



TEXAS A&M UNIVERSITY-CORPUS CHRISTI

PURCHASING DEPARTMENT
6300 OCEAN DRIVE
CORPUS CHRISTI, TX 78412

REQUEST FOR QUALIFICATIONS

RFQ Number:
RFQ4-0001

ON-GOING PROFESSIONAL SERVICES for VARIOUS PROJECTS IN SUPPORT OF COASTAL FACILITIES INCLUDING TEXAS A&M CORPUS CHRISTI

PROPOSAL MUST BE RECEIVED BEFORE:

2:00 p.m. Central Time on January 19, 2024

MAIL PROPOSAL TO:

Texas A&M University-Corpus Christi
Purchasing Department
6300 Ocean Drive Unit 5731
Corpus Christi TX 78412-5731

**HAND DELIVER AND/OR
EXPRESS MAIL TO:**

Texas A&M University-Corpus Christi
Purchasing Building
6300 Ocean Drive Room 115A
Corpus Christi TX 78412

Show RFQ Number, Opening Date and Time on Return Envelope

NOTE: PROPOSAL must be time stamped at **Texas A&M University-Corpus Christi Purchasing Department** before the hour and date specified for receipt of proposal.

Pursuant to the Provisions of Texas Government Code Title 10 Subtitle D Chapter 2156.121 - 2156.127, General Services Act rules and regulations adopted there under, sealed proposals will be received until the date and time established for receipt. After receipt, only the names of proposers will be made public. Prices and other proposal details will only be divulged after the award, if one is made.

DATED: December 18, 2023

REFER INQUIRIES TO:

Will Hobart, Director of Procurement
Texas A&M University-Corpus Christi
Purchasing Department
361-825-2616
Email: will.hobart@tamucc.edu

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SECTION 1

NOTICE TO RESPONDENTS

1.1 General Information

The Texas A&M University-Corpus Christi (TAMU-CC) on behalf of the Board of Regents of The Texas A&M University System (Owner) are soliciting statements of qualifications for selection of Professional Services Firms for timely, cost effective project in accordance with the terms, conditions, and requirements set forth in this Request for Qualifications (RFQ).

This RFQ is the first step in the process for selecting an A/E firm. The RFQ provides the information necessary to prepare and submit Qualifications for consideration by the Owner. The Owner may select the top three (3) or more of the top ranked qualified respondents to present their qualifications during an interview.

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 a contract is executed. The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFQ information.

Information in any tangible form which is submitted by respondents will be treated as confidential **until such time as a contract is executed**. After that time, the information may be disclosed to requestors under the Texas Public Information Act, Chapter 552, Texas Government Code. If a respondent believes all or a portion of the information submitted is proprietary and confidential and should therefore be exempt from disclosure, they must clearly designate the specific item(s) and the proper statutory citation must be provided in each instance.

Further, Respondents are hereby notified that the Owner will be required to post any resultant contract from this RFQ on the Internet website of Owner pursuant to Texas Government Code, Section 2261.253 (a)(1).

1.3 Type of Contract

Any contract resulting from this solicitation will be in the form of the Owner's Standard A/E Agreement.

1.4 Clarifications and Interpretations

Any clarifications or interpretations of this RFQ that materially affect or change its requirements will be posted by the Owner as an addendum on the Owner's website, <http://purchasing.tamucc.edu/>. All such addenda issued by the Owner before the

proposals are due shall become a part of the RFQ, and respondents shall acknowledge receipt of and incorporate each addendum in its response.

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: January 19, 2024 at 2:00 p.m.

Proposals shall be submitted to TAMU-CC by one of the following methods:

U.S. POSTAL SERVICE AND/OR OVERNIGHT EXPRESS MAIL	HAND DELIVER TO:
Texas A&M University-Corpus Christi Purchasing Department 6300 Ocean Drive, Unit 5731 Corpus Christi, TX 78412-5731	Texas A&M University-Corpus Christi Purchasing Building 6300 Ocean Drive, Room 115A Corpus Christi, TX 78412-5731 Hours: Monday-Friday prior to 5pm

1.5.2 TAMU-CC will not accept submittals after the deadline.

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

1.5.4 Properly submitted Qualifications will not be returned to respondents.

1.6 Contacts

Any questions regarding this RFQ shall be directed to:

Will Hobart, Director of Procurement & Disbursements
Texas A&M University-Corpus Christi
Purchasing Department
6300 Ocean Drive, Unit 5731
Corpus Christi, Texas 78412-5731
Phone: 361-825-2616
e-mail: will.hobart@tamucc.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. 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” firm(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 Historically Underutilized Businesses’ Submittal Requirements

It is the policy of the State of TAMU-CC to encourage the use of Historically Underutilized Businesses (HUBs) in our prime contracts, subcontractors, and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in TAMU-CC contracting and purchasing.

Subcontracting opportunities are anticipated for this RFQ for Architect/Engineer Professional Services and therefore a HUB Subcontracting Plan (HSP) is required. *Failure to submit a comprehensive, acceptable HUB Subcontracting Plan that identifies ALL subcontracting opportunities will be considered a material failure to comply with the requirements of the RFQ and will result in rejection of the submittal.*

Prepare the HUB Subcontracting Plan according to Attachment A at the end of this document and submit with Respondent’s proposal by the submittal deadline given in Section 1.5.1 above.

For information regarding TAMU-CC HUB Program and HUB Subcontracting requirements, please contact Mr. Ruben Gonzalez, HUB Coordinator, Procurement & Disbursements, ruben.gonzalez@tamucc.edu, (361) 825-5822. **We encourage all respondents to submit a draft HUB Plan to the email address listed herein for our review at least two days prior to the due date.**

1.12 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. 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.

1.13 Required Notices of Workers' Compensation Insurance Coverage

Section 406.096, Texas Labor Code, and the rules of the Texas Workers' Compensation Commission, require workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity.

1.14 State Registration of Engineering Firms

Section 1001.405, Texas Occupations Code, provides that a business entity may not engage in the practice of engineering in this state unless the business entity is registered with the Texas Board of Professional Engineers. A business is defined as a sole proprietorship, firm, partnership, corporation or joint stock association.

1.15 State Registration of Architectural Firms

Section 1051, Texas Occupations Code, provides that a business entity may not engage in the practice of architecture in this state unless the business entity is registered with the Texas Board of Architectural Examiners. A business is defined as a sole proprietorship, firm, partnership, corporation or joint stock association.

SECTION 2

EXECUTIVE SUMMARY

2.1 Project Description, Scope and Budget

The intention of this RFQ is to qualify firms to be included in a pool for the services defined in this RFQ. In order to provide timely and cost-effective design and other specialized services for the TAMUCC facilities, it is the intent of the TAMUCC to establish a master services agreement (“Agreement”) with one or more Respondents to meet the needs of TAMUCC Administrative Operations. Any resultant Agreement will be between the selected Respondents and the TAMUCC. Execution of an Agreement as a result of this RFQ does not guarantee utilization of any awarded Respondent. Contracts for assignment work will be executed using individual “Project Assignments”. There is no guarantee that any SPECIFIC MINIMUM DOLLAR amount of fees will be awarded.

The initial term of the Master Agreements shall be one year. Upon mutual consent, the Master Agreements may be extended for up to five (5) additional one (1) year renewals under the same general terms and conditions with any added modifications due to codes, software versions, firms revised hourly rate schedule as may be approved, new University policies, etc.

The award of individual project assignments shall be based on the expertise of the Professional Service Provider (“PSP”), their successful performance on prior assignments, the number of projects requiring design (after evaluation of University staff availability), and the availability of funding for projects.

Professional services fees for individual Project Assignments will be negotiated based on the governing rules of the Texas A&M System Board of Regents. These fees will vary depending upon the types of services required and the project types.

The successful Respondent(s) shall provide hourly rates for additional services or hourly not to exceed tasks as a part of executing the awarded master agreement. These rates shall be based on performance tasks (principal, senior engineer, drafting technician, clerical, etc.; not individual names) and be submitted during the contracting process and negotiations. Initial hourly rates shall be for the base year of the Master Agreement. These rates may be negotiated for each of the subsequent renewal periods, as applicable. Successful Respondent(s) must show the calculations for determination of the hourly rates, detailing the base rate as well as the multiplier including labor overhead, fringe benefits, general and administrative (indirect) expenses, profit and escalation as applicable.

NOTE: NO hourly rates schedule shall be submitted in the response to this RFQ.

The intent of this RFQ is to contract with Respondents having in-house capability to provide the necessary professional services. Subconsultants for other disciplines may be included on individual project assignments as the sub-consultant specialty is warranted; such subconsultants are NOT a part of this RFQ. The scope of work will vary from project

assignment to project assignment in complexity and the scope of services to be provided by the PSP. Services to be provided may include, but are not limited to:

Program evaluation, project planning, facilities space management, feasibility analysis, testing, studies/reports, conceptual design, cost estimates, schematic design, design development, bidding construction documents, bidding and contractor selection services, basic construction administration, as-constructed drawings and more extensive construction phase quality control and monitoring.

All awarded Respondents shall comply with all applicable codes (Life Safety, NFPA 101, etc.), other regulations, TDLR and “The University of Texas at Austin Design and Construction Standards” as may be additionally stated in the master agreement, subsequent renewals and specific Project Assignments.

Awarded Respondents will be considered for all ranges of projects including both smaller (\$50K to \$1M) and larger projects \$1M to \$10M) unless otherwise stated in Qualifications.

Examples provided below describe the type of project commonly requiring professional services. Required professional services include, but are not limited to, architecture, MEP, structural, civil and environmental for building renovations and new facilities as well as site, landscape and marine related services.

ARCHITECTURAL, ENGINEERING AND ENVIRONMENTAL PROJECTS:

Laboratory, Research and Other Related Facilities: technical expertise and experience with wet and dry laboratory design, use of NFPA 45 Standard on Fire Protection for Laboratories, fume hoods and laboratory ventilation, clean room and HEPA filtration expertise, and marine facilities.

Renovation of Offices, Administrative Areas, Multifunctional Areas, Classrooms, Meeting Rooms, Auditoriums, Distance Learning Facilities and Audio / Visual Facilities: projects may include, but are not limited to, building design (new and renovations), building evaluations and existing conditions assessments, code review and compliance, green building practices, and value engineering.

Mechanical, Electrical and Plumbing: projects may include, but are not limited to, design (new and renovation/replacement) of MEP systems and components, evaluations of existing conditions assessments, code review and compliance.

Structural and Civil Projects: projects may include, but are not limited to, concrete spalling repairs, design (new and repairs) of structures including roofs and piers, TDI windstorm inspections and certifications, evaluations of existing conditions, assessments, code review and compliance.

Environmental projects: projects may, but are not limited to, asbestos and lead testing, specifications for abatement/remediation scope, third party monitoring services during abatement/remediation construction work.

Fire Life Safety projects: projects may include, but are not limited to, assessment

and reporting of code compliance in buildings by a licensed/certified individual, design of Fire Alarm and/or Sprinkler systems for renovation and new construction, 3rd party testing and reporting of Fire Alarm and/or Sprinkler systems.

- **NOTE: Multiple firms may be selected for each Functional Discipline.**

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.

Note: Information is also being sought at this stage on the consultants. The same information requested below for the Prime Firm is also requested for the named consultant firm(s) unless specifically noted otherwise.

Respondent's Legal Name: _____

Address: _____

City, State, Zip: _____

Telephone No.: _____ **Fax No.:** _____

E-mail Address: _____

State Comptroller Vendor Identification Number: _____

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture ☐ Limited Liability Company

Disciplines:

Check all professional services provided using in-house resources for which Respondent is submitting Qualifications:

- ☐ Architectural Services
- ☐ MEP Engineering Services
- ☐ Structural Engineering Services
- ☐ Civil Engineering Services
- ☐ Environmental Hazardous Material Services
- ☐ Fire Life Safety Services
- ☐ Other: (please list) _____

The submission of interest and qualifications for this RFQ will be evaluated based on the responses to following criteria. The criteria are not listed in any particular priority. References shall be considered relevant based on specific project participation and experience with the Respondent. The Owner may contact references at any point during the RFQ process.

If the Respondent has answered “Yes” to any questions 5.1.1 through 5.1.4 in Section 5 - General Information, Submission Documents No. 2, indicate below by marking with a checkmark which questions were answered affirmatively.

Question 1_____ Question 2_____ Question 3_____ Question 4_____

3.1 CRITERIA ONE: FIRM AND TEAM QUALIFICATIONS

3.1.1 Total number of employees company-wide: _____

3.1.2 Total number of employees within local office (within 100 miles of Port Aransas, TX): _____

(Indicate “0” if no office within 100 miles of Port Aransas, TX)

NOTE: an office local to the Port Aransas area is not mandatory; however, the information will be considered in evaluation of qualifications. Information about Respondent’s approach to logistics and reliable communication when working remotely should be included to aid in evaluation of qualifications.

3.1.3 Provide a brief history of the Respondent’s firm (Limit response to one page).

3.1.4 Provide identification on an organizational chart of key personnel proposed to provide services for future project assignments. Identify which employees are within local office (within 100 miles of Port Aransas), if any.

3.1.5 Provide the following information for each key personnel for the last five years: years with the Respondent’s firm; years of relevant experience with brief description of the relevant project(s); their roles in the identified relevant projects; any professional licenses. (Limit response to one page per key personnel.)

3.1.6 List other fully staffed offices or fully staffed branch offices of your organization:

<u>Name/Location</u>	<u>Branch Manager</u>	<u>Telephone Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3.2 CRITERIA TWO: FIRM’S PERFORMANCE ON PAST RELEVANT PROJECTS

3.2.1 Provide a brief narrative describing Respondent’s areas of specialty (i.e., main discipline with Respondent serving as the primary PSP) relevant to the types of projects listed in Section 2.3 of RFQ. (Limit response to one page.)

3.2.2 List a maximum of six (6) projects for which Respondent provided the professional services described in response to 4.2.1 located in coastal areas subject to harsh environmental conditions. List the projects in order of priority, with the projects most directly related to the criteria, specialties and description of the facilities and

potential projects listed first. Include and identify projects performed for the University, any University of Texas System campus, and/or any other institution of higher education or similarly complex facilities which maintained continuous operation during construction (hospitals, labs, semi-conductor, etc.). Provide the following information for each project listed:

1. Project name and location, and indicate whether Respondent served as primary PSP or subconsultant.
2. Project description.
3. Project owner.
4. Project construction cost, or estimated cost if not constructed.
5. Project size in gross square feet.
6. Whether the project was new construction, an addition, or a renovation.
7. Duration of both design and construction phases.
8. Describe unique challenges and Respondent's approach to a successful resolution.
9. Key personnel involved on project that are proposed in response to Section 4.1 for assignment to MSI projects.
10. References, including contact name and contact information, for each project listed above.

3.3 CRITERIA THREE: FIRM'S MANAGEMENT APPROACH

3.3.1 Briefly describe Respondent's approach to managing the following (Limit response to one page for all requirements of Section 4.3.1):

- Timely completion of design.
- Design of project within budget.
- Quality of documentation.

3.4 CRITERIA FOUR: 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. 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.

Addenda Acknowledgment

Receipt is hereby acknowledged of the following addenda to this RFQ by entering yes or no in space provided and indicating date acquired. Enter "0" if none received.

No. 1 _____ Date _____

No. 2 _____ Date _____

Representations

By signing below, Respondent represents and warrants that:

(i) the Qualifications and all statements and information prepared and submitted in response to this RFQ are current, complete, true and correct;

(ii) it is 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 or any subsequent proposal. Failure to sign below, or signing a false statement, may void the Response or any resulting contracts at the Owner's option, and the Respondent may be removed from all future proposal lists at this state agency;

(iii) the individual signing this document and the documents made part of the RFQ is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of the Response;

(iv) no relationship, whether as a relative, business associate, by capital funding agreement or by any other such kinship exists between Respondent and an employee of The Texas A&M University System;

(v) Respondent has not been an employee of The Texas A&M University System within the immediate twelve (12) months prior to the RFQ response;

(vi) no compensation has been received for participation in the preparation of this RFQ (ref. Section 2155.004 Texas Government Code);

(vii) all services to be provided in response to this RFQ will 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 as of the date of this solicitation;

(viii) Respondent complies with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action;

(ix) Respondent and each person signing on behalf of Respondent certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this RFQ, or in the services to which this RFQ relates, or in any of the profits, real or potential, thereof.;

(x) Each individual or business entity proposed by Respondent as a member of its team that will engage in the practice of engineering or architecture will be selected based on demonstrated competence and qualifications only; and

(xi) Respondent certifies it does not and will not, during the performance of any resulting contract from this RFQ, boycott Israel.

(xii) Respondent certifies that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Respondent acknowledges that any Agreement resulting from this RFQ may be terminated if this certification is inaccurate.

(xiii) Respondent certifies that it is not involved in human trafficking. Respondent acknowledges that any Agreement resulting from this RFQ may be terminated if this certification is inaccurate.

(xiv) Respondent certifies that the requirements of Subchapter J, Chapter 552, and *Texas Government Code*, (added by SB 943 during the 86th Legislative Session) may apply to this RFQ and resultant agreement and the Respondent agrees that the resultant agreement can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

By signing below, the Respondent hereby certifies as follows, and acknowledges that such certifications will be included in any resulting contract:

If the Respondent is subject to the Texas franchise tax, it is not currently delinquent in the payment of any franchise tax due under Chapter 171, Texas Tax Code, or is exempt from the payment of such taxes. A false certification may result in the Respondent's disqualification.

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.

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.

Submitted by:

(Company Name)

(Authorized Signature)

(Printed Name/Title)

(Date)

(Email)

(Street Address)

(Mailing Address)

(City, State, Zip Code)

(Telephone Number)

(Facsimile Number)

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 response shall be a **MAXIMUM OF THIRTY (30) PAGES** and uploaded to an electronic media device (thumb drive) as one PDF file. The cover, table of contents, divider sheets, HUB Subcontracting Plan (Section 1.11), and Execution of Offer do not count as pages. The HUB Subcontracting Plan shall be uploaded as a separate PDF file.
- 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. 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.

- 4.1.10 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.
- 4.1.11 Separate and identify each criteria response to Section 3 of this RFQ.
- 4.1.12 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.

ATTACHMENT A

HUB SUBCONTRACTING PLAN

FOR

PROFESSIONAL SERVICES

- I. The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting.

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

Texas A&M University-Corpus Christi (TAMUCC) has determined that the agency's goals differ from the State's goals. Therefore, respondents are required to use the following:

1. 19.78% for all building construction, including general contractors and operative builders contracts;
2. 13.31% for all special trade construction contracts;
3. 17.60% for professional services contracts;
4. 12.32% for all other services contracts; and
5. 25.13% for commodities contracts.

A Historically Underutilized Business (HUB) is defined by statute as an entity with its principal place of business in this state that is: (a) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who are economically disadvantaged because of their identification as members of certain groups, including Black Americans, Hispanic Americans, women, Asian Pacific Americans, Native Americans and Service Disabled Veterans and have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; and have a proportionate interest and demonstrate active participation in the control operation and management of the corporation's affairs; (b) a sole proprietorship created for the purpose of making a profit that is 100% owned, operated, and controlled by a person described in subdivision (a) of the subsection; (c) a partnership formed for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons and demonstrate active participation in the control, operation and management of the partnership's affairs; (d) a joint venture in which entity in the joint venture is a HUB under this subsection; or, (e) a supplier contract between a HUB under this subsection and a prime contractor under which the HUB is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

ATTACHMENT A

TAMUCC shall make a good faith effort to meet or exceed either the State of Texas Disparity Study goals or the agency's goal and to assist HUBs in receiving a portion of the total contract value of all contracts that the agency expects to award in a fiscal year. It is the policy of to contract directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F and Comptroller of Public Accounts HUB Rules, TAC Section § 20.14.

The total expected value of this contract is \$100,000 or more and Texas A&M University-Corpus Christi has determined that subcontracting opportunities are probable for this contract. Therefore, the Respondent is required to submit a HUB Subcontracting Plan (HSP) with their proposal. The Respondents will use the procedures prescribed in Article II when developing the HSP.

All Respondents must submit a HUB Subcontracting Plan according to the procedures and steps listed below.

The Owner will review the information/documentation submitted and use it as a basis to determine if the Respondent's Plan provides evidence that a good faith effort will be made as required. If it is determined that the submitted Plan is not sufficient, the Respondent's submittal/proposal will be considered non-responsive and shall be rejected for the reasons recorded in the project files. An accepted HSP Subcontracting Plan will become a part of any contract with the Respondent resulting from this solicitation and then can only be modified by contract change order.

For information regarding The Texas A&M University-Corpus Christi's HUB Program and HUB subcontracting requirements, please contact Ruben Gonzalez, HUB Coordinator, ruben.gonzalez@tamucc.edu, (361) 825-5822.

II. HUB SUBCONTRACTING PLAN (HSP) PROCEDURES

An HSP is required as part of bids, proposals, offers, or other applicable expression of interest valued at \$100,000 or more. Responses that do not include the HSP or if the agency determines that the HSP was not developed in good faith, shall be rejected as a material failure to comply with the advertised specifications.

The procedures for the HSP requirements of this Request for Proposal are a **two-step process** as follows; 1) Initial HSP to be submitted with this RFP, and 2) Complete HSP to be submitted within sixty (60) days of award. These two steps are defined below.

- 1) The following items must be submitted with your RFP response to meet the HUB Subcontracting Plan requirements.
 - a. Cover sheet, Page 1
 - b. Letter of transmittal attesting that the respondent has read and understands the Policy on Historically Underutilized Businesses (see Attachment A)
 - c. State of Texas Historically Underutilized Business Subcontracting Plan: Complete the HSP form by submitting Sections 1, Section 2-a. & b. and Section 4 ONLY. The State of Texas HUB Subcontracting Plan forms shall be accessed on the following website:

<https://purchasing.tamucc.edu/assets/HUBForms/hsp-rev.pdf>

The State of Texas HSP forms shall be completed for the sections noted above and according to the instructions within the form.

ATTACHMENT A

d. Participation Plan explaining how the Respondent intends to make a good faith effort for each subcontracting opportunities they identify in Section 2 of the State of Texas HSP Form. This plan shall include the following:

- The Respondent shall state whether it is a Texas certified HUB.
- Provide a sample solicitation notice letter that will be sent to HUB vendors for the subcontracting opportunities. The notice shall, in all instances, include the scope of work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person.
- Provide a sample solicitation letter that will be sent to trade organizations or development centers for the subcontracting opportunities. The notice shall, in all instances, include the scope of work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person.
- Provide a list of the trade organizations or development centers that you intend to work with in your outreach efforts.
- Provide documentation that describes how you intend to locate the HUB vendors for solicitation – Will you use the CMBL listings? Will you advertise in trade organization newsletters or newspapers? Etc.

2) A complete HSP must be submitted within sixty (60) calendar days from the date of contract award. The following items must be submitted with this revised HSP in order to meet the full HUB Subcontracting Plan requirements.

- a. Complete Section 1, page 1 of the HSP form.
- b. Complete Section 2a through d. Any changes to 2b shall be noted accordingly. Note that Method B is required so “No” should be checked on both 2c and d.
- c. Complete Section 3 (if you are self-performing all of the work)
- d. Complete Section 4 (must be signed)
- e. Complete Method B attachment for each opportunity listed in Section 2b. Reminder that all supporting documentation listed in Section B-3 shall be provided as part of this attachment. The following are additional items of note as part of the good faith effort required:

Complete either Method A or Method B (only one method can be used per HSP Plan) for each opportunity listed in Section 2b. Reminder that all supporting documentation shall be provided as part of this plan. The following are additional items of note as part of the good faith effort required:

- The respondent shall provide potential HUB subcontractors reasonable time to respond to the respondent’s notice. “Reasonable time to respond” in this context is no less than seven (7) working days from receipt of notice, unless circumstances require a different time period, which is determined by the agency and documented in the contract file.
- The respondent shall use the State of Texas Centralized Master Bidders List (CMBL), HUB Directory, internet resources, and/or other directories as identified by the State of Texas or the Texas A&M University-Corpus Christi HUB Program Office when searching for HUB subcontractors.

ATTACHMENT A

NOTE: A complete list of all certified HUBs may be electronically accessed through the Internet at

<https://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>

- The respondent shall provide the notice described in this section to **three (3) or more** HUBs for **each** subcontracting opportunity as stated in Section B3a. Texas A&M University-Corpus Christi encourages respondents to seek and find a “Diverse Group” of Historically Underutilized Businesses in each category in which a subcontract of services is solicited.
- The respondent shall provide notice to trade organizations or development centers that assist in identifying HUBs by disseminating opportunities to their membership/participants.
- The respondent shall negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder.
- Provide written justification of the selection process if a non-HUB subcontractor is selected in Section B-4c.

III. HSP CHANGES

If at any time during the term of the contract, it becomes necessary to make a change to the approved HSP, such proposed change must be received for review and approval by the TAMUCC HUB Program Office before the change will be effective under the contract. The contractor must comply with provisions of TAC §20.14 relating to development and evaluation of HSP, in order to substitute or subdivide the work and/or substitute or add subcontractors prior to any alteration of the HSP. TAMUCC shall document changes to the HSP by contract change order. The reasons for proposed change(s) shall be requested on a Form C-27b Consultant/Subcontractor Substitution Form and recorded in the procurement file. In the event that a change is necessary, the requested changes shall not reduce the level of HUB participation that was a part of the proposal at the time of construction contract award unless approved by the TAMUCC HUB Program Office.

The contractor will be required to submit a revised HSP for additional subcontracting opportunities that were not identified in the original HSP and created when the original scope of work expands through a change order, contract amendment or a contract renewal.

TAMUCC requires a respondent to whom a contract has been awarded, to report to TAMUCC the identity and the amount paid to its subcontractors, HUBs and non-HUBs. If the contractor fails to fulfill the HSP specified in the contract, TAMUCC shall notify the contractor of any deficiencies. TAMUCC shall require the contractor to submit documentation and explain why the failure to fulfill the HUB Subcontracting Plan should not be attributed to a lack of good faith effort by the contractor.

If a determination is made that the contractor failed to implement the HSP in good faith, TAMUCC, in addition to any other remedies, may report nonperformance to the Comptroller of Public Accounts in accordance with 34 TAC, Chapter §20.105 (relating Debarment).

During the term of the contract, TAMUCC shall determine whether the value of the subcontracts to HUBs meets or exceeds the HSP provisions specified in the contract.

ATTACHMENT A

IV. REPORTING REQUIREMENTS

Each contractor that enters into a contract shall report to Texas A&M University-Corpus Christi all subcontracting/supplier payments. The report will include the volume of work performed under the contract, the portion of the work that was performed with its own employees/resources, HUB and Non-HUB subcontractors and suppliers (See HSP Prime Contractor Progress Assessment Report Form (PAR) located at the following link under HUB Subcontracting Plan (HSP) Forms:

<https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>

Texas A&M University-Corpus Christi may request payment documentation in accordance with the Comptroller of Public Accounts HUB Rules that confirms the performance of the contractor. During the course of the contract, TAMUCC shall discuss the performance of the contractor and document the contractor performance in the contract file.

Note: When the prime contractor/vendor is a HUB, it must perform at least 25% of the total value of the contract with its own or leased employees, as defined by the Internal Revenue Service, in order for the Owner to receive 100% HUB credit for the entire contract.

If a HUB prime contractor's HSP identifies that it is planning to perform less than 25% of the total value of contract with its own or leased employees, the HUB contractor must report to the Owner the value of the contract that was actually performed by the HUB prime contractor and the amount to be performed by its HUB subcontractors.

The HUB Office shall audit the contractor's compliance with the HSP. If the contractor is found deficient, TAMUCC shall give the contractor an opportunity to submit documentation and explain to TAMUCC why the failure to fulfill the HSP should not be attributed to a lack of good faith effort by the contractor.

ATTACHMENT A

(SUBMIT ON YOUR BUSINESS LETTERHEAD)

Mr. Ruben Gonzalez
Texas A&M University-Corpus Christi
6300 Ocean Drive., Unit 5731
Corpus Christi, Texas 78412-5731

Subject: HUB Subcontracting Plan
Project Number: RFQ4-0001
Architect/Engineer Professional Services
Corpus Christi, Texas

Dear Mr. Gonzalez:

I am pleased to forward this HUB Subcontracting Plan as an integral part of our written response submitted in connection with your Construction Services solicitation for Project Number RFQ4-0001.

I have read and understand Texas A&M University-Corpus Christi's Policy on Utilization of Historically Underutilized Businesses (HUBs) and the goals for HUB participation.

Sincerely,

(Signature)
(Printed Name)
(Printed Title) ||

ATTACHMENT B

AN AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES
AND _____

This Master Services Agreement (hereafter referred to as “MSA”) is entered into and effective September 1, 2021 (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “A&M System”), an agency of the state of Texas, and _____ (hereafter referred to as “Provider”). A&M System and Provider are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

A&M System and Provider hereby agree as follows:

1. SCOPE OF WORK

Provider will work with the A&M System and its member universities and agencies (may be collectively referred to as “Members”) to provide facility programming and Programs of Requirements (“POR”) services on an as needed basis. The services included (but not limited to) in the scope of this MSA are listed in Exhibit A, attached hereto.

2. TERM OF THE AGREEMENT

The initial term of this MSA shall begin upon final execution and will extend through August 31, 2023. This MSA can be extended for two additional one (1) year terms upon written agreement of both parties. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by A&M System and negotiated in writing with the Provider.

3. PAYMENT TERMS

- A. A&M System shall not pay any costs or fees as a direct result of this MSA. For services rendered as a result of this MSA, the A&M System or Member shall pay Provider for the services based on fees negotiated at the time a project(s) is assigned, to include reimbursables. These fees shall be stated within each Member specific project agreement and/or purchase order.
- B. Provider shall invoice A&M System or Member for amounts due consistent with the “Payment Schedule” as negotiated per project. For reimbursement of travel expenses, Provider’s invoice(s) must include supporting documents. Payment will be made to Provider upon approval of such invoice by TAMUS. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.
- C. Business-related travel, lodging and/or meal expenses will be reimbursed by TAMUS according to the State of Texas rates, rules, and regulations. Provider is required to submit all travel receipts when requesting reimbursement. Under no circumstance will the Provider be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (Provider’s place of business to job site) using the State of Texas

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mileage. Should the contract be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.

- D. All payments shall be made by electronic direct deposit. If not already setup, Provider is required to complete and submit to A&M System or Member a Vendor Direct Deposit Authorization form prior to the first payment request. The A&M System Direct Deposit form can be accessed at; <https://www.tamus.edu/business/budgets-and-accounting/accounting/general/>.
- E. All invoices must reference the A&M System or Member purchase order number issued for a specific project and include the description of services provided as well as time, deliverables, and activities. Invoices will be processed for payment upon approval by the appropriate A&M System personnel.
- F. Invoices are to be sent according to the address specifically listed within the purchase order for each specific project.

4. DEFAULT AND TERMINATION

- A. For Cause: In the event of substantial failure by Provider to perform in accordance with the terms hereof, A&M System may terminate this MSA upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior by the end of the fifteen-day period), provided that said failure is through no fault of A&M System.
- B. For Convenience: A&M System may terminate this MSA at any time upon thirty (30) days prior notice to Provider.
- C. Termination of this MSA for either of the reasons stated above shall not terminate any Member specific agreement or purchase order. Refer to Section 8.M for survivability of terms beyond termination of this MSA.

5. PUBLIC INFORMATION

- A. Provider acknowledges that A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this MSA, as well as any other disclosure of information required by applicable Texas law.
- B. Upon A&M System's written request, Provider will promptly provide specified contracting information exchanged or created under this MSA for or on behalf of A&M System.
- C. Provider acknowledges that A&M System may be required to post a copy of the fully executed MSA on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.
- D. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this MSA and the Provider agrees that the MSA can be terminated if the Provider knowingly or intentionally fails to comply with a requirement of that subchapter.

6. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M System and Provider to attempt to resolve any claim for breach of contract made by

ATTACHMENT B

Provider that cannot be resolved in the ordinary course of business. Provider shall submit written notice of a claim of breach of contract under this Chapter to Billy Hamilton, Deputy Chancellor and Chief Financial Officer for A&M System, who shall examine Provider's claim and any counterclaim and negotiate with Provider in an effort to resolve the claim.

7. INSURANCE

Insurance requirements as stated within Exhibit B, attached hereto.

8. MISCELLANEOUS

- A. **Indemnification.** Provider agrees to indemnify and hold harmless A&M System from any claim, damage, liability, expense or loss to the extent arising out of Provider's negligent or willful errors or omissions under this MSA.
- B. **Independent Contractor.** Provider is an independent contractor, and neither Provider nor any employee of Provider shall be deemed to be an agent or employee of A&M System. A&M System will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Provider shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of A&M System relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "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."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, Provider agrees that any payments owing to Provider under this MSA may be applied directly toward certain debts or delinquencies that Provider owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** Provider acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits A&M System from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If Provider is an individual, by signing this MSA, Provider certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Not Eligible for Rehire.** Provider is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in System policy 32.02, Section 4. Non-conformance to this requirement may be grounds for termination of this MSA.

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- G. **Franchise Tax Certification.** If Provider is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Provider certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that Provider is exempt from the payment of franchise (margin) taxes.
- H. **State Auditor's Office.** Provider understands that acceptance of funds under this MSA constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Provider agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Provider will include this provision in all contracts with permitted subcontractors.
- I. **Entire Agreement.** This MSA constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this MSA. This MSA may not be amended or otherwise altered except upon the written agreement of both parties.
- J. **Severability.** If any provisions of this MSA are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this MSA, as modified, enforceable, and the remainder of this MSA and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- K. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this MSA and shall not be used to construe it.
- L. **Non-Assignment.** Provider shall neither assign its rights nor delegate its duties under this MSA without the prior written consent of A&M System.
- M. **Survivability.** The Provider's duties under this MSA, Member specific agreement and/or purchase order, which impose an obligation after expiration or termination of this MSA, will survive unless otherwise stated within the Member specific agreement and/or purchase order.
- N. **HUB Subcontracting Plan.** If awarded a project as a result of this MSA, the Provider may be required by the applicable Member to complete a HUB Subcontracting Plan ("HSP") in full per the instructions below for that specific project.
- a. Complete Section 1
 - b. Complete Section 2a through d.
 - c. Complete Section 4
 - d. Complete Method A or B as applicable depending on your response to questions in Section 2c-d. Below are the instructions for each Method;
- Method A:** Provide Method A (Attachment A) for each opportunity identified in Section 2b of the HSP and complete all sections. Section A-2 shall include all subconsultants selected for that opportunity, both HUBs and non-HUBs.
- Method B:** Provide Method B (Attachment B) for each opportunity identified in Section 2b. Reminder that all supporting documentation listed in Section B-3 shall

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be provided as part of this attachment. The following are additional items of note as part of the good faith effort required:

- The respondent shall provide potential HUB subcontractors reasonable time to respond to the respondent's notice. "Reasonable time to respond" in this context is no less than seven (7) working days from receipt of notice, unless circumstances require a different time period and it is approved by A&M System in writing.
- The respondent shall use the State of Texas Centralized Master Bidders List (CMBL), HUB Directory, internet resources, and/or other directories as identified by the State of Texas or the A&M System HUB Program Office when searching for HUB subcontractors. **A complete list of all State of Texas certified HUBs may be electronically accessed at;**
<https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>
- The respondent shall provide the notice described in this section to **three (3) or more** HUBs for **each** subcontracting opportunity as stated in Section B3a. The A&M System encourages respondents to seek and find a "Diverse Group" of Historically Underutilized Businesses in each category in which a subcontract of services is solicited.
- The respondent shall provide notice to minority and women business trade organizations or development centers that assist in identifying HUBs by disseminating opportunities to their membership/participants. A list of possible organizations/centers can be found at the following site;
<https://comptroller.texas.gov/purchasing/vendor/hub/resources.php>
- The respondent shall negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder.
- Provide written justification of the selection process if a non-HUB subcontractor is selected in Section B-4c.

O. **Force Majeure.** Neither party will be in breach of its obligations under this Agreement or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure event (as defined below), except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure event had not occurred. "Force Majeure event" is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance

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and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform its obligation(s). Written notice of a party's failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). For the avoidance of doubt, the COVID-19 pandemic and any governmental changes or closures related thereto shall be deemed Force Majeure events, even to the extent reasonably foreseeable by either party as of the effective date of this Agreement.

- P. **Loss of Funding.** Performance by a Member under this MSA and Member specific agreement or purchase order may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, the impacted Member may issue written notice to Provider and Member may terminate their Member specific agreement or purchase order without further duty or obligation hereunder. Provider acknowledges that appropriation of funds is beyond the control of A&M System and its Members.
- Q. **Governing Law.** The validity of this MSA and all matters pertaining to this MSA, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- R. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against A&M System shall be in the county in which the primary office of the chief executive officer of A&M System is located, which is Brazos County, Texas.
- S. **Non-Waiver.** Provider expressly acknowledges that A&M System is an agency of the State of Texas and nothing in this MSA will be construed as a waiver or relinquishment by A&M System of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- T. **Conflict of Interest.** By executing this MSA, Provider and each person signing on behalf of Provider certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this MSA, or in the services to which this MSA relates, or in any of the profits, real or potential, thereof.
- U. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2271 applies to this MSA, Provider certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this MSA. Provider acknowledges this MSA may be terminated and payment withheld if this certification is inaccurate.
- V. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Provider certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Provider acknowledges this Purchase Order may be terminated if this certification is or becomes inaccurate.
- W. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract

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and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

- X. **Records Retention.** Provider will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the MSA for the duration of the MSA and for seven years after the conclusion of the MSA.
- Y. **Notices.** Any notice required or permitted under this MSA must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. A&M System and Provider can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

A&M System: The Texas A&M University System
301 Tarrow St., Suite 273
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
E-mail: jzimmermann@tamus.edu

Provider: Vendor Name
Address
City, State, Zip
Phone:
Email:

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this MSA as of the Effective Date.

The Texas A&M University System

By _____
Jeff Zimmermann
Director, Procurement & Business Services

Date

Vendor Name

By _____

Date

ATTACHMENT B

EXHIBIT A – SCOPE

Services will include the preparation of comprehensive Programs of Requirements for certain construction projects for A&M System Members as assigned and authorized. In general, the programs will capture and record the requirements for each particular project, clearly define what scope is included in the project, be a basis for sign-off agreement on scope/cost/schedule between the A&M System Member and the A&M System, and present the information needed by the design architects and engineers in a concise and easily understood format.

In general, a typical program could be required to address subjects to include but not be limited to the following, as applicable to a particular project and as approved by the A&M System:

Project Description

- User justification
- System Strategic Imperative – list imperative and how the project supports
- Campus Master Plan Implementation – describe how the project complies with and supports the implementation goals of the specific member campus master plan
- Project narrative – describe scope
- Goals and Objectives
- Enrollment, faculty, and staff projections for this project
- THECB space projections, campus space utilization score
- Council on the Built Environment (CBE) project approvals (Texas A&M only)
- Campus CEO approvals (All other system members)

General Requirements

- Project team members and roles, contact info
- User coordinator responsibilities provided by A&M System FP&C
- Codes and Regulations and other facility or certification requirements unique to the project
 - Detailed cost estimate as coordinated with A&M System FP&C to mid-point of construction
 - Programming team estimator to provide construction estimate with base bid (90%) and alternates totaling 10%.
 - Programming team to provide estimate for movable equipment based on equipment matrix and cut sheets.
 - FPC to provide overall project budget based on these inputs.
- Project schedule as coordinated with A&M System FP&C
- Aspects used to determine success of the project
- Barriers that challenge the success of the project
- Coordination with member institution master plan priorities
- Coordination with member institution support departments – identify requirements, roles and responsibilities
- Coordination with member institution CEO/President and CFO – identify CEO/CFO goals
- Items that are *not* typically included in the project or budget (for example, computers, phones, moving/relocation expenses, desktop supplies and equipment, maintenance and custodial services, etc.)
- Building Information Modeling (BIM) requirements for the member institution
- Any sole source products required by member institution with approval documentation from the A&M System for each (sole source pricing should be reflected in the cost estimate)
- Signature page for the project

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- Memorandums of understanding, agreements, easements, land ownership transfers, etc. required

Texas Higher Education Coordinating Board (THECB) Requirements

- Project's achievement of any of the THECB goals (60x30 or latest version)
- Predominant building use classification
- Required building efficiency based on primary use
- NASF and E&G SF by room
- NASF and GSF by floor, by building, and total
- Room code for each space

Site Development Requirements

- Site selection studies
- Availability, quantity and quality of existing site utilities.
- On-site utilities coordination – identify source, contact information, points of connection, etc.
- Off-site utilities coordination – identify source, contact information, points of connection, etc.
- Drainage, erosion control, and storm water detention requirements and recommendations
- Adjacent uses and buildings
- Archeological survey
- Noise Abatement
- Hazardous materials survey
- Acquisition of property requirement and agreement(s)
- Demolition of existing structures
- Natural features or trees to remain
- Campus landscape requirements
- Site security considerations
- Phasing of development activities
- Vehicular and bicycle parking requirements

Building Requirements

- Basis of Design assumptions identifying materials, structural assumptions, mechanical, electrical, and other system requirements
- Life Cycle Cost criteria as coordinated with the A&M System FP&C
- Building maintenance plan to include operating costs/estimate of maintenance labor hours
- Rainwater, condensate, and gray water collection and reuse requirements and recommendations
- Alternative energy requirements and recommendations
- Sustainability requirements
- Hazardous materials survey (if existing building)
- Re-purposing of existing facilities (if applicable)
- Deferred maintenance evaluation (if renovation/building addition)
- Space requests and needs
- Functional relationships of departments and spaces
- Space conversion opportunities
- Room by room requirements per *Room Data Sheets*
- Matrix of existing and/or new Moveable Equipment, including anticipated future equipment needs, procurement responsibilities (procurement, installation, in/out of project budget) with cut sheets
- Matrix of existing and/or new Moveable Furnishings

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Room Data Sheets

- Space use
- Test fits / Design concepts
- Finishes
- Audio-Visual equipment and infrastructure requirements
- Moveable Furnishings
- Moveable Equipment
- Casework
- Fixtures
- Security equipment and requirements
- Performance requirements of all systems and equipment
- Cut sheets for equipment
- Special sound or vibration requirements beyond the Facility Design Guidelines baselines

Building Configuration and Massing

- Space schematics and flow diagrams
- Departmental interaction matrix
- Room-by-room interaction matrix
- Diagrammatic block bubble plan (not circles)
- Horizontal and vertical block stacking diagrams with relative spatial requirements
- Optional Renderings and/or virtual animations

The more specific tasks to be performed in the development of Programs of Requirements, as applicable to the particular project, could include, but not be limited to, such items as the following:

Task 1 – Data Gathering

- Kick-off meeting (at A&M System Member campus)
 - + Meet with representatives of the A&M System Member and the A&M System to define project goals, set the direction for the project, discuss the “big picture” issues that will control program development, and discuss the organization of facility or academic departments and identify stakeholders who will participate in data gathering
 - + Develop a schedule for the Program of Requirements preparation including associated interviews and workshops
- Preparation for Workshop(s)
 - + Prepare and distribute project questionnaires to stakeholders and receive and analyze completed questionnaires prior to holding stakeholder workshops
- Workshops(s)
 - + Conduct workshop(s) (multi-day if required) at the A&M System Member campus
 - + Conduct detailed interviews with Users and meet with other stakeholders
 - + Review current space use within each academic department
 - + Review possible changes in institution and departmental organization
 - + Discuss future scenarios for number of students, faculty and new programs
 - + Develop appropriate space standard sizes for offices, work stations, classrooms, etc. from the A&M System Member requirements
 - + Define preliminary ideal projected space requirements of each activity and the functional relationship between all activities
 - + Present a summary of the projected space requirements to the A&M System Member and A&M System representatives for preliminary test of reasonability

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Task 2 – Program Development

- Develop Outline Program
 - + Analyze all of the space and adjacency requirements information for each activity
 - + Prepare exhibits that describe the programmatic needs of each activity
 - + Develop a series of relationship diagrams
 - + Identify costs associated with needed improvements, using cost per square foot benchmarks
 - + Organize all of the information to date into an outline program and issue it to designated representatives of the System Member and the A&M System
- Workshop(s) – Presentation of the Outline Program Workshop (at System Member Campus)
 - + Meet with A&M System Member and A&M System representatives to review the outline program
 - + Facilitate space planning workshop to assist in prioritizing and adjusting the allocation of space within the draft program
- Workshop(s) – Additional Detailed Programming (at the A&M System Member Campus)
 - + Conduct follow-up interviews as needed with Users and meet with other stakeholders
 - + Define space allocations and adjacencies
 - + Review and document detailed room requirements including furniture, fixtures, finishes, equipment and utilities
- Site development, technical requirements and cost estimate
 - + Document a recommended site use and building configuration concept
 - + Develop blocking and stacking diagrams to illustrate the preferred space allocations
 - + Identify collateral project needs such as site related issues, infrastructure improvements, MEP designs, structural engineering issues, etc., if required by the particular assignment
 - + Incorporate guidelines, standards or specifications provided by the A&M System for items such as project administration and general project requirements, building systems, information technology, safety, code requirements, etc.
 - + Incorporate a suitable project schedule and include information concerning the delivery method all in coordination with the A&M System and the A&M System Member
 - + Develop a construction cost estimate including all requirements and agreed scope of the project for a complete and functional facility
- Prepare and present final POR
 - + Prepare a 75% draft of the program and review with the A&M System Member and A&M System representatives
 - + Refine the 75% draft program based on comments received
 - + Prepare a 95% draft of the program and review with the A&M System Member and A&M System representatives
 - + Refine the 95% draft program based on comments received
 - + Prepare and issue the final version of the program

The A&M System or Member reserves the right on each assignment to authorize all or any part of the above subject areas and/or work tasks, as the A&M System or Member deems necessary, for the individual project. The scope to be performed will be set forth in each work authorization and be based on a proposal from the Provider for the particular assignment. A purchase order will establish a scope of work and a lump sum or not-to-exceed fee for each assignment upon successful negotiations.

A&M System Notification: If awarded a project by an A&M System Member (university or agency), the A&M System Office of Facilities Planning & Construction (FPC) requests that the Provider notifies FPC

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upon issuance of a purchase order. Notification of award may be sent through email to sking@tamus.edu.

Note: For A&M System projects, e-Builder is the project management software and the selected Respondent(s) will be expected to fully utilize this program. Training in College Station will be provided at no additional cost.

SAMPLE

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EXHIBIT B – INSURANCE

Provider shall obtain and maintain, for the duration of this MSA or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to A&M System. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to Provider under this MSA. Provider shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Provider is not relieved of any liability or other obligations assumed pursuant to this MSA by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

Insurance:

<u>Coverage</u>	<u>Limit</u>
A. <u>Worker's Compensation</u>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

C. <u>Commercial General Liability</u>	
Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures Provider's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this MSA

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Additional Endorsements

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System as additional insured's.

- D. **Professional Liability (Errors & Omissions)** Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of Provider and its subcontractors under this MSA. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this MSA. If coverage is written on a claims-made basis, Provider agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the 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 three (2) years after the expiration of cancellation of this MSA.

- E. Provider will deliver to A&M System:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this MSA and prior to the performance of any services by Provider under this MSA. 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 thirty (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 for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by Provider. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by A&M System prior to the performance of any services by Provider under this MSA. Provider is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this MSA will be emailed to the following A&M System contact in SOProcurement@tamus.edu.

The insurance coverage required by this MSA will be kept in force until all services have been fully performed and accepted by A&M System in writing, except as may be noted.