| 25 | | % | % | % |
| 26 | | % | % | % |
| 27 | | % | % | % |
| 28 | | % | % | % |
| 29 | | % | % | % |
| 30 | | % | % | % |
| 31 | | % | % | % |
| 32 | | % | % | % |
| 33 | | % | % | % |
| 34 | | % | % | % |
| 35 | | % | % | % |
| 36 | | % | % | % |
| 37 | | % | % | % |
| 38 | | % | % | % |
| 39 | | % | % | % |
| 40 | | % | % | % |
| 41 | | % | % | % |
| 42 | | % | % | % |
| 43 | | % | % | % |
| 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.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.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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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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

Item Number: _____ Description: _____

[illegible]

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HSP Good Faith Effort - Method B (Attachment B)

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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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

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 the attachment.

Item Number: _____ 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*, 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 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and 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 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 you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. 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 Texas Vendor Identification (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 | Texas VID (Do not enter Social Security Numbers.) | Date Notice Sent (mm/dd/yyyy) | Did the HUB Respond? |
|--------------|--|----------------------------------|--|
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more 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 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 <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.
- d.** List **two (2) 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.

| Trade Organizations or Development Centers | Date Notice Sent (mm/dd/yyyy) | Was the Notice Accepted? |
|--|----------------------------------|--|
| | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| | | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |

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

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

SECTION B-4: SUBCONTRACTOR SELECTION

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 the attachment.

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

Item Number: _____ 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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

| Company Name | Texas certified HUB | Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small> | Approximate Dollar Amount | Expected Percentage of Contract |
|--------------|--|---|------------------------------|---------------------------------------|
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - No | | \$ | % |
| | <input type="checkbox"/> - Yes <input type="checkbox"/> - 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.



HUB Subcontracting Opportunity Notification Form

Rev. 2/17

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, §20.285 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, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

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: _____
 Point-of-Contact: _____
 E-mail Address: _____

State of Texas VID #: _____
 Phone #: _____
 Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____
 Point-of-Contact: _____
 Requisition #: _____

Phone #: _____
 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 _____ on _____
 Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, 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, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(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 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



HUB Subcontracting Plan (HSP)

Prime Contractor Progress Assessment Report

Rev. 10/16

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

| | | |
|-------------------------------------|-----------------------|---------------------|
| Contract/Requisition Number: | Date of Award: | Object Code: |
|-------------------------------------|-----------------------|---------------------|

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 and Non-HUB subcontractor information

When verifying subcontractors' HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized (HUB)

Directory Search located at: <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

[illegible]

Signature: _____ Title: _____ Date: _____

EXHIBIT I**PMF INSURANCE REQUIREMENTS**

PMF shall maintain in effect, and shall require its Consultants maintain in effect, at all times during the full term of this Agreement, insurance policies providing the coverages and policy limits specified in this “**Exhibit I**”. PMF will comply and will require its Consultants comply fully with all requirements of “**Exhibit I**” prior to commencing any PM Services.

I.1 Required Coverages.

| Policy | PMF | Consultants |
|--|---|---|
| Professional Liability | \$2,000,000 each claim \$2,000,000 annual aggregate | \$1,000,000 each claim \$2,000,000 annual aggregate |
| Workers’ Compensation | Statutory | Statutory |
| Employers’ Liability Insurance: | | |
| Bodily Injury by Accident (accident) | \$1,000,000 | \$1,000,000 |
| Bodily Injury by Disease (policy limit) | \$1,000,000 | \$1,000,000 |
| Bodily Injury by Disease (each employee) | \$1,000,000 | \$1,000,000 |
| Commercial General Liability | \$2,000,000 each occurrence \$4,000,000 annual general aggregate \$4,000,000 products-completed operations aggregate \$2,000,000 personal and advertising injury | \$1,000,000 each occurrence \$2,000,000 annual general aggregate \$2,000,000 products-completed operations aggregate \$1,000,000 personal and advertising injury |
| Automobile Liability | \$1,000,000 each accident | \$1,000,000 each accident |
| Umbrella/Excess Liability | NA NA | |
| Cyber/Privacy Liability | \$500,000 each location \$100,000 away from premises | \$500,000 each location \$100,000 away from premises |

I.1.1 Professional Liability Insurance. Professional liability coverage shall insure from and against all negligent acts, errors, and omissions committed by PMF, its employees, and Consultants, that arise out of this Agreement or the PM Services performed by PMF, including its vicarious liability. Any retroactive date must be effective prior to beginning of services for TFC. The purchase of an extended discovery period or an extended reporting period on a claims-made policy will not be sufficient to meet the terms of this provision. PMF and its Consultants shall keep such insurance in force at all times during the course of this Agreement and until all claims arising out of the PM Services are barred by the statute of repose provided under Texas law.

I.1.2 Workers' Compensation and Employers' Liability Insurance. Pursuant to *Tex. Labor Code § 406.096(a)*, PMF and its Consultants shall provide workers' compensation and employers' liability insurance for all employees providing PM Services to the Program or on any Project with limits as set forth above.

I.1.2.1 Pursuant to *Tex. Labor Code §406.096(b)*, PMF shall require each Consultant to certify in writing to the PMF that said Consultant provides, and will provide for each Project and in the Program overall, workers' compensation and employers' liability insurance for all of Consultant's employees employed. TFC shall be entitled, upon request and without expense, to receive copies of PMF and all Consultant's written certifications of insurance.

I.1.2.2 The policy must include an Other States Endorsement to include the State of Texas if PMF's or Consultants' businesses are domiciled outside the State of Texas.

I.1.2.3 All policies shall be endorsed to include a Waiver of Subrogation in favor of TFC.

I.1.3 Commercial General Liability. Commercial General Liability coverage ("CGL") shall be provided on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage). The CGL insurance general aggregate limit shall apply separately to the Program and PMF and Consultants shall provide evidence of same through ISO Endorsement CG 25 03 05 09. The policy shall include Endorsement CG2503, Amendment of Aggregate Limits of Insurance, or its equivalent. CGL insurance shall cover liability including, but not limited to, liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, electronic data liability (under endorsement ISO CG 04 37), property damage, and personal injury and death resulting therefrom. This policy shall provide for full separation of insureds and shall not include any insured v. insured exclusions or limitations. The following is a non-exclusive list of additional exclusions and limiting endorsements that are prohibited:

- Liability assumed by PMF under a written agreement, including any contractual liability limitation endorsement restricting coverage to only liability that would exist in the absence of a contract, such as the ISO CG 21 39 or its equivalent, or any amendment of insured contract definition endorsement such as the ISO CG 24 26 or its equivalent.
- Explosion, collapse, underground property damage, blasting, blowouts, cratering, or the like, including any Explosion, Collapse And Underground Property Damage Hazard endorsement such as the ISO CG 21 42 or ISO CG 21 43 endorsements, or their equivalent.
- Cross-liability on claims between any insureds, other than claims between named insureds.
- Injury to independent contractors and employees of independent contractors.
- Damage by Subcontractors. Any exclusion relating to damage to work performed by subcontractors or Consultants on behalf of PMF such as the ISO CG 22 94 or ISO CG 22 95, or their equivalent.
- Any type of classification or business description limitation endorsement.

- Any type of endorsement modifying the employer's liability exclusion.
- Any type of habitational or residential exclusion.
- Any type of punitive, exemplary or multiplied damages exclusion.

A copy of the CGL Schedule of Forms and Endorsement page(s) of the policy shall be provided to verify the coverages required, that the Endorsements required by these insurance requirements are included, and that none of the prohibited exclusions exist in the policy. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs maintained by TFC. CGL insurance must be kept in force at all times during the course of this Agreement and until all claims arising out of the PM Services are barred by the statute of repose provided under Texas law, TFC reserves the right to notify PMF of any additional prohibited exclusions or endorsements in advance of placing the insurance for the Program. CGL insurance must be kept in force at all times during the course of this Agreement and until all claims arising out of the PM Services are barred by the statute of repose provided under Texas law.

I.1.4 Automobile Liability Insurance. An automobile liability insurance policy shall be provided by PMF and all Consultants. This policy shall cover liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with the Program and each Project and shall include coverage for loading and unloading hazards. Automobile liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. No aggregate shall be permitted.

I.1.5 Umbrella/Excess Liability Insurance. An excess or umbrella liability insurance policy shall be provided by PMF and all Consultants with limits as provided in I.1 above. This policy shall be excess of the CGL, automobile liability, and employers' liability insurance on a "following form" basis of underlying policies. This policy shall be excess over and be no less broad than the CGL, automobile liability, employers' liability as described in these insurance requirements, including but not limited to the required additional insured status, designated project(s) and/or location(s), general aggregate, waiver of subrogation, notice of cancellation, and prohibited exclusions or limitations. The policy shall provide coverage where underlying primary insurance coverage limits are exhausted or otherwise unavailable or inadequate to cover a loss. Any excess or umbrella policy shall be kept in force at all times during the course of this Agreement and until all claims arising out of the PM Services are barred by the statute of repose provided under Texas law.

I.1.6 Cyber/Privacy Liability Coverage. Cyber/Privacy liability insurance shall be provided by PMF to cover risk of loss to electronic data. The policy must include coverage for electronic vandalism to electronic data, including coverage for a third party's willful alteration of data, introduction of viruses which impact electronic data, unauthorized use of electronic data, and denial of service to website or email destinations.

I.2 Insurance Required of Consultants. Each Consultant must provide professional liability, workers' compensation, employers' liability, Commercial General Liability, automobile liability, excess/umbrella coverage, and pollution liability with limits as set forth as set forth above under "Consultants". The limits of such insurance may be adjusted in accordance with the nature of each Consultant's operations but, if such adjustment is requested, it must be submitted to TFC for approval before the Consultant enters into an agreement or any work commences under the agreement in question.

Additionally, all Consultants shall fully comply with all other provisions set forth in this “**Exhibit I**” all as more particularly described above and below.

I.3 General Requirements for All Insurance Policies (including those provided by Consultants).

All insurance coverages must be placed with carriers acceptable to TFC, licensed to do business in Texas, and having an A.M. Best’s Guide rating of A-/VII or better by A.M. Best, confirmed by one or more insurance certificates on an Acord 25 Form. All insurance coverages shall be written on an occurrence basis (except Professional Liability) and shall be primary and not excess insurance vis-à-vis any coverage, any self-insurance, or other policy of insurance maintained by TFC. Any coverage underwritten on a claims-made basis must include a retroactive date for the policy and all renewals coincident with the Effective Date of this Agreement and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. Any premiums for this extended reporting period shall be paid by PMF. Certificates of insurance and additional insured endorsements required herein shall provide that the policies shall be primary without right of contribution from any insurance carried by TFC. Each policy, other than workers’ compensation/employers’ liability and professional liability, shall contain a severability of interest clause stating “*it is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company’s liability.*” Each policy shall provide for full separation of insureds and include no insured v. insured limitations or exclusions.

I.4 Additional Insured Status. TFC and Indemnitees and their officers, directors, agents, and employees shall be included as additional insureds on policies procured by PMF and its Consultants, except Worker’s Compensation and Professional Liability, using ISO Additional Insured Endorsements 20 10 04 13 (Ongoing Operations) and 20 10 37 13 (Completed Operations) as approved by TFC. PMF shall provide additional insured endorsements demonstrating the additional insured status of TFC and the Indemnitees as provided herein on such forms as required by TFC.

I.5 Waivers of Subrogation. Each policy of insurance, except any Professional Liability policy, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against TFC and Indemnitees and their officers, directors, agents, and employees. With respect to all such policies, PMF waives any and all rights of recovery or subrogation against TFC and its Indemnitees and their officers, directors, agents, and employees.

I.6 Evidence/Proof of Insurance/Endorsements. Evidence of the insurance coverage required of PMF and Consultants must be furnished to TFC before commencement of the Work (or, with respect to Consultants, before such Consultant begins any portion of the PM Services) and as coverage renews. Evidence of coverages shall be provided in certificates of insurance with a copy of the Commercial General Liability policies and all endorsements. The insurance policies shall provide or be endorsed to include a requirement for each insurer to give TFC notice at least thirty (30) calendar days prior to any (i) erosion of limits; (ii) non-renewal; (iii) cancellation; or (iv) material change. “Material Change” includes, without limitation (a) a change in the policy period; (b) a material revision to, or removal of, a coverage section; (c) a reduction of the amount of limits of insurance, provided such reduction is not the result of payment of damages, medical expenses, or claim expenses; or (d) an increase of the amount of any self-insured retentions. Similarly, the Commercial General Liability policy shall be endorsed to include a 10-day Notice of Non-Payment of Premium in favor of TFC.

I.7 Notification to TFC. Any and all policies, endorsements, approvals, certificates of insurance and/or notifications of erosion of limits, cancellation, non-renewal, or material change shall be transmitted to:

The Texas Facilities Commission
Attention: Insurance Specialist
P.O. Box 13047
Austin, Texas 78711
Insurance@TFC.State.tx.us

I.8 **Deductibles, Retentions & Exclusions.** Insurance deductibles and premiums shall be paid by PMF or its Consultants without reimbursement by TFC. Any under-insurance, self-insurance, self-insured retentions (SIR), deductibles, and exclusions in coverage in the insurance policies required under this Agreement to the extent applicable, shall be assumed by, for the account of and at the sole risk of PMF and Consultants. All deductibles and self-insured retentions shall be disclosed to TFC before the placement of any insurance. No deductible or self-insured retention shall exceed \$100,000, without prior written approval of TFC.

I.9 **No Commencement of Work.** PMF shall not, nor allow any Consultant(s) to, commence the performance of PM Services under this Agreement until the proof of satisfaction of the insurance requirements has been received and approved by TFC. However, any approval of the proof of satisfaction of the insurance requirements by TFC shall not relieve or decrease the liability of PMF hereunder.

I.10 **Duty to Review/Cancellation.** PMF represents and acknowledges it has carefully reviewed its insurance program with its legal and risk advisors and believes its insurance policies comply with the insurance requirements in this Agreement, and further acknowledges a continuing obligation to ensure its insurance policies remain compliant herewith. Within 48 hours of a written request by TFC, PMF shall submit true and complete copies of PMF's policies of insurance in electronic form by emailing true and complete of such policies to TFC's insurance analyst. The true and complete copies of all applicable insurance policies shall be submitted in a timely manner, as no contract will be executed without the receipt, review, negotiation, and TFC acceptance, of the submitted policies. The policies shall include therewith a letter provided by PMF's broker, agent, or its applicable insurance carrier representative for each policy, certifying that the electronic copies of the policies as furnished are true and correct copies. In addition, upon conducting such review, if TFC's insurance analyst determines PMF's insurance policies contain deficiencies that cause such policies to fail to comply with the insurance requirements of this Agreement, PMF agrees to reimburse TFC for all costs and fees incurred in attempting to resolve such policy deficiencies by modification or special endorsement thereof. PMF shall not cause or permit any required insurance to cancel or lapse prior to the expiration of all warranty periods. PMF must update all expired policies prior to submission of any Invoice.

I.11 **Right to Review.** TFC reserves the right to review these insurance requirements during the effective period of this Agreement and to make reasonable adjustments to insurance coverage and their limits when deemed necessary and prudent by TFC based upon changes in statutory law, court decisions, or the claims history of the industry and/or of PMF, provided however, such modifications must be commercially available to PMF. TFC shall make an equitable adjustment to the PMF Compensation for any additional cost resulting therefrom.

I.12 **Failure to Obtain or Maintain.** Failure to timely obtain and maintain the insurance coverages as required under this Agreement may subject PMF to disqualification from eligibility to participate in any other or future projects with TFC and/or suspension of the PM Services. PMF shall provide TFC thirty (30) calendar days written notice of erosion of any aggregate limits below the minimum amounts required by this Agreement. In the event PMF or its Consultants fail to timely renew or pay any of the renewal premiums for any expiring policies, TFC shall have the right (but not the obligation) to: (i) make such payments; and/or (ii) acquire replacement coverage, and set off the amount(s) or costs thereof against the next payment(s) coming due to PMF under this Agreement or under any other contract between TFC and

PMF. TFC may withhold any payments due to PMF under this Agreement or any other TFC project until satisfaction is achieved.

I.13 **Enforceability of Requirements.** None of the requirements contained herein as to types, limits, or TFC's approval of insurance coverage to be maintained by PMF is intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by PMF under this Agreement or otherwise provided by law. All insurance coverages required by this Agreement, as amended by TFC, shall be written in strict conformance with these requirements to provide complete and full coverage to TFC for the performance of PM Services under this Agreement. If coverages and/or specified endorsements are not available due to a change in Texas law, PMF and its Consultants shall secure equivalent coverages, which shall be subject to approval by TFC. To the extent any provision of these insurance requirements is held to be void, voidable, invalid, or unenforceable, the remainder of these insurance requirements shall not be affected thereby and shall remain valid and fully enforceable.

I.14 **Losses Paid by PMF.** Actual losses not covered by insurance as required by this Agreement shall be paid by PMF. PMF hereby waives all rights of recovery and releases, and shall cause its Consultants to release, TFC from any and all claims or causes of action whatsoever which PMF and/or its Consultants might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by PMF and/or its Consultants pursuant to this Agreement.

I.15 **TFC a Third-Party Beneficiary.** It is hereby acknowledged and agreed that TFC is a third-party beneficiary of any agreement(s) between PMF and any and all Persons who procure, or cause to be procured, any policy of insurance required hereunder.

I.16 **Required Insurance Coverages No Effect On Indemnification.** The insurance and insurance limits required herein shall not be deemed as a limitation on PMF's liability under the indemnifications granted to TFC.

I.17 **No Warranty That Insurance Limits Will Be Adequate to Fully Protect PMF.** The insurance requirements set out herein shall not be interpreted as any representation or warranty that the insurance coverage and limits will necessarily be adequate to fully protect PMF.