

REQUEST FOR QUALIFICATIONS FOR
ARCHITECT/ENGINEER/CONSULTING
PROFESSIONAL SERVICES

The University of Texas Permian Basin
Odessa, TX
RFQ No.: 742-20-160

DUE: Tuesday December 11, 2019 10:00 am CST



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REQUEST FOR QUALIFICATIONS FOR
ARCHITECT/ENGINEER PROFESSIONAL SERVICES
The University of Texas Permian Basin

RFQ No.: 742-20-160

SECTION 1 – GENERAL INFORMATION & REQUIREMENTS

- 1.1 **GENERAL INFORMATION:** The University of Texas System (“Owner”) and The University of Texas Permian Basin are soliciting statements of qualifications (“Qualifications”) for selection of an Architect/Engineer firms (“Project”), in accordance with the terms, conditions, and requirements set forth in this Request for Qualifications.
 - 1.1.1 This Request for Qualifications (“RFQ”) is the first step process for selecting an Architect/Engineer firms. The RFQ provides the information necessary to prepare and submit Qualifications for consideration and initial ranking by the Owner. Based on the initial ranking, the Owner may select up to four (4) of the top ranked qualified respondents.
- 1.2 **PUBLIC INFORMATION:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code, Chapter 552.001, et seq.*) after the solicitation is completed.
 - 1.2.1 The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFQ information.
- 1.3 **TYPE OF CONTRACT:** Any contract resulting from this solicitation will be in the form of the Owner’s Standard Architect/Engineer Agreement copy of which is attached to this RFQ.
- 1.4 **CLARIFICATIONS AND INTERPRETATIONS:** Any clarifications or interpretations of this RFQ that materially affect or change its requirements will be emailed by the Owner as an addendum. It is the responsibility of all respondents to obtain this information in a timely manner. All such addenda issued by the Owner before the proposals are due as part of the RFQ, and respondents shall acknowledge receipt of and incorporate each addendum in its Qualifications.
 - 1.4.1 Respondents shall consider only those clarifications and interpretations that the Owner issues by addenda five (5) days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Qualifications.

1.5 SUBMISSION OF QUALIFICATIONS:

1.5.1 DEADLINE AND LOCATION: The Owner will receive Qualifications at the time and location described below.

December 11 2019 @ 10:00 a.m. CST.

Debbie Reynolds, Sr. Procurement Specialist
The University of Texas of the Permian Basin
4901 E. University Blvd.
Mesa Building Room 4270
Odessa, Texas 79762

1.5.2 Submit **three (3)** identical copies of the Qualifications. An original signature must be included on the “Respondent’s Statement of Qualifications and Ability to Undertake the Project” document submitted with each copy.

1.5.3 Submit one (1) original and one (1) copy of the HUB Subcontracting Plan (HSP) as separate attachments to the Qualifications as described in Section 1.13.

1.5.4 Late received Qualifications will be returned to the respondent.

1.5.5 The Owner will not acknowledge or receive Qualifications that are delivered by telephone, facsimile (fax), or electronic mail (e-mail).

1.5.6 Properly submitted Qualifications will not be returned to respondents.

1.5.7 Qualifications materials must be enclosed in a sealed envelope (box or container) addressed to the Point-of-Contact person; the package must clearly identify the submittal deadline, the RFQ number, and the name and return address of the respondent.

1.6 POINT-OF-CONTACT: The Owner designates the following person as its representative and Point-of-Contact for this RFQ. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFQ, including questions regarding terms and conditions and technical specifications, to the Point-of-Contact person.

Debbie Reynolds, Sr. Procurement Specialist
The University of Texas of the Permian Basin
Purchasing Department
4901 E. University Blvd.
Odessa, TX 79762

E-mail: reynolds_d@utpb.edu

1.7 EVALUATION OF QUALIFICATIONS: The evaluation of the Qualifications shall be based on the requirements described in this RFQ. All properly submitted Qualifications will be reviewed, evaluated, and ranked by the Owner. The top four or fewer ranked respondents may be selected by the Owner.

1.7.1 Qualifications shall not include any information regarding respondent’s fees, pricing, or other compensation.

- 1.8 OWNER'S RESERVATION OF RIGHTS: The Owner may evaluate the Qualifications based on the anticipated completion of all or any portion of the Project. The Owner reserves the right to divide the Project into multiple parts, to reject any and all Qualifications and re-solicit for new Qualifications, or to reject any and all proposals and temporarily or permanently abandon the Project. Owner makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFQ for any project and no such representation is intended or should be construed by the issuance of this RFQ.
- 1.9 ACCEPTANCE OF EVALUATION METHODOLOGY: By submitting its Qualifications in response to this RFQ, respondent accepts the evaluation process and acknowledges and accepts that determination of the "most qualified" firms(s) will require subjective judgments by the Owner.
- 1.10 NO REIMBURSEMENT FOR COSTS: Respondent acknowledges and accepts that any costs incurred from the respondent's participation in this RFQ shall be at the sole risk and responsibility of the respondent.
- 1.11 ELIGIBLE RESPONDENTS: Only individual firms or lawfully formed business organizations may apply (This does not preclude a respondent from using consultants.) The Owner will contract only with the individual firms or formal organization that submits a Qualification.
- 1.12 HISTORICALLY UNDERUTILIZED BUSINESSES' SUBMITTAL REQUIREMENTS: It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the Owner has adopted Exhibit H, Policy on Utilization of Historically Underutilized Businesses (See attached). The Policy applies to all contracts with an expected value of \$100,000 or more. If Owner determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Qualifications. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Qualifications.
- 1.12.1 STATEMENT OF PROBABILITY
The Owner has determined that subcontracting opportunities are probable in connection with this procurement solicitation. Therefore, a HUB Subcontracting Plan (HSP) is required as a part of the respondent's Qualifications. The respondent shall develop and administer a HSP as a part of the respondent's Qualifications in accordance with the University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUB), Exhibit H.
- 1.12.2 Refer to Exhibit H, Policy on Utilization, Historically Underutilized Business (attached) and the Summary of Requirements for a detailed list of attachments required with the Qualifications. Editable versions of the HUB Subcontracting Plans are available on The University of Texas System website at <https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>
- 1.12.3 The "Statement of Probability" determines the probability for subcontracting opportunities. This determination will clarify which attachments, detailed in Figure 1, will be required to be completed and returned.
- 1.12.4 Submit one original and one copy of the HUB Subcontracting Plan **in a separate attachment apart from the submittal of qualifications.**

- 1.13 CERTAIN PROPOSALS AND CONTRACTS PROHIBITED: Under Section 2155.004, Texas Government Code, a state agency may not accept a proposal or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the proposal or contract is based. All vendors must certify their eligibility by acknowledging the following statement, "Under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate." If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded as described above, the state agency may immediately terminate the contract without further obligation to the vendor. This section does not create a cause of action to contest a proposal or award of a state contract.
- 1.14 SALES AND USE TAXES: Section 151.311, Tax Code, as amended effective October 1, 1993, permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include The University of Texas System. The section further permits the purchase tax-free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is "necessary and essential for the performance of the contract" and "completely consumed at the job site." In addition, the section permits the purchase tax-free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if "the contract expressly requires the specific service to be provided or purchased by the person performing the contract" or "the service is integral to the performance of the contract."
- 1.15 CERTIFICATION OF FRANCHISE TAX STATUS: Respondents are advised that the successful respondent will be required to submit certification of franchise tax status as required by State Law (H.B. 175, Acts 70th Leg. R.S., 1987, Ch. 283, p. 3242). The contractor agrees that each subcontractor and supplier under contract will also provide a certification of franchise tax status.
- 1.16 REQUIRED NOTICES OF WORKERS' COMPENSATION INSURANCE COVERAGE: The Texas Workers' Compensation Commission has adopted a new rule, 28 TAC, sec. 110.110, relating to REPORTING REQUIREMENTS FOR BUILDING OR CONSTRUCTION PROJECTS FOR GOVERNMENTAL ENTITIES. The rule applies to all building or construction contracts advertised for bid on or after September 1, 1994. The rule implements sec. 406.096, Texas Labor Code, which requires workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity. The requirements of the rule are set forth in Article 6 of the Uniform General and Supplementary General Conditions for University of Texas System Building Construction Contracts.
- 1.17 PREVAILING WAGE RATE DETERMINATION: Respondents are advised that the Texas Prevailing Wage Law will be administered in accordance with the policies and procedures set forth in the U. T. System document, entitled "Prevailing Wage Guidelines." A copy is attached to the Special Conditions. The penalty for violation of prevailing wage rates has been increased from \$10.00 per underpaid worker per day or portion thereof to \$60.00.
- 1.18 DELINQUENCY IN PAYING CHILD SUPPORT: Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

- 1.19 STATE REGISTRATION OF ARCHITECTURE FIRMS: Respondents are advised that the Texas Board of Architectural Examiners requires that any firms or business entity providing architectural services to the public, other than a sole proprietor doing business under his/her name, must annually register information regarding the firms or business entity with the Texas Board of Architectural Examiners. Texas Board of Architectural Examiners. 333 Guadalupe Street, Suite 2-350, Austin, Texas 78701, telephone (512) 305-9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Chapter 1051, and Texas Occupations Code.
- 1.20 STATE REGISTRATION OF ENGINEERING FIRMS: Respondents are advised that the Texas Board of Professional Engineers require that any entity providing engineering services to the public must register with the Texas Board of Professional Engineers. An entity is defined as a sole proprietorship, firms, partnership, corporation or joint stock association.

SECTION 2 – EXECUTIVE SUMMARY

2.1 HISTORICAL BACKGROUND:

<https://www.utpb.edu/about/history>

2.2 VISION STATEMENT:

The University of Texas Permian Basin will be an innovative, responsive, university that thinks large and lives local. We will lead in advancing education, research, economic competitiveness, and cultural enrichment.

MISSION STATEMENT:

As a regional, comprehensive institution, The University of Texas Permian Basin serves a diverse community of students from the region, the state and beyond. Through excellence in student-centered teaching, learning, research and public service, the University cultivates engaged citizens and impacts lives while advancing technology and the public interests of West Texas.

2.3 PROJECT DESCRIPTION, SCOPE AND BUDGET:

As a part of the update to the Campus Master Plan, The University of Texas Permian Basin is seeking architectural and consulting services for the following scopes of work:

- Undertake a comprehensive *Market Analysis* to guide the University in the development of the southwest and southeast corners of the campus. The Market Analysis will be the first assessment required to determine the potential for housing, mixed use, Convocation Center, retail and parking use. The *Market Analysis* should address the *Economic Impact* as well as the *Quality of Life Impact* this development will have on the University and the Community.

HOUSING: Provide the University with a recommendation of what the community's and University's housing market can currently sustain in terms of rents, size of units (square feet/number of bedrooms) and total number of units. Primary target for affordable housing income includes University faculty and staff, K-12 Teachers, first responders and health care workers.

MIXED USE: Provide the University with an overview of what types of retail/food service could be accommodated on the campus, including parking recommendations.

CONVOCATION CENTER: Provide the University with a Market Analysis of what size Convocation Center the University and community could support, including use by Ector County Schools, City of Odessa, Odessa College, University athletics and other user groups. Analysis should include square footage achievable, maximum number of seats, and minimum number of parking spaces.

PUBLIC-PRIVATE PARTNERSHIP (P3) Any of the concepts presented to the Owner may result in a Public-Private Partnership between the University and a private partner. The private partner may assist with the design, construction, operation, maintenance and/or management of the facility or facilities.

SCOPE OF SERVICES

The selected architectural firm/consultants should approach the process both by bringing recognized expertise in various aspects of campus land use, space evaluation and master planning, landscaping, transportation, energy conservation and sustainability, as well as working closely with campus participants including, but not limited to Athletics, Housing, Executive Team, the Campus Building Use and Construction Committee, the Sustainability Committee, faculty, staff, students and UT System Board of Regents.

The *final deliverable* from the selected team will include production of *conceptual* drawings, site plans, floor plans, exterior and interior elevations renderings, automation fly-through and other printed material suitable for the University to utilize during Fund Raising and Community Support campaigns, as well as presentations to the UT System Board of Regents. The final deliverables should also include Cost Estimates and estimates for project schedules/durations.

2.4 PROJECT PLANNING SCHEDULE: Key Project planning schedule milestones are:

- | | |
|---|--|
| ▪ Owner receives Request For Qualifications | Refer to Section 1.5 |
| ▪ Selected Firms notified | |
| ▪ Action on A/E Contract | As needed on a Project-by Project Bases. |

SECTION 3 – REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS

Respondents shall carefully read the information contained in the following criteria and submit a complete statement of Qualifications to all questions in Section 3 formatted as directed in Section 4. Incomplete Qualifications will be considered non-responsive and subject to rejection.

3.1 **CRITERIA ONE: RESPONDENT’S STATEMENT OF QUALIFICATIONS AND AVAILABILITY TO UNDERTAKE THE PROJECT** (Maximum of two (2) printed pages per question)

- 3.1.1 Provide a statement of interest for ongoing and recurring project(s) see (section 2.3) including a narrative describing the Prime Firms’ and Project Team’s unique qualifications.
- 3.1.2 Provide a statement on the availability and commitment of the Prime Firms and its principal(s) and assigned professionals to undertake ongoing and recurring project(s) see (section 2.3).
- 3.1.3 Provide a brief history of the Prime Firms and each consultant proposed for ongoing and recurring project(s) see (section 2.3).
- 3.1.4 Provide a graphic representation of the project team, identifying the Prime Firms and each consultant proposed for ongoing and recurring project(s) see (section 2.3).

3.2 **CRITERIA TWO: PRIME FIRMS ABILITY TO PROVIDE SERVICES**

- 3.2.1 Provide the following information for the Prime Firms:
 - Legal name of the company as registered with the Secretary State of Texas
 - Address of the office that will be providing services
 - Number of years in business
 - Type of Operation (Individual, Partnership, Corporation, Joint Venture, etc...)
 - Number of Employees by skill group
 - Annual revenue totals for the past ten (10) years
- 3.2.2 Provide the three (3) most recent audited financial statements documenting your firm’s financial stability.
- 3.2.3 Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- 3.2.4 Provide any details of all past or pending litigation or claims filed against your company that would affect your company’s performance under a Contract with the Owner.
- 3.2.5 Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, specify date(s), details, circumstances, and prospects for resolution.
- 3.2.6 Does any relationship exist by relative, business associate, capital-funding agreement, or any other such kinship between your firms and any Owner employee, officer or Regent? If so, please explain.

- 3.2.7 Provide a claims history under professional malpractice insurance for the past five (5) years for the Prime Firms and any team members proposed to provide professional architectural or engineering services.

3.3 CRITERIA THREE: PROJECT TEAM'S ABILITY TO PROVIDE DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES

- 3.3.1 Describe, in graphic and written form, of any ongoing or recurring project assignments and lines of authority and communication for principals and key professional members of each consultant that will be involved in the project. Indicate the estimated percent of time these individuals will be involved in the project for design and construction.
- 3.3.2 Provide resumes giving the experience and expertise of the professional members for each consultant that will be involved in the project, including their experience with similar projects, the number of years with the firms, and their city of residence.
- 3.3.3 Clearly identify the members of the proposed team who worked on the listed projects in Criteria 3.4 and 3.5, and describe their roles in those projects.
- 3.3.4 Describe the basis for the selection of the proposed sub-consultants included in the design team and the role each will play for this project.
- 3.3.5 Describe the Prime Firms' process in working with consultants and integrating them into the design process.

3.4 CRITERIA FOUR: RESPONDENT'S PERFORMANCE ON PAST REPRESENTATIVE PROJECTS

- 3.4.1 List a maximum of five (5) projects for which you have provided services that are most related to this project see (section 2.3 Project Description, Scope and Budget). List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:
- Project name, location, contract delivery method, and description
 - Color images (photographic or machine reproductions)
 - Final Construction Cost, including Change Orders
 - Final project size in gross square feet
 - Type of construction (new, renovation, or expansion)
 - Actual start and finish dates for design
 - Actual Notice To Proceed and Substantial Completion dates for construction
 - Description of professional services Prime Firms provided for the project
 - Name of Project Manager (individual responsible to the Owner for the overall success of the project)
 - Name of Project Architect (individual responsible for coordinating the day to day work)
 - Name of Project Designer (individual responsible for design concepts)
 - Consultants

References (for each project listed above, identify the following):

- The Owner's name and representative who served as the day-to-day liaison during the design and construction phases of the project, including telephone number

- Contractor’s name and representative who served as the day-to-day liaison during the Preconstruction and/or construction phase of the project, including telephone number
- Length of business relationship with the Owner.

References shall be considered relevant based on specific project participation and experience with the Respondent. The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the RFQ/P process.

3.4.2 Identify a maximum of three (3) completed projects, of any type, for which the Prime Firms received an award for design excellence from a recognized organization and provide descriptive information for each.

3.4.3 Identify any experience your firm has in completing any Public-Private Partnership projects, and identify whether your firm served on the developer’s side or the Owner’s side.

3.5 CRITERIA FIVE: RESPONDENT’S PAST PERFORMANCE ON UT PERMIAN BASIN PROJECTS

3.5.1 Identify and describe the Prime Firms’ experience on University of Texas System projects within the last five (5) years. Projects may repeat with Section 3.4 above.

If the Prime Firms (or it’s consultants) has not previously provided services for The University of Texas Permian Basin, then identify and describe the Prime Firms’s past performance on projects for “major” institutions of higher education (or similar) within the last five (5) years.

In either case above, provide the following information for each project listed:

- Project name, location, contract delivery method, and description
- Color images (photographic or machine reproductions)
- Final Construction Cost, including Change Orders
- Final project size in gross square feet
- Type of construction (new, renovation, or expansion)
- Actual start and finish dates for design
- Actual Notice To Proceed and Substantial Completion dates for construction
- Description of professional services Prime Firms provided for the project
- Name of Project Manager (individual responsible to the Owner for the overall success of the project)
- Name of Project Architect (individual responsible for coordinating the day to day work)
- Name of Project Designer (individual responsible for design concepts)
- Consultants

3.6 CRITERIA SIX: RESPONDENT’S GENERAL UNDERSTANDING OF THE U.T. SYSTEM A/E AGREEMENT

3.6.1 Provide a detailed list (i.e. bulleted) of all Design Services and consultants you will provide to the Owner under Basic Services on this project (including those outlined in Articles 1, 10 and 14 of the Agreement).

- 3.6.2 Provide a detailed list (i.e. bulleted) of all Construction Administration Services and consultants you will provide to the Owner under Basic Services on this project (including those outlined in Articles 1, 10 and 14 of the Agreement).
- 3.6.3 Provide a detailed list (i.e. bulleted) of all Services and consultants you will provide to the Owner as Additional Services for Design and Construction Services on this project (including those outlined in Articles 1, 10 and 14 of the Agreement).
- 3.6.4 Provide a detailed list (i.e. bulleted) of all reimbursable services/expenses you will request from the Owner and on this project (including those outlined in Articles 5 and 14 of the Agreement).
- 3.6.5 In order to help facilitate and expedite execution of a U.T. System Project Architect Agreement following selection of the “most” qualified candidate, please identify any terms of the Agreement you may request to be changed prior to signing the Agreement.

3.7 CRITERIA SEVEN: RESPONDENT’S KNOWLEDGE OF BEST PRACTICES

- 3.7.1 Describe the Prime Firms’ design philosophy, design methodology, and its process for integrating institutional standards into design.
- 3.7.2 Describe the Prime Firms’ quality assurance program explaining the method used and how the firms maintains quality control during the development of Construction Documents and quality assurance during the Construction phase of a project. Provide specific examples of how these techniques or procedures were used for any combination of three (3) projects listed in response to Criteria 3.4 and 3.5.
- 3.7.3 Describe your project team’s demonstrated technical competence and management qualifications with institutional projects, particularly those for higher education.
- 3.7.4 The Owner has specific system design and construction standards and specification requirements for construction projects. Describe how you propose to incorporate these requirements into this project.
- 3.7.5 Describe your firms’s experience working with the Construction Manager-at-Risk project delivery method. Discuss your method of working with the contractor as a team member to deliver a Guaranteed Maximum Price and to maintain the GMP throughout the design and construction process.
- 3.7.6 Describe your cost estimating methods for the design and construction phases. How do you develop cost estimates and how often are they updated? For any combination of three (3) projects listed in response to Criteria 3.4 and 3.5, provide examples of how these techniques were used and what degree of accuracy was achieved.
- 3.7.7 Describe the way in which your firms develops and maintains work schedules to coordinate with the Owner’s project schedule. For any combination of three (3) projects listed in response to Criteria 3.4 and 3.5, provide examples of how these techniques were used.
- 3.7.8 Describe your firm’s service support philosophy, how is it carried out, and how success in keeping this philosophy is measured.

- 3.7.9 Describe the types of records, reports, monitoring systems, and information management systems, which your firms used in the management of the projects listed above. Describe how you used these systems for any combination of three (3) projects listed in response to Criteria 3.4 and 3.5.
- 3.7.10 Describe how you plan to ensure continuity of project objectives starting with design solution, moving through construction documents, and finishing with a constructed project that meets the Owner's requirements.
- 3.7.11 Describe the project team's experience in sustainable design and improved indoor air quality.
- 3.7.12 Describe the project team's experience in managing the impact of MEP systems on renovation/historic buildings.
- 3.7.13 Describe the project team's approach to assuring timely completion of this project, including methods you will use for schedule recovery if necessary.
- 3.7.14 Describe how you track Owner input and review comments on your design document submittals to confirm that they have been addressed. Provide examples of reports/logs used for tracking response to and closure on Owner comments.

3.8 CRITERIA NINE: RESPONDENT'S ABILITY TO IDENTIFY AND RESOLVE PROBLEMS ON PAST PROJECTS

- 3.8.1 Describe your understanding of the administrative challenges and opportunities associated with providing Design and Construction Administration services for The University of Texas System on this project, and your strategy for resolving these issues.
- 3.8.2 What do you perceive are the critical issues for this project?
- 3.8.3 Understanding schedule limitations provide an analysis of the Owner's project planning schedule and describe how you plan to develop and communicate design, scope, and budget options in a form that will quickly facilitate the Owner's decision-making.
- 3.8.4 Describe the project team's experience with renovation/expansion projects in occupied facilities.
- 3.8.5 For any combination of three (3) projects listed in response to Criteria 3.4 and 3.5, describe any conflicts with the Owner, Consultants, Contractor, or subcontractors, and describe the methods your firms used to resolve those conflicts.
- 3.8.6 Provide examples of how the Respondent has creatively incorporated mechanical, electrical, and plumbing solutions in similar structures.
- 3.8.7 In a predominately MEP project, how does the Project Team intend to structure the consulting agreement with the MEP firms to ensure that adequate resources are available to produce effective solutions?

3.9 CRITERIA TEN: EXECUTION OF OFFER

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S QUALIFICATIONS. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE QUALIFICATIONS MAY RESULT IN REJECTION OF THE QUALIFICATIONS.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED QUALIFICATIONS OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S QUALIFICATIONS, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT OWNER'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.

- 3.9.1 By signature hereon, Respondent acknowledges and agrees that (1) this RFQ is a solicitation for Qualifications and is not a contract or an offer to contract; (2) the submission of Qualifications by Respondent in response to this RFQ will not create a contract between the Owner and Respondent; (3) the Owner has made no representation or warranty, written or oral, that one or more contracts with the Owner will be awarded under this RFQ; and (4) Respondent shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this RFQ.
- 3.9.2 By signature hereon, Respondent offers and agrees to furnish to the Owner the products and/or services more particularly described in its Qualifications, and to comply with all terms, conditions and requirements set forth in the RFQ documents and contained herein.
- 3.9.3 By signature hereon, Respondent affirms that he has not given, 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 the submitted Qualifications.
- 3.9.4 By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.
- 3.9.5 By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firms, corporation, partnership or Owner represented by the Respondent, or anyone acting for such firms, corporation, or institution has violated the antitrust laws of this state, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly, indirectly the Qualifications made to any competitor, or any other person engaged in such line of business.
- 3.9.6 By signature hereon, Respondent represents and warrants that:
 - 3.9.6.1 Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFQ;

- 3.9.6.2 Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFQ;
 - 3.9.6.3 Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;
 - 3.9.6.4 Respondent understands (i) the requirements and specifications set forth in this RFQ and (ii) the terms and conditions set forth in the Contract under which Respondent will be required to operate;
 - 3.9.6.5 Respondent, if selected by the Owner, will maintain insurance as required by the Contract;
 - 3.9.6.6 All statements, information and representations prepared and submitted in response to this RFQ are current, complete, true and accurate. Respondent acknowledges that the Owner will rely on such statements, information and representations in selecting the successful Respondent. If selected by the Owner as the successful Respondent, Respondent will notify the Owner immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.
- 3.9.7 By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the RFQ is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of Respondent's Qualifications.
- 3.9.8 By signature hereon, Respondent certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Resident Respondent as defined in Rule 1 TAC 111.2.
- 3.9.9 By signature hereon, Respondent certifies as follows:
- 3.9.9.1 "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
 - 3.9.9.2 "Under Section 2155.004, *Texas Government Code*, the vendor or applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
 - 3.9.9.3 "Under Section 2254.004, *Texas Government Code*, the vendor or applicant certifies that each individual or business entity which is an engineer or architect proposed by Respondent as a member of its team was selected based on demonstrated competence and qualifications only."
- 3.9.10 By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any University of Texas component, or Respondent has not been an employee of any University of Texas component within the immediate twelve (12) months

prior to your RFQ response. All such disclosures will be subject to administrative review and approval prior to the Owner entering into any contract with Respondent.

- 3.9.11 By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this RFQ. (Ref. Section 2155.004 Texas Government Code).
- 3.9.12 Respondent represents and warrants that all articles and services quoted in response to this RFQ meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.
- 3.9.13 By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 3.9.14 By signature hereon, Respondent agrees to defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Respondent's Qualifications.
- 3.9.15 By signature hereon, Respondent agrees that any payments that may become due under any agreements or other contractual arrangements, which may result from the submission of Respondent's Qualifications, will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 3.9.16 By signature hereon, Respondent certifies that no member of the Board of Regents of The University of Texas System, or the Executive Officers of the University of Texas System or its component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of the contract.

3.9.17 Execution of Offer: RFQ No. 742-18-106

The Respondent must complete, sign and return this Execution of Offer as part of their submittal response. The Respondent's company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this form will subject the submittal to disqualification.

Respondent's Name: _____

Respondent's State of Texas Tax Account No: _____
(This 11-digit number is mandatory)

If a Corporation:

Respondent's State of Incorporation: _____

Respondent's Charter No: _____

Identify by name, each person who owns at least 25% of the Respondent's business entity:

(Name)

(Name)

(Name)

(Name)

Submitted and Certified By:

(Respondent's Name)

(Title)

(Street Address)

(Telephone Number)

(City, State, Zip Code)

(Fax Number)

(Authorized Signature)

(Date)

SECTION 4 – FORMAT FOR STATEMENT OF QUALIFICATIONS

4.1 GENERAL INSTRUCTIONS

- 4.1.1 Qualifications shall be prepared **SIMPLY AND ECONOMICALLY**, providing a straightforward, **CONCISE** description of the respondent's ability to meet the requirements of this RFQ. Emphasis shall be on the **QUALITY**, completeness, clarity of content, responsiveness to the requirements, and an understanding of Owner's needs.
- 4.1.2 Qualifications shall be a **MAXIMUM OF FIFTY (50) PRINTED PAGES**. The cover, table of contents, divider sheets, HUB Subcontracting Plan (Section 1.13), and Execution of Offer do not count as printed pages.
- 4.1.3 Respondents shall carefully read the information contained in this RFQ and submit a complete response to all requirements and questions as directed. Incomplete Qualifications will be considered non-responsive and subject to rejection.
- 4.1.4 Qualifications and any other information submitted by respondents in response to this RFQ shall become the property of the Owner.
- 4.1.5 The Owner will not compensate respondents for any expenses incurred in Qualifications preparation or for any presentations that may be made, unless agreed to in writing in advance or required by law. Respondents submit Qualifications at their own risk and expense.
- 4.1.6 Qualifications that are qualified with conditional clauses, alterations, items not called for in the RFQ documents, or irregularities of any kind are subject to rejection by the Owner, at its option.
- 4.1.7 The Owner makes no representations of any kind that an award will be made as a result of this RFQ, or subsequent RFP. The Owner reserves the right to accept or reject any or all Qualifications, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFQ when deemed to be in Owner's best interest.
- 4.1.8 Qualifications shall consist of answers to questions identified in Section 3 of the RFQ. It is not necessary to repeat the question in the Qualifications; however, it is essential to reference the question number with the corresponding answer.
- 4.1.9 Failure to comply with all requirements contained in this Request for Qualifications may result in the rejection of the Qualifications.

4.2 PAGE SIZE, BINDING, DIVIDERS, AND TABS:

- 4.2.1 Qualifications shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings or staples. **DO NOT USE METAL-RING HARD COVER BINDERS.**
- 4.2.2 Additional attachments shall **NOT** be included with the Qualifications. Only the responses provided by the respondent to the questions identified in Section 3 of this RFQ will be used by the Owner for evaluation.
- 4.2.3 Separate and identify each criteria response to Section 3 of this RFQ by use of a divider sheet with an integral tab for ready reference.

4.3 TABLE OF CONTENTS:

4.3.1 Submittals shall include a “Table of Contents” and give page numbers for each part of the Qualifications.

4.4 PAGINATION:

4.4.1 Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.); the Respondent is not required to number the pages of the HUB Subcontracting Plan.

4.5 HUB SUBCONTRACTING PLAN SUBMITTAL:

4.5.1 Submit one original and one copy of the HUB Subcontracting Plan **in a separate attachment apart from the submittal of qualifications.**

SECTION 5 - ATTACHMENTS TO THE RFQ

5.1 Draft Agreement Between the Owner, and Project Architect/Engineer

5.2 Exhibit H: Policy on Utilization Historically Underutilized Businesses

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The Project Architect shall provide the usual and customary Basic Services necessary and reasonably inferable to complete the Project and each phase of the project described in Paragraphs 1.2 through 1.6, below, along with any Additional Services requested by the Owner.

1.1 Basic Services

1.1.1 Basic Services. The Project Architect's Basic Services included all disciplines identified in Article 14 and all related usual and customary design, consultant, and other services necessary and reasonably inferable to complete the Project, or any phase of the Project, in accordance with the Owner's requirements and the terms of this Agreement.

1.1.2 The Facilities Program (see Article 2) describes the intended project scope and character along with the anticipated Project Schedule and the Preliminary Project Cost. It is the Project Architect's responsibility to review and understand the requirements of the Facilities Program and to perform his professional services so as to achieve those objectives.

1.1.3 The Construction Cost Limitation for this Project is specified in Article 14. The Project Architect is responsible for managing the design of the Project so that its construction does not exceed the Construction Cost Limitation.

1.1.4 The Owner may require the Project Architect to provide services for the Project in multiple stages or parts identified as Construction Contract Stages (CCS). Each CCS shall have a unique Sub-Construction Cost Limitation (SCCL). The Project Architect is responsible for managing the design of each CCS so that its construction does not exceed the SCCL. The Project Architect is responsible for managing the design of the Project so that sum of all SCCLs does not exceed the Construction Cost Limitation.

1.1.5 The Project Architect shall manage the design of the Project to achieve the Facilities Program objectives of scope and cost through completion and acceptance of Construction Documents phase. The Project Architect shall advise the Owner of any adjustments to the scope or quality of the Project necessary to comply with the Construction Cost Limitation during design development as part of Basic Services.

1.1.6 The Project Architect shall submit the names of all consultants, persons, or firms, which the Project Architect proposes to use in the execution of its services and shall provide the Owner with a fully executed copy of each contract or agreement that the Project Architect enters into with any consultant. The Project Architect is responsible for coordinating the work of all of its consultants to assure that their services are appropriate for and adequately incorporated into the design of the Project. The Owner reserves the right, in its sole discretion, to reject the employment by Architect of any consultant for the Project to which Owner has a reasonable objection. Architect, however, shall not be required to contract with any consultant to which it has a reasonable objection.

1.1.7 The Project Architect shall pay for its consultants' services out of its fees. The Owner is not responsible for any consultant fees or costs unless expressly agreed to in writing.

1.1.8 The Project Architect agrees to allocate work to consultants that are historically underutilized businesses in accordance with the Policy on Utilization – Historically Underutilized Businesses, attached as Exhibit. No changes to the HUB Subcontracting Plan may be made unless approved in writing by the Owner. While this Agreement is in effect and until the expiration of one year after final completion, the Owner may require information from the Project Architect, and may conduct audits, to assure that the Plan is followed.

1.1.9 The Project Architect shall design the Project to incorporate current systems technology as appropriate to the stated mission of the institution and the programmed functional activities. The technology shall be compatible with any existing facility and acceptable to the Owner.

1.1.10 The Project Architect shall perform its services in accordance with the Owner furnished Owner's Design Guidelines, a copy of which has been provided to Project Architect and is incorporated herein by reference.

1.1.11 The Project Architect shall design the Project in accordance with the approved Campus Master Plan.

1.1.12 Basic design services shall include incorporation of the provisions of the Energy Conservation Design Standard for New State Buildings as administered by the State Energy Conservation Office, State Comptroller's Office of the State of Texas. Project Architect shall provide the Owner with a Statement of Compliance and associated compliance documentation as required.

1.1.13 During the planning stage of the Project, the Architect shall, as part of Basic Services, assist the Owner in determining the economic feasibility of incorporating alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions into the Project design and proposed energy systems in accordance with Section 2166.403(c-1) *Texas Government Code*. At a minimum, Project Architect shall provide an economic evaluation for the potential of renewable energy applications pursuant to the legislative requirements. Guidelines are available from the State Energy Conservation Office, State Comptroller's Office.

1.1.14 Basic design services shall include incorporation of the provisions of the Xeriscape Landscaping design requirements as adopted by the State of Texas Building & Procurement Division for Xeriscape landscaping on new construction projects, pursuant to Section 2166.404 *Texas Government Code*. Project Architect shall provide site analysis and design to incorporate these provisions. A summary of the project requirements meeting these guidelines shall also be provided for the Design Development submittal package.

1.1.15 The Project Architect, as part of Basic Services, shall engage a recognized and specialized construction cost estimating consultant acceptable to the Owner to prepare detailed Construction Cost Estimates of the Project in a form acceptable to the Owner following the Construction Specifications Institute (CSI) format. Updated Estimates shall be included with the plans and specifications submitted for review at completion of the Design Development phase and at the stages of completion of the Construction Documents required in Article 14. If the Construction Cost Estimate exceeds the Construction Cost Limitation at any time, the Owner will determine whether to increase the Construction Cost Limitation or require the Project Architect to revise the Project scope or quality to comply with the Construction Cost Limitation at no additional cost to Owner. Reductions in Project scope or quality are subject to Owner's review and approval. If the Construction Cost Estimate is below the Construction Cost Limitation, the Owner and Project Architect shall mutually agree on changes to the project scope or the Construction Cost Limitation.

1.1.16 The Project Architect shall submit documents to the Owner for review at completion of the Schematic Design and Design Development phases and at the stages of completion of the Construction Documents as described in Article 14. The Project Architect shall incorporate into the documents such corrections and amendments as the Owner requests, unless the Architect objects in writing and receives the Owner's consent not to make the changes. The Project Architect will be responsible for any damages incurred by the Owner that are caused by Project Architect's failure to incorporate requested corrections and amendments to the documents.

1.1.17 Project Architect shall provide a review and comment form acceptable to the Owner for Owner's use during document review. Owner will provide its review comments to Project Architect on the form and the Project Architect shall provide a detailed written response to each of the Owner's review comments indicating where and how they have been addressed in the design documents. At each required document submittal stage, the Project Architect shall include the completed comment form from the preceding submittal along with a cover letter signed by a firm principal affirming that the previous review comments have been fully addressed in the current submittal. Failure to respond to the previous comments or to provide the written affirmation may result in reduction or rejection of the Project Architect's then current Statement for Architectural/Engineering Services. Owner's approval of the revised drawing shall not be deemed to be an approval of any unlisted changes, and any costs or expense for any Project Architect's additional services subsequently incurred for such unlisted changes shall be borne or reimbursed by Project Architect.

1.1.18 The Project Architect, as part of Basic Services, shall become sufficiently familiar with the existing facilities, systems and conditions at the Project location so that the proposed Project will completely and properly interface functionally with them.

1.1.19 Project Architect agrees and acknowledges that Owner is entering into this Agreement in reliance on Project Architect's represented professional abilities with respect to performing Project Architect's services, duties, and obligations under this Agreement. Project Architect shall perform its Services (i) with the professional skill and care ordinarily provided by competent architects practicing in the same or similar locality and 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 architect; and (iii) in compliance with all applicable national, federal, state, municipal, and State

of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. There are no obligations, commitments, or impediments of any kind known to the Project Architect that will limit or prevent performance by Project Architect of its services. Project Architect hereby agrees to correct, at its own cost, any of its Services, and the services of its consultants, that do not meet the standard of care.

1.1.20 Project Architect shall take reasonable precautions to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Project Architect (by Owner or any other party) that Project Architect uses for the Project. Project Architect shall identify to the Owner in writing any such documents or data which, in Project Architect's professional opinion, are unsuitable, improper, or inaccurate in connection with the purposes for which such documents or data are furnished. Owner does not warrant for the accuracy or suitability of such documents or data as are furnished unless Project Architect advises Owner in writing that in Project Architect's professional opinion such documents or data are unsuitable, improper, or inaccurate and Owner confirms in writing that it wishes Project Architect to proceed in accordance with the documents or data as originally given.

1.1.21 Project Architect's services shall be reasonably accurate and free from any material errors or omissions. Neither acceptance nor approval of Project Architect's services by the Owner shall relieve Project Architect of any of its professional duties or release it from any liability, it being understood that Owner is, at all times, relying upon Project Architect for its skill and knowledge in performing Project Architect's services. Owner shall have the right to reject any of Project Architect's services because of any fault or defect in the Project due to any material errors or omissions in the plans, drawings, specifications, and other materials prepared by Project Architect or its consultants. Upon notice of any such errors or omissions, Project Architect shall promptly provide any and all services necessary to correct or remedy them at no additional cost to the Owner. Project Architect's obligation to correct its errors and omissions is in addition to, and not in substitution for, any other remedy for defective services which Owner may have at law or in equity, or both.

1.1.22 The Project Architect shall not proceed to any phase of design not expressly authorized by the Owner, except at the Project Architect's own financial risk.

1.1.23 Project Architect agrees to furnish efficient business administration and superintendence and to use Project Architect's best efforts to design the Project in an expeditious and economical manner consistent with the interest of Owner and Project Architect's professional skill and care.

1.1.24 Project Architect shall allocate adequate time, personnel and resources as necessary to perform its services. Project Architect's Senior Principal(s) responsible for managing the Project is identified in Exhibit C and shall not be changed without the prior approval of the Owner. The day-to-day Project team will be led by the Senior Principal(s) unless otherwise directed by Owner or prevented by factors beyond the control of Project Architect. The Senior Principal(s) shall act on behalf of Project Architect with respect to all phases of Project Architect's Services and shall be available as required for the benefit of the Project and Owner.

1.1.25 Project Architect shall make reasonable efforts to investigate any documents provided by the Owner and the visible existing conditions at the Project site to identify existing systems and construction which must be modified to accommodate the Project Architect's design for the Project and the construction of the Project. The Project Architect shall identify to Owner any discrepancies between the documents and visible conditions, and shall consult with the Owner on any special measures, services or further investigations required for Project Architect to perform its services free from material errors and omissions and to properly coordinate with existing systems and construction. This investigation shall be accomplished by registered, professional architects and engineers, as appropriate.

1.1.26 The Project Architect, when requested by the Owner, shall coordinate the purchase of additional reprographic materials for bidding or proposal purposes or when additional review sets, in excess of those required by Article 1.4. is required by the Owner. The Project Architect shall present a Tax Exemption Certificate to the vendor and coordinate the Owner's requirements for type, quantity and invoice billing. When requested, the Project Architect will account to the Owner for all additional materials ordered by the Owner through the A/E as the Owner's agent and shall distinguish between those materials ordered on behalf of the Owner without sales tax and any other copies thereof that Project Architect, or others, may order and pay for which includes sales tax, on its own or their behalf. Forward to the Owner the original vendor's invoice for materials purchased by the Owner and delivered to the A/E as the Owner's agent.

1.1.27 When the project is subject to Texas Commission on Environmental Quality (TCEQ) regulations, Project Architect shall coordinate all related design efforts, including the civil engineer and landscape architect, so that consideration of site design and Best Management Practices (BMP's) are integrated.

1.1.28 Insurance Coverage. The Project Architect shall carry professional liability/errors and omissions insurance, covering the services provided under this Agreement and other coverages as required below with companies authorized to do business in the State of Texas or an eligible surplus lines insurer operating in accordance with the Texas Insurance Code, having an A.M. Best Rating of A-:VII or better, and in amounts as further described, acceptable to and approved by the Owner. The costs of such insurance will be at the expense of the Project Architect. The insurance policy shall remain in force for a period of two (2) years beyond the final completion date. Each request for payment by the Architect shall include the expiration date of the insurance. Project Architect shall deliver to Owner replacement certificates not less than thirty (30) days after the expiration of any such insurance.

a) Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance shall cover all professional services rendered by or on behalf of the Project Architect and its consultants under the Agreement. Renewal policies written on Claims-Made basis will maintain the same retroactive date as is in effect at the inception of this Agreement. If coverage is written on a claims-made basis, Project Architect agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of this policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least two years after the expiration of cancellation of this policy.

b) On Site Insurance: For services performed on Owner's premises, the Project Architect shall furnish to Owner Certificates of Insurance as set forth below prior to the performance of any work hereunder and shall maintain such coverage during the full term of the Agreement.

<u>Worker's Compensation</u>	<u>Statutory Limits</u>
<u>Employer's Liability</u>	
<u>Bodily Injury by Accident</u>	<u>\$1,000,000 each accident</u>
<u>Bodily Injury by Disease</u>	<u>\$1,000,000 each employee</u>
<u>Bodily Injury by Disease</u>	<u>\$1,000,000 policy limit</u>
<u>Commercial General Liability</u>	<u>\$1,000,000 each occurrence</u> <u>\$2,000,000 aggregate</u>
<u>Business Auto Liability</u>	
<u>Single Limit</u>	<u>\$1,000,000 each occurrence</u>

c) Notice of Cancellation: Required insurance shall not be cancelable without thirty (30) days' prior written notice to Owner.

1.1.29 Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Project Architect under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than 30 days after each annual insurance policy renewal. All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents of The University of Texas System, The University of Texas System and University as Additional Insured for activities arising out of this contract on an ISO (CG 20 10 0704) or equivalent form. Workers compensation insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The University of Texas System, The University of Texas System and University. Commercial General Liability and Business Auto Liability insurance policies will be endorsed to provide primary and non-contributory coverage.

1.1.30 Project Architect is responsible for any self-insured retentions, or deductibles that apply to any policy limit required herein.

1.1.31 Certificates of Insurance. Approved Texas Department of Insurance certificates will be mailed, faxed, or emailed to the following University contact.

University Procurement Contact: Debbie Reynolds

Email Address: Reynolds_d@utpb.edu

1.1.32 The insurance policies required in this Agreement will be kept in force for the periods a) specified below:

- a) Required coverages will be kept in force until receipt of Final Payment to Project Architect by University;
- b) Workers' Compensation Insurance and Employer's Liability insurance will be kept in force until the Work has been fully performed and accepted by University in writing.

1.2 Schematic Design Phase

1.2.1 Based on the mutually agreed upon Facilities Program, Construction Cost Limitation and the Project Schedule, the Project Architect shall prepare sufficient alternative approaches to design and construction of the Project to satisfy Owner's requirements and shall, at completion of this phase, submit Schematic Design Documents in accordance with Owner's Design Guidelines and any additional requirements set forth in Article 14.

1.2.2 Project Architect shall provide all services necessary to perform the services of this Phase (preparation of Schematic Design Documents) including, without limitation, unless otherwise approved by Owner, the preparation and prompt delivery of all items specified in Owner's Design Guidelines.

1.2.3 Project Architect shall work closely with Owner in preparation of schematic drawings and shall specifically conform to Owner's requirements regarding aesthetic design issues.

1.2.4 The Project Architect shall furnish and deliver to the Owner the number of complete printed sets of Schematic Design documents as enumerated in Article 14.

1.2.5 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Schematic Design Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Schematic Design Documents as may be required.

1.2.6 Before proceeding into the Design Development Phase, the Project Architect shall obtain Owner's written acceptance of the Schematic Design documents and approval of the Project Architect's preliminary construction cost estimate and schedule.

1.3 Design Development Phase

1.3.1 Based on the approved Schematic Design Documents and any adjustments to the Facilities Program or Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner, Design Development Documents in accordance with Owner's written requirements to further define and finalize the size and character of the Project in accordance with Owner's Design Guidelines and any additional requirements set forth in Article 14.

1.3.2 The Project Architect shall furnish and deliver to the Owner the number of complete printed sets of Design Development documents as enumerated in Article 14.

1.3.3 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Design Development Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Design Development Documents as may be required.

1.3.4 Before proceeding into the Construction Document Phase, the Project Architect shall obtain Owner's written acceptance of the Design Development documents and approval of the mutually established Construction Cost Limitation and schedule.

1.3.5 The Project Architect shall prepare presentation materials as defined in Owner's Design Guidelines at completion of Design Development and if so requested shall present same to the Board of Regents at a regular meeting where scheduled within the state.

1.3.6 The Project Architect shall prepare preliminary recommended furniture layouts for all spaces where it is deemed important to substantiate the fulfillment of program space requirements, or to coordinate with specific architectural, mechanical and electrical elements.

1.3.7 Project Architect shall assist the Owner with seeking approval of the project by the Texas Higher Education Coordinating Board (THECB). Such assistance shall include (i) the preparation of a listing of the rooms, room type and usage codes, and square footages in the project, and (ii) the preparation of project cost information, in accordance with THECB Guidelines. This information shall be provided at the completion of the Design Development Phase when requested by the Owner. The listing of rooms, room type and usage codes, and square footages shall then be updated to reflect any changes occurring during construction and provided to the Owner at Substantial Completion. Project Architect shall provide this updated information on the "Project Scope Summary Questionnaire Form" which can be found in the Owner's Design Guidelines.

1.4 **Construction Document Phase**

1.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Project Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications in accordance with Owner's written requirements setting forth in detail the requirements for construction of the Project, including, without limitation, Owner's Design Guidelines and any additional requirements contained in Article 14. The plans, drawings and specifications for the entire Project shall be prepared so that the construction of the building and related facilities, including built-in permanent fixtures and equipment, will cost no more than the Construction Cost Limitation established by Owner. The Project Architect is responsible for managing the design to stay within the Construction Cost Limitation.

1.4.2 The Project Architect shall advise the Owner on matters such as construction phasing and scheduling, bid or proposal alternates, special cash allowances, liquidated damages, the construction contract time period, and other construction issues appropriate for the Project.

1.4.3 The Project Architect shall assist the Owner in connection with the Owner's responsibility and procedures for obtaining approval of all authorities having jurisdiction over the Project.

1.4.4 The Project Architect shall ensure coordination and inclusion of sequence of operations for all operable systems in the facility.

1.4.5 The Project Architect, at the Project Architect's expense, at each stage of review described in Article 14, shall furnish and deliver to the Owner the number of complete printed copies of all plans, drawings and specifications of every character made or furnished in connection with the Work, as enumerated in Article 14, which copies shall become the property of the Owner. The Project Architect shall incorporate into the plans, drawings and specifications such changes as are necessary to satisfy the Owner's written review comments or published meeting minutes, any of which may be appealed in writing for good cause.

1.4.6 The Project Architect shall pay for the reproduction of all plans, specifications and other documents for use by the Project Architect and its consultants and all documents reproduced for the various completion stage reviews (as set forth in Article 14) by the Owner prior to the reproduction of bidding or proposal documents. All other reproduction costs shall be borne by the Owner, provided that all invoices for such reproduction work are billed directly to the Owner, free of state sales taxes, and identified by the Project Architect as to the project name, number and institution. However, addenda documents issued after the bid documents are reproduced, except for changes generated by Owner, shall be supplied at the Project Architect's expense.

1.4.7 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Construction

Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Construction Documents as may be required.

1.4.8 Construction document drawings shall be produced on a CADD system as part of Basic Services. The Owner will define the CADD drawing requirements and the final media for the CADD data.

1.4.9 The Project Architect shall participate in a final review of the Construction Documents with the Owner at the Project location or other location specified by Owner in the State of Texas. Prior to the Owner's approval of the Construction Documents, the Project Architect shall incorporate such changes as are necessary to satisfy the Owner's review comments.

1.4.10 At the completion of the Construction Document Phase, the Project Architect shall complete the "Project Scope Summary Questionnaire Form" which is attached as an Exhibit to this Agreement. The information shall be based on the completed scope of work as defined in the documents.

1.4.11 Before proceeding into the Bidding and Proposal Phase, the Project Architect shall obtain Owner's written acceptance of the Construction Documents and approval of the mutually established Final Construction Cost Limitation.

1.5 **Bidding and Proposal Phase**

1.5.1 The Project Architect shall assist the Owner in obtaining and evaluating bids or proposals, and assist in awarding contracts for construction, including preparation for and attendance at Prebid or Preproposal Conferences and HUB meetings. Project Architect shall answer inquiries from bidders and proposers at Owner's request, and shall prepare and issue any necessary addenda to the bidding or proposal documents. The Project Architect shall maintain a register of bid and proposal documents, distribute documents to bidders, proposers, and plan rooms, and obtain and administer deposits.

1.5.2 The Project Architect shall investigate the responsibility of apparent low bidders or proposers and inform Owner in writing of its findings and recommendations. For proposers selected by qualifications and by competitive sealed proposals, the Project Architect shall investigate qualifications and other pertinent proposal information and inform the Owner in writing of its findings and recommendations.

1.5.3 In the event the best value proposal received for the Project exceeds the Final Construction Cost Limitation established at the completion of the Construction Document Phase, the Project Architect, without charge to the Owner, and if so directed by Owner, shall revise the drawings and specifications as necessary to bring the cost of the Project within the Final Construction Cost Limitation. The Owner reserves the right to accept a proposal and award a construction contract that exceeds the Final Construction Cost Limitation, if such award is determined by Owner to be in the Owner's best interest.

1.6 **Construction Phase—Administration of the Construction Contract**

1.6.1 The Construction Phase shall commence with the award of the Contract for Construction and issuance of (i) a Notice to Commence On-Site Work or (ii) a Notice to Proceed with Construction Services and terminate sixty (60) days after Final Payment to the Contractor is made, or when all of Project Architect's services have been satisfactorily performed, whichever occurs later.

1.6.2 Project Architect shall provide administration of the Contract for Construction as set forth below and in the edition of the Owner's Design Guidelines current as of the date of this Agreement.

- a) The Project Architect shall coordinate with the Contractor to establish and maintain a numbering and tracking system for all Project records, including changes, requests for information, submittals, and supplementary instructions and shall provide updated records at each Owner's monthly meeting and when requested. The Project Architect shall manage and execute all Change Orders.
- b) The Project Architect shall chair all meetings scheduled by the Owner or Project Architect and shall promptly provide summary notes to all parties. The Project Architect shall attend Contractor's regularly scheduled planning meetings when requested.

1.6.3 The Project Architect shall review the Contractor's list of proposed subcontractors for the work, initial administrative submittals for Project Schedule, Schedule of Values, Submittal Schedule, and Equipment Matrix to establish appropriate bases for construction monitoring, payment processing, and system commissioning. The Project Architect shall identify necessary revisions to

the documents in writing to the Contractor and recommend acceptance of the documents by the Owner when appropriate. The Project Architect shall review periodic updates of all schedules with Owner and Contractor to evaluate appropriateness.

1.6.4 The Project Architect and its consultants shall prepare appropriate materials for and conduct a Pre-Construction Conference at the site prior to commencement of construction by the Contractor.

1.6.5 The Project Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Contractor shall be forwarded through the Project Architect. The Project Architect shall have authority to act on behalf of the Owner to the extent provided in the Contract Documents. Duties, responsibilities and limitations of authority of the Project Architect shall not be restricted, modified or extended without written acceptance of the Owner.

1.6.6 Site Visits. The Project Architect shall visit the site at least once each week during the entire construction period to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Each of Project Architect's consultant shall visit the site at least once each week during construction activities related to the consultant's discipline to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Project Architect and its consultants shall submit written reports of their site visits and meetings. The Project Architect shall not be required to make exhaustive or continuous onsite visits to inspect the quality or quantity of the Work.

- a) On the basis of the onsite observations, the Project Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. Project Architect shall notify Owner and the Contractor in writing of any portions of the work which Project Architect has observed as not being in conformity with the Construction Documents and make recommendations as to correction of the deficiencies or defects. Project Architect shall make its site representative available and shall consult with Owner and the Contractor on the occasion of all circumstances arising during the course of construction which would make such consultation in Owner's interests.
- b) In addition to site visits for general inspection and observation, the Project Architect and its consultants shall visit the site for specific purposes related to certification of progress payments, start-up or mock-up reviews for significant work activities and for formal inspections of the Work. The Project Architect and its consultants shall provide written reports of all site visits to the Owner and Contractor.

1.6.7 The Project Architect shall prepare an agenda for, and conduct monthly job conferences for attendance by representatives of the Contractor, major subcontractors, the Project Architect and the Owner, and prepare and distribute minutes of the meetings.

1.6.8 The Project Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

1.6.9 The Project Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.6.10 The Project Architect shall determine the amounts owing to the Contractor based on observations of Work placed at the site and on evaluations of the Contractor's Application for Payment, and shall coordinate its review and evaluation with the Owner's representatives, and shall certify Contractor's Application for Payment in an appropriate amount.

1.6.11 The certification of a Contractor's Application for Payment shall constitute a representation by the Project Architect to the Owner, based on the Project Architect's observations at the site and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that, to the best of the Project Architect's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Contractor's Application for Payment); and that the Contractor is entitled to payment in the amount certified. However, the approval of a Contractor's Application for Payment shall not be a representation that the Project Architect has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Contract Sum.

1.6.12 The Project Architect shall be the interpreter of the technical requirements of the Contract Documents and the judge of the performance of the work of the Contractor. The Project Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written recommendations within a reasonable time, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

1.6.13 Interpretations and recommendations of the Project Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form.

1.6.14 Subject to approval of the Owner, the Project Architect's decisions in matters relating to artistic effect shall be final if consistent with and reasonably inferable from the intent of the Contract Documents. The Project Architect shall review interior designs and/or furniture selections proposed by the Owner and advise the Owner on their aesthetic compatibility with the Project Architect's design.

1.6.15 The Project Architect shall have the responsibility and the authority, with appropriate notification to the parties, to reject Work which does not conform to the Contract Documents. Whenever, in the Project Architect's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Project Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work will then be fabricated, installed or completed. The Project Architect shall review construction materials testing and any special testing required and shall provide recommendations for retesting, actions, or any appropriate corrective measures as may be necessary or appropriate based on the results of such tests.

1.6.16 The Project Architect and its consultants shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work set forth in the Contract Documents, and shall respond to Contractor's inquiries and questions and provide supplemental information as appropriate. Action on submittals shall be taken with reasonable promptness so as to cause no delay to the Contractor's scheduled progress, but in any event no more than fourteen (14) calendar days after receipt. The Project Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Project Architect's review shall not constitute approval of any construction means or methods.

1.6.17 Project Architect shall clarify and interpret the intent and scope of the Construction Documents and, if necessary or appropriate, issue supplemental documents to amplify or explain portions of the Construction Documents.

1.6.18 Project Architect shall provide assistance in the review of the Contractor's requests for change orders or claims for additional time or costs, and make recommendations to Owner as to such requests or claims.

1.6.19 The Project Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents. In conjunction with each Change, the Project Architect shall prepare an independent cost and time estimate for comparison with the Contractor's proposal and recommend to the Owner whether the proposal is acceptable.

1.6.20 Project Architect shall prepare revised Contract Drawings, where appropriate, to illustrate and document the work required by approved Change Orders. All proposed changes to drawings plans and specifications, regardless of how initiated, shall be totally defined in the document depicting them as to scope of work added, removed, or changed. The original copies of the Construction Documents maybe revised to show such changes, provided that all such revisions shall be separately recorded on the media acceptable to Owner, including, without limitation, CADD. Such revisions shall be clearly indicated and a current revision date shall be included on the reproducible copy. Changes to the specifications shall be made by consecutively numbered and dated addenda. All changes to design documents or specifications will be identified with date of change, revision number and other customary identification references. Areas changed on drawings will be "clouded" to show each change. Clouds designating previous changes will be removed so that only the most recent changes will be clouded.

1.6.21 Project Architect and its consultants shall conduct and participate in concealed space observations, systems start-up observations, systems integration/operational demonstrations, Substantial Completion or pre-Final work observations to determine the Dates of Substantial Completion, and Final work observation. In association with each observation, Project Architect and its consultants shall prepare a list of items which Project Architect and its consultants have observed as deficiencies in the Work,

requiring remedial work or replacement, assemble and distribute the official punch(s) to all affected parties, and thereafter review the corrected and/or replaced work and assist in verification of correction of all items.

1.6.22 Project Architect shall review, for conformance with the Contract Documents, Contractor's submission of guarantees and warranties.

1.6.23 The Project Architect and its consultants shall assist the Owner in checking as-built drawings during the course of the Work in association with certifying progress payments and shall review as-built documents for completeness and compliance with Contract requirements at Substantial Completion and at Final Completion of the Project.

1.6.24 Project Architect shall receive and review Contractor's submission of record drawings, operating and maintenance instructions, and all manuals, brochures, drawings, and other close-out documentation furnished by the Contractor, shall require necessary revisions to same, and when acceptable under the terms of the Contract between Owner and Contractor, shall forward to Owner. The Project Architect shall certify final payment to the Contractor when the requirements of the Contract between Owner and Contractor have been met.

1.6.25 Project Architect shall monitor the Contractor's schedule for the construction phase work and assist the Owner in reviewing all relevant activities and advise the Owner of the Contractor's scheduled progress.

1.6.26 Project Architect shall provide a milestone schedule that is acceptable to the Owner and shall be submitted on a monthly basis prior to submission of construction payment application, in conformance with the project milestone schedule, so that the desired development and construction schedule for the Project shall be maintained.

1.6.27 The Project Architect shall be available after final payment to advise the Owner regarding Warranty items and to inspect Warranty work during the Warranty period. Project Architect shall participate in the Project's one year warranty review.

1.7 **Additional Services**

1.7.1 Additional Services are those services which shall be provided if authorized or confirmed in writing by the Owner and for which compensation will be provided as described in this Agreement in addition to Basic Compensation. Prior to commencing any Additional Service, Project Architect shall prepare for acceptance by the Owner an Additional Services Proposal, in the form attached hereto as an Exhibit, or other format as directed by Owner, which shall describe in detail the nature or scope of the Additional Services, the basis upon which Project Architect has determined that such service are Additional Services, and which shall set forth the maximum amount of fees and reimbursable expenses for which Project Architect is prepared to perform such Additional Services, together with a proposed schedule for the performances of such Additional Service. Those services which the Owner contemplates to be provided as Additional Services or considered to be Additional Services are described in Article 14. Project Architect shall proceed only after written acceptance by Owner of the Additional Services Proposal.

1.7.2 Upon acceptance by Owner, each Additional Services Proposal and the services performed by Project Architect pursuant to such Additional Services Proposal shall become part of this Agreement and shall be subject to all terms and conditions of this Agreement, as fully and completely as though the same had been included in this Agreement as a Basic Service at the original execution of this Agreement.

1.7.3 Providing services to make detailed investigations of existing conditions or facilities or to make measured drawings of them is an Additional Service except as reasonably necessary to verify the accuracy and completeness of drawings or other information furnished by the Owner and to the extent necessary for the Project Architect to complete its responsibilities hereunder free of material errors and omissions. Project Architect shall not be required to perform any destructive testing or to hire the services of a surveyor unless agreed to as an Additional Service.

1.8 **Time**

1.8.1 Project Architect shall perform all of Project Architect's services described herein as expeditiously as is consistent with (1) Project Architect's best professional efforts, skill and care, (2) the orderly progress of such services, and (3) in conformance with the project milestone schedules so that the desired development and construction schedule for the Project shall be maintained. Project Architect shall at all times provide sufficient personnel to accomplish Project Architect's services within the time limits set forth in the schedules described herein.

1.8.2 Attached hereto is an Exhibit containing a schedule for completion of each of the phases of services to be performed by Project Architect pursuant to this Agreement. The project schedule contains milestone dates which have been established in the Request for Qualifications previously issued or may be modified by the Owner to reflect current conditions. Supplemental activities shown on the schedule, and any associated dates not yet defined, shall be determined at the completion of the Program Phase or at such time when both parties mutually agree that the project is sufficiently developed and documented. Changes in this schedule may be made only with the written approval of Owner. Project Architect shall perform all of its services in accordance with the then-current schedule approved by Owner.

1.8.3 Project Architect shall provide an updated design milestone schedule that is acceptable to the Owner and shall be submitted on a monthly basis prior to submission of the Architect's design phase payment application, in conformance with the design project milestone schedule, so that the desired design schedule for the Project shall be maintained.

Article 2 Owner's Responsibilities

2.1 The Owner will provide a Facilities Program attached hereto as an Exhibit, or the Owner and Project Architect may agree that Project Architect shall prepare a Facility Program as an Additional Service as set forth in Article 14 of this Agreement. The Facility Program will set forth the Owner's description of the project scope, preliminary project cost, schedule, criteria for design objectives, characteristics and constraints, space requirements and relationships, site requirements, existing facilities, and desired special components, systems and equipment. If Project Architect prepares the Facility Program, then Owner will review the Facility Program when completed and then determine whether to proceed with the Project and authorize commencement of Basic Services. The Owner reserves the right to terminate the Agreement following completion of the Facility Program, and shall have no further obligation to Project Architect other than payment for services authorized by Owner and provided by Project Architect prior to such termination in accordance with the terms and conditions of this Agreement.

2.2 The Owner will provide a preliminary project budget and schedule for the Project. The budget will include the Construction Cost Limitation, contingencies for bidding and changes in the Work during construction, and other costs which are the responsibility of the Owner. The schedule attached hereto as an Exhibit, will set forth the Owner's plan for milestone dates and completion of the Project.

2.3 The Owner designates the Office of Facilities Planning and Construction as its representative authorized to act in the Owner's behalf with respect to the Project. The Owner's authorized representative shall examine the documents submitted by the Project Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Project Architect's services. The Associate Vice Chancellor for Facilities Planning and Construction is also designated as the Owner's representative for the purpose of administering this contract, including determination of fees earned by the Project Architect and equitable back charges against the Project Architect. The Owner shall have the right to withhold from payments due Project Architect such sums as the Owner deems reasonably necessary to protect Owner against any loss or damage which may result from negligence by Project Architect or failure of Project Architect to perform Project Architect's obligations under this Agreement pending final resolution of such claims.

2.4 The Owner, at Owner's cost, will secure the services of surveyors, geotechnical and laboratory testing engineers, or other special consultants to develop additional information to the extent necessary for the design of the project. The Project Architect shall provide the Owner with parameters for inclusion in the Owner's instructions to such providers.

2.5 The Owner shall arrange and pay for structural, mechanical, chemical and other laboratory tests as necessary during construction except as required of the Contractor in the Contract Documents.

2.6 The Owner shall furnish all legal, accounting, auditing and insurance counseling services as may be necessary for the Project.

2.7 The services, information, surveys and reports required by the preceding paragraphs shall be furnished at the Owner's expense.

2.8 If the Owner observes or otherwise acquires actual knowledge of any design fault or defect in the Project or conflict in the Contract documents, written notice thereof will be given by the Owner to the Project Architect; however, Owner shall have no obligation or duty to investigate whether such faults, defects, or conflicts exist.

2.9 The Owner will review the Project Architect's design at the completion of Schematic Design and Design Development and at completion of the stages of Construction Documents as described in Article 14. Comments concerning corrections or amendments to the plans and specifications will be furnished in writing to the Project Architect as promptly as possible after receipt of the documents for review. Owner's approval of the documents must be in writing and no approval may be deemed given in the absence of written approval. The Owner may require the Project Architect to halt production during design review.

2.10 The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Project Architect's services and of the Work.

2.11 At the time the Construction Documents are issued for construction bids/proposals, the Owner shall prepare a statement calculating the Project Architect's fees for the Project based upon the provisions of this Agreement and any adjustments to the fee calculation mutually agreed to during design. If Project Architect objects to the revised project fees, Project Architect must notify the Owner of its objections in writing within fourteen (14) days of receipt of the fee statement otherwise Project Architect's approval of the fee amounts shall be deemed given.

2.12 The Owner shall furnish one or more Construction Inspectors who shall be responsible for inspection of the Work, consisting of close, on-site examination of the materials, structure and equipment; and surveillance of the workmanship and methods used to insure that the Project is reasonably accomplished in accordance with the Contract Documents and good construction practices.

Article 3 Construction Cost—Definition

3.1 The Estimated Construction Cost shall be the total cost of all elements of the project, including all alternate bids or proposals, designed and specified by the Project Architect.

3.2 The Estimated Construction Cost shall include at current market rates a reasonable allowance for overhead, profit and general conditions, the cost of labor and materials furnished by the Owner and any equipment which has been shown in the plans, specified, and specially provided for by the Project Architect.

3.3 The Estimated Construction Cost does not include compensation to the Project Architect and the Project Architect's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Article 2.

Article 4 Direct Salary Expense

4.1 Direct Salary Expense ("DSE") is defined as the actual salaries, expressed on an hourly wage basis, prior to deductions for employment taxes (such as FICA, Medicare, income tax withholding) and employee-paid benefits, of all personnel, including Project Architect's employees directly engaged on the Project (and performing consultations or research or preparing designs, drawings, and specifications for the Project). DSE shall exclude mandatory and customary fringe benefits and employee benefits (such as employer-paid insurance, sick leave, holidays, vacation, pensions and similar contributions, or additions such as bonuses or other surplus payments), overhead expense (which includes salaries of bookkeepers, secretaries, clerks, and the like), and profit relating to the Project. Any multiplier applied to such DSE shall be for the purpose of covering such fringe benefits, expense, and profit. All personnel shall mean anyone employed by the Project Architect and its consultants including, but not limited to, Architects, officers, principals, associates, project architect, CADD technicians, engineers, designers, job captains, draftspersons, and specifications writers, who are performing consultation, research or design, or who are producing drawings, specifications, plans, or other documents pertaining to the Project, or who are performing services during construction at the Property that are directly attributable to, and necessary for, such construction.

4.2 Prior to entering into any agreement between the Project Architect and the Owner, and the Project Architect and its consultants, the Project Architect shall submit a full list of all personnel titles and the hourly wage for each which is attached hereto as an Exhibit. The hourly rates contained therein may be adjusted semi-annually in accordance with the usual and customary salaries of the architectural profession in the area of Project Architect's office.

Article 5 Reimbursable Expenses

5.1 Reimbursable Expenses are in addition to the Compensation for Basic Services and Additional Services. These include actual out-of-pocket reasonable expenditures made by the Project Architect and the Project Architect's employees and

consultants incurred solely and directly in connection with Project Architect's performance of its services hereunder for the following expenses:

- 5.1.1 Fees paid for securing approval of authorities having jurisdiction over the Project.
- 5.1.2 Professional models and renderings produced for presentations when requested by the Owner.
- 5.1.3 Shipping or mailing of all reports, drawings, specifications, and other items in connection with the Project except for: correspondence between the Project Architect and the Owner; Project Architect's in-house work or correspondence; or work or correspondence exchanged between the Project Architect and its consultants.
- 5.1.4 Expense of any additional insurance coverage or limits that exceed those required by this Agreement, when requested by the Owner.
- 5.1.5 Expense of transportation and living expenses in connection with out-of-state travel as follows:
 - a) **Travel from Texas to out of state locations:**

Maximum rates for lodging and meals shall be in accordance with the "Out of State Meals and Lodging Rates", Texas Comptroller of Public Accounts. (Website; https://fm.xcpa.state.tx.us/fm/travel/out_of_state/index.php plus city and state taxes.

 - (1) Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum of forty percent (40%) of the State rate.
 - (2) The meal per diem will only be paid on trips involving overnight travel.
 - b) **Travel to Texas from out of state locations:**
 - (1) Lodging: maximum reimbursement for lodging in state shall be limited to current State of Texas per diem rate plus city and state taxes. The meal per diem will only be paid on trips involving overnight travel.
 - (2) Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum of forty percent (40%) of the State rate.
 - (3) Meals; reimbursement limited to current State of Texas per diem rate.
 - c) **Automobile Expenses:** auto rental for moderate size category, related auto insurance, gasoline, parking and taxi service. Costs include applicable taxes.
 - d) **Airline Travel:** coach class air travel with rates nearest to the State contract rate. All airline travel shall be booked no less than 7 days in advance when possible. Reimbursement for air travel booked within 7 days of departure, without the prior approval of the PM/RCM, may be limited. A sales receipt and a boarding pass must be provided for each flight in order to receive reimbursement.
 - e) **Approval:** Unless expressly directed and approved "in writing" by the Owner, amounts exceeding the above stipulated limitations will not be subject to reimbursement.
- 5.1.6 Expenses of any reprographic services that are in addition to those required under Basic Services requested by the Owner in writing, including, but not limited to reproduction and delivery of plans, specifications, addenda, reports or other miscellaneous documents. Reprographic services may include electronic document files or paper printing and delivery. Authorized additional reprographic services that are not provided in-house by the Project Architect shall be procured in the following manner:
 - a) Project Architect shall develop a complete scope of services fully describing the services to be provided by the reprographic vendor. The Project Architect shall submit the scope of services to and request bids from at least three reprographic vendors, including at least one woman owned HUB firm and one minority owned HUB firm. For services projected to be less than \$25,000, three bids procured by telephone are acceptable.

For services anticipated to be greater than \$25,000, three written bids are required. An updated HUB Subcontracting Plan (HSP) reflecting the new scope of work shall be submitted to the HUB Coordinator for approval.

- b) Reprographic services vendor shall provide, as a minimum, the following information in its bid proposal to the Project Architect:
 - (1) Its ability to handle projected volume on given schedule.
 - (2) Its ability to receive and warehouse Project Architect's electronic document files.
 - (3) Its ability to manage bid document deposit process.
 - (4) Its ability to print partial document sets as directed by Project Architect.
- c) Project Architect shall provide written confirmation attesting to the competitive nature of the procurement.
- d) A written Owner's request is required for reimbursement of these expenses.

5.2 Unless expressly directed, and approved in advance, by the Owner, transportation and living expenses incurred within the State of Texas, for firms whose principal address is within the State of Texas, will not be subject to reimbursement.

5.3 Expenses not allowed for reimbursement include the cost of review documents required to be provided to the Owner under Article 14, telephone charges, FAX service, alcoholic beverages, laundry, valet service, entertainment or any non-project related items. All tips must be included within the per diem allowances.

5.4 Owner shall pay a mark-up not to exceed ten percent (10%) on those reimbursables identified in 5.1.1 through 5.1.4 above. A mark-up shall not be paid on lodging, meals or travel expenses. Architect shall submit receipts for all reimbursable expenses along with any reimbursement request.

Article 6 Basis of Compensation

The Owner shall compensate the Project Architect for the services provided in accordance with Article 7. Payments to the Project Architect, and other terms and conditions of this Agreement, as follows:

6.1 Basic Services Fee

6.1.1 For Basic Services, as described in Article 1, and including all disciplines identified in Article 14.1 as part of Basic Services, Project Architect's Basic Fee shall be calculated as follows:

The Final Construction Cost Limitation (see Paragraph 1.4.11) times the agreed fee percentage (see paragraph 14.4) equals Basic Services Fee

6.1.2 The agreed fee percentage for Basic Services cannot exceed the maximum fee allowed as interpolated from the appropriate Board of Regents table.

6.1.3 The Project Architect's Basic Services Fee will be based on the Final Construction Cost Limitation regardless of whether the actual contract award for construction, less special cash allowances and construction contingency, is more or less than the Final Construction Cost Limitation provided that the resulting fee, when expressed as percentage of the actual contract award cost, shall not exceed the maximum percentage fee established by the Board of Regents, or any other limitations imposed by law.

6.1.4 In multi-stage projects, the basic services fee for each Construction Contract Stage (CCS) shall be calculated multiplying the Sub-Construction Cost Limitation for the CCS times the agreed fee percentage for the Basic Services Fee established in paragraph 14.5. The Project Architect's total Basic Services Fee will be the sum of the basic services fees for all CCSs. The total Basic Services Fee shall not exceed the maximum fee allowed as a percentage of the Final Construction Cost Limitation interpolated from the appropriate Board of Regents table.

6.1.5 If the description of the Project Architect's Basic Services is changed materially, the applicable fee percentage shall be adjusted equitably, subject to the maximum fee limitations established by the Board of Regents.

6.2 Fees for Changes in Project Scope

6.2.1 For reductions in the scope of the Work of the Project that occur after commencement of the Construction Documents Phase but before establishment of the Final Construction Cost Limitation, the Project Architect's fee for basic services related to the eliminated portion of the work, to the extent such services are provided, shall be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the eliminated scope of Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the eliminated scope of Work, but only to the extent that services for the eliminated scope of Work were performed.

6.2.2 For increases in the scope of Work of the Project that occur after establishment of the Final Construction Cost Limitation, the fee for the additional Basic Services required will be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the added scope of Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the added scope of Work, but only to the extent that services for the added scope of Work are required.

6.3 Fees for Change Order Services

If revised construction documents are required due to material changes ordered by the Owner and not due to errors and omissions on the part of the Project Architect, the fee for the additional Basic Services required will be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the changes to the Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the changes to the Work, but only to the extent that services for the changes to the Work are required.

6.4 Additional Services

6.4.1 Fees for Additional Services, including any services identified in Article 14.2 are in addition to the Basic Services Fee described above.

6.4.2 For additional services of the Project Architect that are not Basic Services or additional Basic Services due to changes in Project scope, the Project Architect's fee shall be calculated as follows.

6.4.3 The fees for Additional Services will be negotiated by the Owner and the Project Architect as the scope of the Additional Services is defined and shall be calculated in one of the following ways:

- a) A pre-established lump sum amount;
- b) An agreed percentage of the Final Construction Cost of the Work resulting from the service being provided; or;
- c) On an hourly basis for time expended at an amount not to exceed 3.0 times the direct salary expense for all personnel directly involved in providing the service.

6.4.4 In the absence of an agreement between the Owner and the Project Architect, the fees for Additional Services shall be calculated on an hourly basis.

6.4.5 For additional services of the Project Architect's consultants that are not Basic Services or additional Basic Services due to changes in Project scope, the Project Architect's fee shall be calculated as an amount not to exceed .10 times the amount that the consultant bills the Project Architect for the additional services. The consultant's fee for the additional services shall be calculated in the same manner as described above.

6.5 Reimbursable Expenses

For reimbursable expenses, as described in Article 5, and any other items included in Article 14 as Reimbursable Expenses, the Project Architect's reimbursement shall be calculated as an amount not to exceed 1.10 times the amounts actually expended by the Project Architect, the Project Architect's employees and consultants in the interest of the Project.

Article 7 Payments to the Project Architect

7.1 Payments for Basic Services

7.1.1 Payments for Basic Services shall be made at the end of each Phase of services or, with the Owner's approval, monthly and shall be in proportion to services performed within each Phase of services, as demonstrated by work product, on the basis set forth in Article 6. The form of Statement for Architectural/Engineering Services to be utilized is attached hereto as Exhibit D and Attachments H and I to Exhibit D, which concern payments planned and payments made to Historically Underutilized Businesses.

7.1.2 No partial payment made shall be, or construed to be, final acceptance or approval of the services to which the partial payment relates, or a release of Project Architect of any of Project Architect's obligations or liabilities with respect to such services.

7.1.3 Project Architect shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the services.

7.1.4 Project Architect shall submit a request for final payment to the Owner within thirty days after approval of the final payment to the Contractor.

7.1.5 The acceptance by Project Architect, or Project Architect's successors, of final payment under this Agreement shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever which Project Architect, or Project Architect's successors, have or may have against Owner under the provisions of this Agreement except those claims previously made in writing and identified by Project Architect as unsettled at the time of the final request for payment. For purposes of Texas Government Code 2251.021, the date the performance of service is completed is the date when the Owner's representative approves the invoice.

7.1.6 For purposes of Texas Government Code 2251.021, the date the performance of service is completed is the date when the Owner's representative approves the invoice. Payment of invoices shall be made within 30 days of Owner's approval.

7.2 Payments for Additional Services and Reimbursable Expenses

Payments for the Project Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Project Architect's valid statement of services rendered or expenses incurred as approved by Owner. Invoices shall include complete documentation of all expenses.

7.3 Payments Withheld

7.3.1 Under no circumstances shall the Owner be obligated to make any payment (whether a progress payment or final payment) to Project Architect if any one or more of the following conditions precedent exist:

- f) Project Architect is in breach or default under this Agreement;
- g) Any portion of a payment is for services that were not performed in accordance with this Agreement provided, however, payment shall be made for those services which were performed in accordance with this Agreement;
- h) Project Architect has failed to make payments promptly to consultants or other third parties used in connection with services for which Owner has made payment to Project Architect;
- i) If Owner, in its good faith judgment, determines that the balance of the unpaid fees are not sufficient to complete the services in accordance with this Agreement; or
- j) Project Architect has failed to achieve a level of performance necessary to maintain the project schedule.

7.3.2 No deductions shall be made from the Project Architect's compensation on account of liquidated damages or other sums withheld from payments to Contractors or on account of the cost of changes in the Work other than those for which the Project Architect may be liable.

Article 8 Project Architect Accounting Records

8.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a Multiple of Direct Salary Expense shall be kept on the basis of Generally Accepted Accounting Principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times for a period of at least three (3) years after final completion of the Project. Owner shall have the right to verify the details set forth in Project Architect's billings, certificates, and statements, either before or after payment by (1) inspecting the books and records of Project Architect during normal business hours; (2) examining any reports with respect to this Project; (3) interviewing Project Architect's business employees; (4) visiting the Project site; and (5) other reasonable action.

8.2 Architect shall submit a notarized statement documenting that the Direct Salaries stated on Exhibit C comply with the definition for Direct Salary Expense under Article 4 Direct Salary Expense and that any multiplier applied to DSE on Exhibit C complies with the definition for DSE under Article 4 Direct Salary Expense. Architect/Engineer shall break down the multiplier under Article 4 for the purpose of fringe benefits, expense, and profit to justify the multiplier up to a maximum of 3 allowed under Article 6.2.

8.3 Records of Project Architect costs, reimbursable expenses pertaining to the Project and payments shall be available to Owner or its authorized representative during business hours and shall be retained for three years after final Payment or abandonment of the Project, unless Owner otherwise instructs Consultant in writing.

Article 9 Ownership and Use of Documents

9.1 Drawings and Specifications as instruments of service are and shall remain property of the Project Architect whether the Project for which they are made is executed or not. The Owner shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the Project. Owner shall have an irrevocable, paid-up, and perpetual non-exclusive license and right, which shall survive the termination of this agreement, to use the Drawings and Specifications, including the originals thereof, and the ideas and designs contained therein, for any purpose, regardless of whether Project Architect remains as the Project Architect, has resigned, this Agreement has been terminated, Project Architect's scope of services has been modified, or the services herein have been completed. If this Agreement is terminated, Project Architect hereby consents to the employment by Owner of a substitute Project Architect to complete the services under this Agreement, with the substitute Project Architect having all of the rights and privileges of the original Architect. The Project Architect and its consultants shall not be liable for any changes made by the Owner to the Drawings or Specifications (including Drawings or Specifications provided in CADD or other electronic format) or for claims or actions arising from any such changes on projects in which the Project Architect is not involved.

9.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not be construed as publication in derogation of the Architect's rights.

Article 10 Termination of Agreement

10.1 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination and such failure is not fully cured prior to the expiration of such seven day period.

10.2 This agreement may be terminated at any time by the Owner for its convenience upon at least seven days' written notice to the Project Architect.

10.3 In the event of termination not the fault of the Project Architect, the Project Architect shall be compensated for all services satisfactorily performed to the termination date, together with approved Reimbursable Expenses then due, provided Project Architect shall have delivered to Owner such statements, accounts, reports and other materials as required by Paragraph 10.5 below together with all reports, documents and other materials prepared by Project Architect prior to termination.

10.4 A termination under this Article shall not relieve Project Architect or any of its employees of liability for violations of this Agreement, or any willful, negligent or accidental act or omission of Project Architect. The provisions of Article hereof shall survive the termination of this Agreement. In the event of a termination under this Article, Project Architect hereby consents to employment by Owner of a substitute Project Architect to complete the services under this Agreement, with the substitute Project Architect having all rights and privileges of the original Project Architect of the Project.

10.5 As of the date of termination of this Agreement, Project Architect shall furnish to Owner all statements, accounts, reports and other materials as are required hereunder or as have been prepared by Project Architect in connection with Project Architect's responsibilities hereunder. Owner shall have the right to use the ideas and designs therein contained for the completion of the services described by this Agreement, and for completion of the Project, or otherwise.

Article 11 Successors and Assigns

The Owner and the Project Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, permitted successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. This Agreement is a personal service contract for the services of Project Architect, and Project Architect's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party. The benefits and burdens of this Agreement are, however, assignable by Owner.

Article 12 Extent of Agreement

This Agreement supersedes all prior agreements, written or oral, between Project Architect and Owner and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. 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 Owner and Project Architect.

Article 13 Miscellaneous Provisions

13.1 **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.

13.2 **Governing Law.** This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas, without giving effect to principles of conflicts of laws

13.3 **Waivers.** No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

13.4 **Severability.** In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included herein.

13.5 **Independent Contractor.** Project Architect acknowledges that it is engaged as an independent Contractor and that Owner has no responsibility to provide Project Architect or its employees with transportation, insurance or other fringe benefits normally associated with employee status. Project Architect is not, and will not claim to be, an officer, partner, employee or agent of Owner and shall not make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Project Architect hereby agrees to make Project Architect's own arrangements for any of such benefits as Project Architect may desire and agrees that Project Architect is responsible for all income taxes required by applicable law.

13.6 **Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Project Architect certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

13.7 **Franchise Tax Certification.** If a corporation or limited liability company, Project Architect certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

13.8 **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.093, *Texas Government Code*, Project Architect agrees that any payments owing to Project Architect under this Agreement may be applied directly toward any debt or delinquency that Project Architect owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

13.9 **Loss of Funding.** Performance by Owner under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Project Architect and Owner may terminate this Agreement in accordance with Article 10. Project Architect acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.

13.10 **Proprietary Interests.** All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by Project Architect in the performance of services for Owner, which is not generally known to the public, shall be confidential. Project Architect shall not, beginning on the date of first association or communication between Owner and Project Architect and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Project Architect's own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Project Architect shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Project Architect as an independent Contractor of Owner in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of Owner. Project Architect shall obtain assurances similar to those contained in this Subparagraph from persons, vendors and consultants retained by Project Architect. Project Architect acknowledges and agrees that a breach by Project Architect of the provisions hereof will cause Owner irreparable injury and damage. Project Architect, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.

13.11 **Appointment.** Owner hereby expressly reserves the right from time to time to designate by notice to Project Architect a representative to act partially or wholly for Owner in connection with the performance of Owner's obligations hereunder. Project Architect shall act only upon instructions from such representative unless otherwise specifically notified to the contrary.

13.12 **Dispute Resolution.** To the extent that it is applicable, the dispute resolution process provided for in Chapter 2260 of the Texas Government Codes shall be used by the Project Architect to resolve any claim for breach of contract made by Project Architect that is not resolved in the ordinary course of business between Project Architect and Owner.

13.12.1 Alternative Dispute Resolution Process. Owner may establish a dispute resolution process to be utilized in advance of that outlined in Tex. Gov't Code, Chapter 2260.

13.12.2 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.

13.12.3 In any litigation between the Owner and the Project Architect arising from this Agreement or this Project, neither party will be entitled to an award of legal fees or costs in any judgment regardless which one is deemed the prevailing party.

13.12.4 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

13.12.5 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Project Architect, in whole or in part. Owner and Project Architect agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.

13.13 **Notices.** All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner: David Wayland, AIA (project manager)

Facilities Management Department
4901 E. University Blvd.
MB 4269
Odessa, TX 79762

If to Project Architect: _____

[Street Address]

Suite _____

_____, _____ [zip code]

Attention: _____

or to such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

13.14 **Authority to Act.** Project Architect warrants, represents, and agrees that (1) it is a duly organized and validly existing legal entity in good standing under the laws of the state of its incorporation or organization; (2) it is duly authorized and in good standing to conduct business in the State of Texas; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and (4) the individual executing this Agreement on behalf of Project Architect has been duly authorized to act for and bind Project Architect.

13.15 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed, construed and considered to be an original, but all of which shall constitute one and the same instrument.

13.16 Ethics Matters; No Financial Interest. Project Architect and its employees, agents, representatives and consultants have read and understand University's Conflicts of Interest Policy available at <http://www.utsystem.edu/policy/policies/int160.html>, University's Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/>, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Architect nor its employees, agents, representatives or consultants will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Project Architect represents and warrants that no previously undisclosed member of the The U.T. System Board of Regents, The U.T. System chancellor, any U.T. institution president nor any executive officer of U.T. System or any of its institutions has a financial interest, direct or indirect, in the transaction that is the subject of this Agreement.

13.17 **179 D Benefit Allocation.** Owner may decide to seek the allocation of certain tax benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended, (the "Code") through this Agreement with Project Architect.

If the Owner and the Internal Revenue Service (IRS) determine that the Project Architect is eligible to receive the 179D deduction allocation as a "Designer" for the purposes of Section 179D of the Code or that Project Architect could otherwise profit financially from the monetization of the benefit (separately and collectively, the "Rebate"), Project Architect hereby agrees to allocate to the Owner a portion of the Rebate in an amount to be determined and contracted for on mutually agreeable terms when the value of the Rebate becomes ascertainable, net of associated costs realized by the Owner and Project Architect. At its sole discretion, the Owner shall determine whether to receive its portion of the Rebate in cash, discounted Project Architect fees or both.

Owner reserves the right to retain a third-party consultant (the "Consultant") to manage and administer the process of obtaining and monetizing the Rebate derived from the Project(s).

Project Architect agrees to cooperate in all reasonable respects with the Consultant's efforts to obtain and monetize any such Rebates derived from the Project(s) on behalf of the Owner. Certification of eligibility and negotiation of the Rebates should be facilitated by the Owner's 179D Consultant.

13.18 **Disclosure of Interested Parties.** By signature hereon, Project Architect certifies that, if the value of this agreement exceeds \$1 Million, it has complied with Section 2252.908 of the Texas Government Code and Part 1 Texas Administrative Code Section 46.1 through 46.3 as implemented by the Texas Ethics Commission (TEC), if applicable, and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Project Architect.

13.19 **Certification regarding Boycotting Israel.** To the extent required by Chapter 2270, *Texas Government Code*, Architect certifies it (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Architect acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

13.20 Certification regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*], Architect certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Architect acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

Article 14 Other Conditions or Services

The Owner and Project Architect hereby agree to the full performance of the covenants contained herein.

14.1 Basic Services. The Project Architect's Basic Services are those services described in paragraphs 1.2 through 1.6 for which compensation is provided as Basic Compensation in this Agreement and shall include the following disciplines:

- a. Architectural Services
- b. Landscape Architectural Services
- c. Civil Engineering Services
- d. Structural Engineering Services
- e. Mechanical Engineering Services
- f. Electrical Engineering Services
- g. Plumbing Engineering Services

14.2 Additional Services. The services identified in the following list are not included in Basic Services.

14.2.1 PROGRAMMING SERVICES. Before proceeding into the Schematic Design Phase, the Project Architect and his entire consultant team, including Civil Engineer, Laboratory Design Consultant, Hazardous Material Abatement Consultant, Commissioning Consultant and Constructability Contractors, working with the Owner shall prepare a comprehensive Facility Program for the project. This Facility Program shall be prepared in accordance with the U. T. System Facilities Programming Guidelines which are hereby incorporated herein by reference, a copy of which has been provided to Project Architect. The anticipated services and deliverables under the responsibility of the Project Architect are summarized in an attached Exhibit, the Anticipated Programming Deliverables. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the designated programming services. Such compensation shall be in addition to the percentage based fee for Basic Services. The Project Architect shall plan to meet with representatives of the Owner as required during the development of the Facility Program and shall revise the Program as necessary to achieve approval of the Owner. In accordance with the Professional Services Procurement Act, the Owner will review the Project Architect's proposal for programming services and attempt to negotiate a fair and reasonable fee for these services. If the Owner and Project Architect are unable to do so, the Owner will formally end negotiations with the Project Architect, select the next most highly qualified Project Architect, and attempt to negotiate a fair and reasonable fee for these services.

14.2.2 CONSTRUCTABILITY SERVICES. The Project Architect shall employ a Constructability Consultant or Contractor, ~~which will not submit a bid for this project,~~ to provide outside constructability consultation, cost estimating services and construction expertise through the Facility Program, Schematic Design, Design Development and Construction Document Phases. The Constructability Consultant or Contractor, working with a Mechanical/Electrical/Plumbing Subcontractor, will provide review input related Project objectives, methods and concepts of "constructability." In addition, the Constructability Consultant or Contractor will submit for review a Cost Quantity Survey to coincide with the Project Architect's Basic Services submission requirements. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the "constructability" services identified in the Constructability Implementation Program, attached to this Agreement as an Exhibit. The Owner will review the Project Architect's proposal for "constructability" services in accordance with the Professional Services Procurement Act.

14.2.3 HAZARDOUS MATERIAL ABATEMENT SERVICES. The Project Architect shall employ a Hazardous Material Abatement consultant, from the list of firms included in an attached Exhibit, to provide hazardous material abatement expertise (including, but not limited to, asbestos and lead) through the Facility Program, Schematic Design, Design Development, Construction Document and Construction Administration Phases. This shall include reviewing Owner provided surveys, making recommendations for any additional surveys required, providing design and cost alternatives regarding hazardous material abatement, preparing plans and specifications to include abatement in the general construction scope of work, providing a licensed individual to monitor hazardous material removal as required by State and EPA guidelines, and preparing a final abatement report. Compensation for these services shall be in addition to the percentage based fee for Basic Services. Therefore, the construction cost of the abatement work will not be

included in the basis for the Project Architect's Basic Services fee. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the above Hazardous Material Abatement Consulting services, including coordination of the Project Architect. The Owner will review the Project Architect's proposal for these services in accordance with the Professional Services Procurement Act.

14.2.4 COMMISSIONING SERVICES. The Project Architect shall employ a Commissioning consultant to provide commissioning expertise through the Facility Program, Schematic Design, Design Development, Construction Document and Construction Administration Phases. The Commissioning Consultant will provide review input related project objectives, methods and concepts of commissioning. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the commissioning services identified in the Commissioning Implementation Program, attached to this Agreement as an Exhibit. The Owner will review the Project Architect's proposal for commissioning services in accordance with the Professional Services Procurement Act.

14.2.5 TPDES CONSULTANT. The Project Architect shall employ a qualified Consultant (the "TPDES Consultant"), experienced in the Texas Pollutant Discharge Elimination System (TPDES) requirements and in the best management practices used at construction sites to control erosion and sediment, to prevent the discharge of pollutants and to prevent or mitigate the impacts of storm water runoff on water quality (collectively "BMPs"), which TPDES Consultant shall be approved in writing in advance by Owner, to provide expertise with respect to Texas Commission on Environmental Quality regulations and BMPs through all phases of the Project. The TPDES Consultant's services shall include, without limitation, (1) recommending structural and non-structural BMPs to Project Architect or other subcontractors under this Contract for civil and landscape site coordination, (2) preparing of Storm Water Pollution Prevention Plans (SWPPPs) including any BMP drawings and details (3) as requested in writing by Owner, assisting in the updating of SWPPPs and all other permit documentation required by the TCEQ for the Project, and (4) the drafting of technical specifications governing the Contractor/Contractor's obligations under the applicable TPDES regulations and the TCEQ General Permit for Storm Water Discharges From Construction Sites ("General Permit") No. TXR 150000 and governing the Contractor/Contractor's recommended courses of action under BMPs. The TPDES Consultant shall insure that the storm water pollution prevention plan has been prepared for the site in accordance with the General Permit and that such plan complies with approved State and/or local sediment and erosion plans or permits and/or storm water management plans or permits, including, without limitation, any TPDES permit issued to The University of Texas component on which the site is located. The TPDES Consultant, through Project Architect, shall determine whether General Permit coverage is required, and, if so, shall advise Owner of Owner's obligations under the General Permit and shall advise Owner of the Contractor/Contractor's obligations under the General Permit. If there are multiple projects proposed to be conducted concurrently in contiguous areas and general permit coverage is required, the TPDES Consultant shall advise Owner of Owner's obligations and prepare one SWPPP for the entire area encompassing all projects and shall amend such SWPPP at the request of Owner to insure that the Contractor/Contractors of each project can comply with TPDES requirements and BMPs. PROJECT ARCHITECT HEREBY INDEMNIFIES AND HOLDS HARMLESS OWNER FROM ANY AND ALL LIABILITY, LOSS, DAMAGE, COST, AND EXPENSE ARISING OUT OF A VIOLATION OF THE APPLICABLE TCEQ TPDES REGULATIONS, BMPs, THIS PARAGRAPH OF THIS AGREEMENT, OR THE TERMS AND CONDITIONS OF THE GENERAL PERMIT TO THE EXTENT ATTRIBUTABLE TO A WILLFUL, NEGLIGENT OR ACCIDENTAL ACT OR OMISSION OF PROJECT ARCHITECT OR ITS CONSULTANTS.

14.2.6 REGISTERED ACCESSIBILITY SPECIALIST. Services provided by an independent contract provider under contract with TDLR to include the Preliminary Plan Review and Final Plan Review and Field Inspection of placed work to coincide with the pre-final inspections. Issues regarding accessibility shall be coordinated to be included in the punch list provided to the Contractor. Design consultation services and preliminary field inspections during installation of work are optional services. These services are related to the provisions of The Texas Architectural Barriers Act (Article 9102, T.C.S.).

14.2.7 DRAWINGS AND SPECIFICATIONS. Project Architect shall revise the drawings and specifications upon Final Completion of the construction, to incorporate all Addenda, all Change Orders for the Work and any modifications recorded by the Contractor on the As-Built Drawings and Specifications maintained at the job site. The Project Architect shall label the revised drawings and specifications as "Record Drawings" and "Record Specifications" and shall deliver copies to the Owner for record purposes, as follows:

- Record Specifications: Provide one (1) bound hard copy set and one (1) electronic set of the fully conformed record specifications incorporating all changes and as-built conditions on CD or DVD in PDF format.
- Record Drawings: Provide one (1) complete bound print set of record drawings, and one (1) complete electronic set of the full record drawings incorporating all changes and as-built conditions on CD or DVD.

- All CADD drawing files shall be in AutoCAD DWG format compatible with the latest version of AutoCAD.
- Drawings should be bundled using AutoCAD's "Pack-n-go" or "e-Transmit" utility to organize files in the root directory of the CD. All Drawing files must be listed before the support files and must include all required support files, such as Xrefs, Fonts, Image files and Print files. Do not put files in directories; all files must be in the root directory.

14.3 **Owner Provided Services.** The services identified in the following list will be provided by the Owner at Owner's expense.

NONE

14.4 **Basis of Compensation**

14.4.1 Basic Services.

The initial Construction Cost Limitation (CCL) for the Project is

_____ (\$_____).

Therefore, the Basic Services Fee for the Project shall be

$$\frac{\text{Construction Cost Limitation}}{\text{Fee \%}} = \$ \frac{\text{Basic Services Fee}}$$

If the Construction Cost Limitation is revised prior to acceptance of the construction contractor’s competitive sealed proposal or construction manager’s guaranteed maximum price, the Basic Services Fee will be adjusted based on interpolation of the following schedule:

Over \$	%
Over \$	%
Up to \$	%

The Owner may amend the CCL after the Project Architect completes the Facilities Program and the Owner authorizes the commencement of Basic Services. If the CCL is amended by Owner, and Project Architect has been notified in writing of such CCL, then this paragraph of this Agreement shall be deemed to be amended by including such CCL amount as the cost referenced to in the first sentence of this paragraph of this Agreement. The CCL will be confirmed or re-established at the completion of the Design Development Phase.

14.4.2 Reimbursable Expenses.

The maximum allowable cost on this Project for Reimbursable Expenses associated with Basic Services, identified in Article 5, as approved by the Owner is:

Maximum Reimbursable Expense Amount: \$_____

14.4.3 Maximum Contract Sum

Basic Services Fee amount (Art. 14.4.1) \$_____

plus

Maximum Reimbursable Expense amount (Art. 14.4.2) \$_____

MAXIMUM CONTRACT SUM: \$_____

14.5 **Progress Payments.** Payments for Basic Services and Supplemental Basic Services shall be made as provided in Article 7 in accordance with the following schedule:

Schematic Design Phase:	15%
Design Development Phase:	20%
Construction Documents Phase:	40%
Bidding or Negotiation Phase:	5%
Construction Phase:	20%

14.6 **Review Stages.** The Project Architect shall submit documents to the Owner for review at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase as follows:

50%, 75%, 100%

14.7 **Construction Cost Estimates.** The Project Architect shall submit construction cost estimates as described in Article 1.1.15 at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase:

50%, 75%, 100%.

14.8 **Review Documents.** The Project Architect shall, at its expense, furnish and deliver to the Owner for Owner's review, the following number of sets of review documents at the required review stages:

Schematic Design: _____ sets
Design Development: _____ sets
Construction Documents: _____ sets for each stage of % complete

14.9 **Partnering.** For the benefit of all parties and as a part of Basic Services, the Project Architect and its entire consultant team shall attend two (2) full day Partnering sessions in _____; the first at the beginning of the Schematic Design Phase, and the second at the beginning of the Construction Phase.

14.11 **Space Planning Documents.** Project Architect, as a basic service, shall provide the Owner, at between one month and three months prior to Substantial Completion, with a complete current electronic set, including all current changes, of the architectural floor plan drawings with room names, room numbers, and room square footages indicated. Project Architect shall provide 2 copies of electronic media on zip drives and/or CD readable/writable. Project Architect shall not be relieved of responsibility when files are delivered if the files do not meet established requirements or are defective. Owner shall verify all files and Project Architect will be notified of acceptance.

- Room names, Room numbers, and square footage shall be linked to data fields using appropriate attributes for text and number fields. Microsoft Access 2000 shall be used as the database. Project Architect shall provide data layering proposal for approval, per Article 14.10.
- Provide floor plans in electronic format using AutoCAD 14 or 2000. MicroStation J or SE shall also be accepted, but Microstation users shall be required to save to AutoCAD format. Verify database for correctness prior to delivering data files.

[SIGNATURES PROVIDED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first written above.

Attest:
(Corporate Seal)

Witness

By: _____

Name: _____

Title: Corporate Secretary _____

Project Architect

By: _____

Name: _____

Title: President

Date: _____

The Texas Board of Architectural Examiners, 333 Guadalupe Street, Suite 2-350, Austin, Texas 78701, telephone (512) 305-9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Chapter 1051, Texas Occupations Code.

Owner: The University of Texas Permian Basin

By: _____

Cesario Valenzuela
Vice-President, Business Affairs

Date: _____



Exhibit H – Policy on Utilization Historically Underutilized Businesses

HUB Subcontracting Plan for •Architectural/ Engineering Professional Services

For questions or clarifications regarding the HUB Subcontracting Plan, please contact the appropriate HUB Coordinator listed below:

Diana Rodriguez

The University of Texas Permian Basin

POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)

Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Rule 20.281 of the Texas Administrative Code (TAC), The University of Texas Permian Basin, shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Rules 20.281-20.298, encourage the use of HUBs by implementing these policies through race-, ethnic- and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with university specific or statewide HUB goals as specified in TAC Rule 20.284:

- **11.2% for heavy construction other than building contracts;**
- **21.1% for all building construction, including general contractors and operative builders contracts;**
- **32.9% for all special trade construction contracts;**
- **23.7% for professional services contracts;**
- **26% for all other services contracts, and;**
- **21.1% for commodities contracts.**

The University of Texas Permian Basin shall make a good faith effort to meet or exceed these goals to assist HUBs in receiving a portion of the total contract value of all contracts that UTPB expects to award in a fiscal year. The University of Texas Permian Basin may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

-Instructions continued next page-

UT Permian Basin
Historically Underutilized Subcontracting Plans (HSP)
For Professional Services-23.7%

All Texas State agencies and institutions of higher education (universities) are required to make a good faith effort to include minority and/or women owned businesses in their procurement opportunities. The State of Texas uses the term Historically Underutilized Businesses (HUB) to distinguish State certified minority and/or women owned businesses.

Statement of Probability - Subcontracting Opportunities are probable in connection with this solicitation.

Responses that do not include a completed HUB Subcontracting Plan shall be rejected due to material failure to comply Government Code, §2161.252(b).

Determination of Good Faith Effort in developing an HSP for professional services contracts is established if the respondent provides documentation of meeting one of the following options:

Option 1 – Complete a **Self-Performing HSP** as follows:

- a. Section 1 – Respondent and Requisition Information. Complete as indicated on the form. VID number refers to the tax ID number.
- b. Section 2A – No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.
- c. Section 3 – Self Performing Justification – Check no and provide explanation in box **
- d. Section 4 – Affirmation – include your email address, contact phone number and email address should UTPB HUB have any questions.

**Section 3 Sample Statement- edit as needed

_____ will be fulfilling the entire contract with our own resources, including employees, goods, services, transportation and delivery. If sub-contracting opportunities are identified at a future date, we will immediately contact the project manager and HUB Coordinator and commit to performance of a Good Faith Effort through solicitation of HUB firms and submit an amended HUB Subcontracting Plan.

Option 2 – Complete the following if **all sub-contracting opportunities are to be performed by ONLY** state of Texas certified HUB vendors.

- a. Section 1 – Respondent and Requisition information. VID number refers to Tax ID number.
- b. Section 2A – Yes, I will be subcontracting portions of the contract
- c. Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors
- d. Section 2C – Yes
- e. Section 4 – Affirmation
- f. Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity listed in Section 2B

Option 3 – Complete the following if **sub-contracting opportunities by both HUB and non-HUB vendors meets or exceeds the HUB professional services goal** stated above:

- a. Section 1 – Respondent and Requisition information. VID number refers to Tax ID number.
- b. Section 2A – Yes, I will be subcontracting portions of the contract
- c. Section 2B – List all portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d. Section 2C – No
- e. Section 2D – Yes
- f. Section 4 – Affirmation
- g. Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity listed in Section 2B.

-Instructions continued next page-

Option 4 – If you are subcontracting with HUB vendors and Non-HUB vendors (or only Non-HUB vendors), and the total percentage subcontracting with HUB vendors **does not meet or exceed** the HUB Goal, complete the following:

- a. Section 1 - Respondent and Requisition Information. VID number refers to Tax ID number
- b. Section 2A – Yes, I will be subcontracting portions of the contract
- c. Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d. Section 2C – No
- e. Section 2D – No
- f. Section 4 – Affirmation
- g. Good Faith Effort (Attachment B) – Complete this attachment for each subcontracting opportunity listed in Section 2B.

Determination of Good Faith Effort in developing an HSP for professional services contracts includes but is not limited to the following:

1. Divide the work into reasonable lots or portions to the extent consistent with prudent industry practices.
2. Provide notice a minimum of two (2) minority/ women trade organizations or development centers of sub-consulting opportunities to be disseminated to their membership. The notice shall include: Scope of work; required qualifications; and identify a contact person (including phone number and email address). Notify the minority/women organizations of contracting opportunities with reasonable time to disseminate information to members/participants (no less than **seven (7)** working days from receipt of notice). Weekends and holidays do not count toward the 7 day notice.
3. Notify three (3) or more HUBs of for each discipline that is to be subcontracted in writing. The notice shall include: Scope of work; required qualifications; and identify a contact person (including phone number and email address). Notify the HUBs of contracting opportunities with reasonable time to respond (**no less than seven (7)** working days from receipt of notice). Weekends and holidays do not count toward the 7 day notice.
4. Provide written justification of the selection process if the selected sub-consultant is not a HUB.
5. The respondent shall use the Centralized Master Bidders List (CMBL), HUB Directory, Internet and other directories as identified by the agency when searching for HUB sub-consultants. The Centralized Master Bidders List (CMBL) can be found at: <https://mycpa.cpa.state.tx.us/tpasscmbsearch/tpasscmbsearch.do>. The respondent must keep and provide if requested official written documentation (i.e. electronic mail, written correspondence, etc.) to demonstrate compliance.

Minority prime firms are required to complete the HUB Plan identifying all sub-consultants.

Changes to Plan

Changes to the HSP must be approved in writing by the UTPB HUB Coordinator **prior** to any work taking place by the new sub-consultant. Justification is required to explain the sub-consultant substitutions. Once the contract has been awarded the HSP is considered part of the contract. Violations to the HSP will be deemed in breach of the contract by UTPB.

Reporting – After Award

Prime firm payment requests shall include Progress Assessment Report (PAR) identifying all 1st, 2nd and 3rd tier sub-consultant payments. **It is a condition of payment to report HUB subcontracting expenditures.**

Exhibit H Attachments: <http://www.utsystem.edu/offices/historically-underutilized-business/hub-forms>.

Please use the forms posted with this RFQ or at the HUB Department website to complete HSP.

Print this letter on your company letterhead

HUB Coordinator
The University of Texas Permian Basin
4901 E. University
Odessa, TX 79762-0001

RE: Historically Underutilized Business Plan for (Project
Title): _____

Project/ RFP/ RFQ Number: _____

Dear HUB Coordinator

I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas Permian Basin Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.284, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 6.

Subcontractors	No. of Subcontractors	Total Subcontract \$ Value	Total Estimated Subcontracting	% Minority Owned	% Woman Owned	% Service
HUB						
Non-HUB						
TOTAL						

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller HUB Certification document.

During the course of this contract should we discover additional subcontractors claiming Historically Underutilized Business status or if for some reason a HUB is unable to fulfill its contractual obligation with us, we will notify you immediately in order to take the appropriate steps to amend this HUB subcontracting Plan.

Sincerely,

(signature)

(signature)

HUB Coordinator
The University of Texas Permian Basin
4901 E. University
Odessa, TX 79762-0001

RE: Historically Underutilized Business Plan (Project Title): _____

RFQ Number: _____

Dear HUB Coordinator

I have read and understand The University of Texas Permian Basin Policy on Utilization of Historically Underutilized Businesses (HUBs). In accordance with the requirements outlined in the HUB Subcontracting Plan (HSP), I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for qualifications/proposals, referencing RFP Number _____.

The Good Faith Effort will be documented by a two- part HUB Subcontracting Plan (HSP) process. **Part One (1)** of the HSP submission will reflect self-performance with the appropriate sections completed as outlined in the HSP Instruction sheet located on page 2 of The University of Texas System Exhibit H Policy on Utilization of Historically Underutilized Businesses.

As the scope of work/project is defined (SD) under the terms of this contract, **Part Two (2)** of the process will require a revised HUB Subcontracting Plan (SD), if the Work/ Project value over the *duration* of the contract *meets or exceeds* \$100,000.00. The Good Faith Effort will be documented per instructions in **EXHIBIT H - Policy on Utilization Historically Underutilized Businesses**, pages 2-3. The revised HUB Subcontracting Plan will be submitted to the HUB Coordinator prior to execution of each contract and/or amendment process. A *Progress Assessment Report* (PAR) is required as a condition of payment with each monthly billing in conjunction with this contract amendment.

Sincerely,

(signature)

(signature)



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)
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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.

HSP Good Faith Effort - Method B (Attachment B)

Rev. 2/17

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 <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	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 <small>(mm/dd/yyyy)</small>	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/passcmbsearch/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

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: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION	
Agency Name: _____	Phone #: _____
Point-of-Contact: _____	Bid Open Date: _____
Requisition #: _____	(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)	
<p><i>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).</i></p> <p><i>(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.)</i></p>	

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:	<input type="checkbox"/> - Not Applicable
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4. Bonding/Insurance Requirements:	<input type="checkbox"/> - Not Applicable
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5. Location to review plans/specifications:	<input type="checkbox"/> - Not Applicable
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