

*Fort Bend County, Texas  
Invitation for Quote*



*Shade Structure at AMC  
Quote 2022-03*

**SUBMIT QUOTES BY EMAIL TO:**

Fort Bend County  
Purchasing Department  
Melissa Stavinoha, Buyer II

[Melissa.Stavinoha@fortbendcountytx.gov](mailto:Melissa.Stavinoha@fortbendcountytx.gov)

**Note:** All correspondence must include the term  
“Purchasing Department” in address to assist in  
proper delivery.

**SUBMIT NO LATER THAN:**

Monday, October 25, 2021  
2:00 PM (Central)

**LABEL: QUOTE 2022-03**

***ALL QUOTES MUST BE RECEIVED IN AND TIME/DATE STAMPED BY THE PURCHASING OFFICE  
OF FORT BEND COUNTY BEFORE THE SPECIFIED TIME/DATE STATED ABOVE.***

Results will not be given by phone.  
Results will be provided to vendor in writing  
by email and posted to [www.fortbendcountytx.gov](http://www.fortbendcountytx.gov)

Requests for information must be in  
writing and directed to:  
Melissa Stavinoha  
Buyer II  
[Melissa.Stavinoha@fortbendcountytx.gov](mailto:Melissa.Stavinoha@fortbendcountytx.gov)

**Vendor Responsibilities:**

- Download and complete any addendums. (Addendums will be posted on the Fort Bend County website.)
- Submit response in accordance with requirements stated on the cover of this document.



**COUNTY PURCHASING AGENT**  
Fort Bend County, Texas

**Vendor Information**

Jaime Kovar  
Purchasing Agent

Office (281) 341-8640

|  |   |  |        |
|--|---|--|--------|
| Legal Company Name<br>(top line of W9)   |   |  |        |
| Business Name<br>(if different from legal name)                                    |   |  |        |
| Federal ID # or S.S. #   |   |  | DUNS # |
| Type of Business   | <input type="checkbox"/> Corporation/LLC <input type="checkbox"/> Partnership<br><input type="checkbox"/> Sole Proprietor/Individual <input type="checkbox"/> Tax Exempt Organization | Age in Business?   |        |
| Publicly Traded Business   | <input type="checkbox"/> No <input type="checkbox"/> Yes      Ticker Symbol _____   |  |        |
| Remittance Address   |   |  |        |
| City/State/Zip   |   |  |        |
| Physical Address   |   |  |        |
| City/State/Zip   |   |  |        |
| Phone/Fax Number   | Phone: _____ Fax: _____   |  |        |
| Contact Person   |   |  |        |
| E-mail   |   |  |        |
| Check all that apply to the company listed above and provide certification number. | DBE-Disadvantaged Business Enterprise _____<br>SBE-Small Business Enterprise _____<br>HUB -Texas Historically Underutilized Business _____<br>WBE-Women's Business Enterprise _____   | <b>Certification #</b> _____<br><b>Certification #</b> _____<br><b>Certification #</b> _____<br><b>Certification #</b> _____ |        |
| Company's gross annual receipts  | <\$500,000 _____  | \$500,000-\$4,999,999 _____  |        |
|  | \$5,000,000-\$16,999,999 _____  | \$17,000,000-\$22,399,999 _____  |        |
|  | >\$22,400,000 _____   |  |        |
| NAICs codes (Please enter all that apply)  |   |  |        |
| Signature of Authorized Representative   |   |  |        |
| Printed Name   |   |  |        |
| Title  |   |  |        |
| Date   |   |  |        |

**THIS FORM MUST BE SUBMITTED WITH THE SOLICITATION RESPONSE**

## 1.0 GENERAL REQUIREMENTS:

- 1.1 Read this entire document carefully. Follow all instructions. You are responsible for fulfilling all requirements and specifications. Be sure you understand them.
- 1.2 General Requirements apply to all advertised quotes, however, these may be superseded, whole or in part, by the scope, special requirements, specifications, special specifications or other data contained herein.
- 1.3 Governing Law: Vendor is advised that these requirements shall be fully governed by the laws of the State of Texas and that Fort Bend County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the County Attorney concerning any portion of these requirements.
- 1.4 Quote Document Completion: Fill out and return to the Fort Bend County Purchasing Department as stated herein.
- 1.5 Quote Returns: Vendors must return all completed Quotes to the Fort Bend County Purchasing Department as stated herein, no later than the date and time specified. Late Quotes will not be accepted.
- 1.6 Governing Document: In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Fort Bend County's interpretation shall govern.
- 1.7 Addenda: No interpretation of the meaning of the drawings, specifications or other quote documents will be made to any vendor orally. All requests for such interpretations must be made in writing addressed to Ms. Melissa Stavinoha, Buyer II, e-mail: [Melissa.Stavinoha@fortbendcountytexas.gov](mailto:Melissa.Stavinoha@fortbendcountytexas.gov). Any and all interpretations and any supplemental instructions will be in the form of written addenda to the contract documents which will be posted on Fort Bend County's website. Addenda will **ONLY** be issued by the Fort Bend County Purchasing Agent. It is the sole responsibility of each vendor to insure receipt of any and all addenda. All addenda issued will become part of the contract documents. Vendors must sign and include addendum in the returned quote package. Deadline for submission of questions and/or clarification is **Friday, October 15, 2021 at 2:00 p.m. (CST)**. Please include Quote Label Number, provided on front page. Requests received after the deadline will not be responded to due to the time constraints of this quote process.
- 1.8 Hold Harmless Agreement: Contractor shall indemnify and hold Fort Bend County harmless from all claims for personal injury, death and/or property damage arising from any cause whatsoever, resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this quote, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's

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liability as may arise directly or indirectly from work performed under terms of this quote. Certification of such coverage must be provided to the County upon request.

- 1.9 Waiver of Subrogation: Vendor and vendor's insurance carrier waive any and all rights whatsoever with regard to subrogation against Fort Bend County as an indirect party to any suit arising out of personal or property damages resulting from vendor's performance under this agreement.
- 1.10 Severability: If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.
- 1.11 Bonds: If this quote requires submission of quote guarantee and performance bond, there will be a separate page explaining those requirements. Quotes submitted without the required quote bond or cashier's checks are not acceptable. Bond/s or cashier's check must be complete with all required signatures.
- 1.12 Taxes: Fort Bend County is exempt from all federal excise, state and local taxes unless otherwise stated in this document. Fort Bend County claims exemption from all sales and/or use taxes under Chapter 20, Title 122a, Vernon's Texas Civil Statutes, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the Fort Bend County Purchasing Department.
- 1.13 Fiscal Funding: A multi-year lease or lease/purchase arrangement (if requested by the specifications), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void. After expiration of the lease, leased equipment shall be removed by the vendor from the using department without penalty of any kind or form to Fort Bend County. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the vendor.
- 1.14 Pricing: Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated in the quote spreadsheet. Prices shall be all inclusive. No price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, and other charges are to be prepaid by the contractor and included in the quote prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, vendor MUST indicate the items required and attendant costs or forfeit the right to payment for such items.
- 1.15 Silence of Specifications: The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point,

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shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item quote.

- 1.16 Supplemental Materials: Vendors are responsible for including all pertinent product data in the returned quote package. Literature, brochures, data sheets, specification information, completed forms requested as part of the quote package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the vendor wishes to include as a condition of the quote, must also be in the returned quote package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire quote.
- 1.17 Material Safety Data Sheets: Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", a vendor must provide to County and using departments, with each delivery, material safety data sheets, which are, applicable to hazardous substances defined in the Act. Vendors are obligated to maintain a current, updated file in the Fort Bend County Purchasing Department. Failure of the vendor to maintain such a file will be cause to reject any quote applying thereto.
- 1.18 Name Brands: Specifications may reference name brands and model numbers. It is not the intent of Fort Bend County to restrict these quotes in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with them. Fort Bend County shall act as sole judge in determining equality and acceptability of products offered.
- 1.19 Color Selection: Determination of colors of materials is a right reserved by the using department unless otherwise specified in the quote. Unspecified colors shall be quoted as standard colors, not colors, which require up charges or special handling. Unspecified fabrics or vinyl should be construed as medium grade. If vendor fails to get color/material approvals prior to delivery of merchandise, the using department may refuse to accept the items and demand correct shipment without penalty, subject to other legal remedies.
- 1.20 Evaluation: Evaluation shall be used as a determinant as to which quote items or services are the most efficient and/or most economical for the County. It shall be based on all factors, which have a bearing on price and performance of the items in the user environment. All quotes are subject to tabulation by the Fort Bend County Purchasing Department and recommendation to Fort Bend County Commissioners

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Court. Compliance with all quote requirements, delivery and needs of the using department are considerations in evaluating quotes. Pricing is NOT the only criteria for making a recommendation. The Fort Bend County Purchasing Department reserves the right to contact any vendor, at any time, to clarify, verify or request information with regard to any quote.

- 1.21 Inspections: Fort Bend County reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a vendor cannot furnish a sample of a quote item, where applicable, for review, or fails to satisfactorily show an ability to perform, the County can reject the quote as inadequate.
- 1.22 Testing: Fort Bend County reserves the right to test equipment, supplies, material and goods quote for quality, compliance with specifications and ability to meet the needs of the user. Demonstration units must be available for review. Should the goods or services fail to meet requirements and/or be unavailable for evaluation, the quote is subject to rejection.
- 1.23 Disqualification of Vendor: Upon signing this quote document, a vendor offering to sell supplies, materials, services, or equipment to Fort Bend County certifies that the vendor has not violated the antitrust laws of this state codified in section 15.01, et seq., Business & Commerce Code, or the federal antitrust laws, and has not communicated directly or indirectly the quote made to any competitor or any other person engaged in such line of business. Any or all quotes may be rejected if the County believes that collusion exists among the vendors. Quotes in which the prices are obviously unbalanced may be rejected. If multiple quotes are submitted by a vendor and after the quotes are opened, one of the quotes is withdrawn, the result will be that all of the quotes submitted by that vendor will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple quotes for different products or services.
- 1.24 Awards: Fort Bend County reserves the right to award this contract on the basis of lowest and best quote in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one vendor, to reject any or all quotes. In the event the lowest dollar vendor meeting specifications is not awarded a contract, the vendor may appear before the Commissioners Court and present evidence concerning his responsibility. An award is final only upon formal execution by the Fort Bend County Commissioners Court or the Fort Bend County Purchasing Agent. Fort Bend County reserves the right to withdraw any award until execution by the proper authority.
- 1.25 Assignment: The successful vendor may not assign, sell or otherwise transfer this contract without written permission of Fort Bend County Commissioners Court.
- 1.26 Term Contracts: If the contract is intended to cover a specific time period, said time will be given in the specifications under scope.

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- 1.27 Maintenance: Maintenance required for equipment quote should be available in Fort Bend County by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the quote sheet as requested or on a separate sheet, as required. If Fort Bend County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.
- 1.28 Contract Obligation: Fort Bend County Commissioners Court must award the contract and the County Judge or other person authorized by the Fort Bend County Commissioners Court must sign the contract before it becomes binding on Fort Bend County or the vendors. Department heads are not authorized to sign agreements for Fort Bend County. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.
- 1.29 Title Transfer: Title and Risk of Loss of goods shall not pass to Fort Bend County until Fort Bend County actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Vendors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirement" section of this quote document and/or on the Purchase Order as a "Ship To:" address.
- 1.30 Purchase Order and Delivery: The successful vendor shall not deliver products or provide services without a Fort Bend County Purchase Order, signed by an authorized agent of the Fort Bend County Purchasing Department. The fastest, most reasonable delivery time shall be indicated by the vendor in the proper place on the quote sheet. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped F.O.B. inside delivery unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the using department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach, which must be rectified prior to expiration of the time for performance. Failure to rectify within the performance period will be considered cause to reject future deliveries and cancellation of the contract by Fort Bend County without prejudice to other remedies provided by law. Where delivery times are critical, Fort Bend County reserves the right to award accordingly.
- 1.31 Contract Extension: Extensions may be made only by written agreement between Fort Bend County and the vendor. Any price escalations are limited to those stated by the vendor in the original quote.

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- 1.32 Termination: Fort Bend County reserves the right to terminate the contract for default if Seller breaches any of the terms therein, including warranties of vendor or if the vendor becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies, which Fort Bend County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to Fort Bend County's satisfaction and/or to meet all other obligations and requirements. Contracts may be terminated without cause upon thirty (30) days written notice to either party unless otherwise specified.
- 1.33 Recycled Materials: Fort Bend County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. Fort Bend County will be the sole judge in determining product preference application.
- 1.34 Interlocal Participation: Additional governmental entities may purchase from this quote. Vendor agrees to accept purchase orders from those participating entities and to invoice each entity separately.
- 1.35 Escalation Clause: Successful vendor may apply for a price increase to the Fort Bend County Purchasing Agent. The County Purchasing Agent will review, and, if increase is deemed warranted, place the request on Fort Bend County's Commissioners Court agenda for their action of approval or disapproval. Approval by the County's Commissioner's Court is required. Any proposed price increase will only be the amount increased to the vendor from his/her supplier. The price increase request must be stated on the vendor's letterhead with the quote number and name in the subject including, in columns, for each item: item description, original quote price, percent of increase, and the total cost of the original quote price including the increased dollar amount. Written documentation from the vendor's supplier of the increase notice must be provided to the Purchasing Agent at time of increase request. No application for a price increase may be submitted within the first six (6) months of this contract. Increase requests of more than 25% of the original quote price will not be considered.
- 1.36 Modifications: This instrument contains the entire Contract between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

**2.0 TERMS & CONDITIONS:**

- 2.1 Seller to Package Goods: Seller will package goods in accordance with good commercial practice. Each delivery container shall be clearly and permanently

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marked as follows (a) Seller's name and address; (b) Consignee's name, address and purchase order number and the quote number if applicable; (c) Container number and total number of containers (e.g. box 1 of 4 boxes); and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. Fort Bend County's count or weight shall be final and conclusive on shipments not accompanied by packing list.

- 2.2 Shipment Under Reservation Prohibited: Seller is not authorized to ship goods under reservation and no tender of a bill of lading will operate as a tender of goods.
- 2.3 Title and Risk of Loss: The title and risk of loss of the goods shall not pass to the County until a County employee actually receives and takes possession of the goods at the point or points of delivery.
- 2.4 Delivery Terms: F.O.B. Destination Freight Prepaid, Inside Delivery, unless delivery terms are specified otherwise on Purchase Order.
- 2.5 No Replacement of Defective Tender: Every tender or delivery of goods must fully comply with all provisions of the Purchase Order as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender.
- 2.6 Place of Delivery: The place of delivery shall be that set forth in the block of the purchase order entitled "Ship To". Any change thereto shall be effective by modification as provided for in Clause number 2.20 "Modifications", hereof. The terms of this agreement are "no arrival, no sale", at the discretion of Fort Bend County.
- 2.7 Invoices and Payments:
  - 2.7.1 Seller shall submit separate invoices, in duplicate. Invoices shall indicate the purchase order number and the quote number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable should be attached to the invoice.
  - 2.7.2 Fort Bend County's obligation is payable only and solely from funds available for the purpose of this purchase. Lack of funds shall render the order null and void to the extent funds are not available and any delivered but unpaid goods will be returned to Seller by the county.
  - 2.7.3 Do not include Federal Excise, State, or City Sales Tax. Fort Bend County is a tax-exempt governmental entity.

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- 2.8 Gratuities: Fort Bend County may, by written notice to the Seller, cancel any order without liability, if it is determined by the County that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller to any officer or employee of Fort Bend County with a view toward securing an order. In the event an order is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
- 2.9 Special Tools and Test Equipment: If the price stated on the face of an order includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filing this order, such special tooling equipment and any process sheets related thereto shall become the property of the County and to the extent feasible shall be identified by the Seller as such.
- 2.10 Warranty/Price:
- 2.10.1 The price to be paid by the County shall be that contained in Seller's quote which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by an order for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty the prices of the items shall be reduced to the Seller's current prices on orders by others. Fort Bend County may cancel this contract without liability.
- 2.10.2 The Seller warrants that no person or selling agency has been employed or retained to solicit or secure any County order based upon any agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. A breach or violation of this warranty gives the County the right, in addition to any other right or rights, to cancel this contract without liability.
- 2.11 Warranty Product: Seller shall not limit or exclude any implied warranties and any attempt to do so shall render an order voidable at the option of the County. Seller warrants that the goods furnished will conform to the specifications, drawings, and description listed in the quote invitation and purchase order as applicable, and to the sample(s) furnished by Seller if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.
- 2.12 Safety Warranty: Seller warrants that the product sold to Fort Bend County shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. Materials shall be capable of sustaining winds up to 38mph. In the event the product does not conform to OSHA standards, the County may return the product for correction or replacement at the

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Seller's expense. In the event Seller fails to make the appropriate correction within 10 days, correction made by the County will be at Seller's expense.

- 2.13 **No Warranty by Fort Bend County Against Infringements:** As part of a contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications will give rise to the rightful claim of any third person by way of infringement. Fort Bend County makes no warranty that the production of goods according to the specification will not give rise to such a claim and in no event shall Fort Bend County be liable to Seller for indemnification in the event the Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement will result, he will notify Fort Bend County to this effect in writing within two days after the receiving Purchase Order. If the County does not receive notice and is subsequently held liable for the infringement, Seller will defend and save the County harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement, this contract shall be null and void except that the County will pay Seller the reasonable cost of his search as to infringements.
- 2.14 **Right of Inspection:** The County shall have the right to inspect the goods at delivery before accepting them.
- 2.15 **Cancellation:** Fort Bend County shall have the right to cancel for default all or any part of the undelivered portion of an order if Seller breaches any of the terms hereof including warranties of Seller, or if the Seller becomes insolvent or files for protection under the bankruptcy laws. Such rights of cancellation are in addition to and not in lieu of any other remedies, which Fort Bend County may have in law or equity.
- 2.16 **Termination:** The performance of work under a Purchase Order may be terminated in whole or in part by the County in accordance with this provision. Termination of work there under shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Fort Bend County set forth in Clause 15 herein.
- 2.17 **Force Majeure:** Force Majeure means a delay encountered by a party in the performance of its obligations under this Agreement, which is caused by an event beyond the reasonable control of that party. Without limiting the generality of the foregoing, "Force Majeure" shall include but not be restricted to the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities; fires, floods, epidemics or serious accidents; unusually severe weather conditions; strikes, lockouts, or other labor disputes; and defaults by subcontractors.

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In the event of a Force Majeure, the affected party shall not be deemed to have violated its obligations under this Agreement, and the time for performance of any obligations of that party shall be extended by a period of time necessary to overcome the effects of the Force Majeure, provided that the foregoing shall not prevent this Agreement from terminating in accordance with the termination provisions. If any event constituting a Force Majeure occurs, the affected party shall notify the other parties in writing, within twenty-four (24) hours, and disclose the estimated length of delay, and cause of the delay.

- 2.18 Assignment-Delegation: No right or interest in an order shall be assigned or delegation of any obligation made by Seller without the written permission of Fort Bend County. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 2.19 Waiver: No claim or right arising out of a breach of any contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waived or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- 2.20 Modification: A Purchase Order can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.
- 2.21 Parol Evidence: This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any terms rendered under this agreement and shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
- 2.22 Applicable Law: This agreement shall be governed by the Uniform Commercial Code. Whenever the term "Uniform Commercial Code" is used it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas and in effective on the date of the purchase order.
- 2.23 Advertising: Seller shall not advertise or publish, without the County's prior consent the fact that Fort Bend County has entered into any contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.
- 2.24 Right to Assurance: Whenever the County in good faith has reason to question the other party's intent to perform. The County may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and

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no assurance is given within five (5) days, the County may treat this failure as an anticipatory repudiation of the contract.

2.25 Venue: Both parties agree that venue for any litigation arising from this contract shall lie in Richmond, Fort Bend County, Texas.

2.26 Prohibition Against Personal Interest in Contracts: No officer or employee of the County shall have a financial interest, direct or indirect, in any contract with the County, or shall be financially interested, directly or indirectly, in the sale to the County of any land, materials, supplies, or service, except on behalf of the County as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to disciplinary action under applicable laws, statutes and codes of the State of Texas. Any violation of this section, with the knowledge, expressed or implied of the person or corporation contracting with the County shall render the contract involved voidable by the County Commissioners Court.

### **3.0 SCOPE:**

It is the intent of Fort Bend County to contract with one (1) vendor to provide all materials, labor and equipment necessary for the installation of two (2) new shade structures at Fort Bend Public Transportation Park & Ride located at AMC Theatre, 3301 Town Centre Blvd South, Sugar Land, TX 77479, as specified herein.

### **4.0 PRE-QUOTE MEETING:**

A Pre-Quote meeting will be held, **Wednesday, October 13, 2021 at 10:00 AM** at AMC Theatre, 3301 Town Centre Blvd South, Sugar Land, TX 77479. Interested vendors are encouraged to attend as this is the only date and time available to conduct a site visit. Vendors are responsible for obtaining their own field measurements.

### **5.0 PERFORMANCE AND PAYMENT BONDS:**

In the event the total accepted quote price exceeds \$25,000, the Contractor must provide to the Office of the County Purchasing Agent, a performance bond and a payment bond, each in the amount of 100% of the total contract sum within ten (10) calendar days after receipt of notification of quote award. Such bonds shall be executed by a corporate surety duly authorized and admitted to do business in the State of Texas and licensed in the State of Texas to issue surety bonds with a Best Rating of "A" or better. Fort Bend County reserves the right to accept or reject any surety company proposed by the Contractor. In the event Fort Bend County rejects the proposed surety company, the Contractor will be afforded five (5) additional days to submit the required bonds issued by a surety company acceptable to Fort Bend County.

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**6.0 INSURANCE:**

- 6.1 All respondents must submit, with response, a current certificate of insurance indicating coverage in the amounts stated below. In lieu of submitting a certificate of insurance, respondents may submit, with response, a notarized statement from an Insurance company, authorized to conduct business in the State of Texas, and acceptable to Fort Bend County, guaranteeing the issuance of an insurance policy, with the coverage stated below, to the firm named therein, if successful, upon award of this Contract.
  
- 6.2 At contract execution, contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
  - 6.2.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance is not allowed.
  
  - 6.2.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
  
  - 6.2.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
  
  - 6.2.4 Business Automobile Liability coverage with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
  
- 6.3 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies including Workers' Compensation written on behalf of contractor, excluding Professional Liability,

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shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

- 6.4 If required coverage is written on a claims-made basis, contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time that work under the agreement is completed.

## **7.0 FEDERAL TERMS AND CONDITIONS:**

Contractor understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier. The Contractor shall require that these clauses shall be included in each covered transaction at any tier, unless a particular award term or condition specifically indicates otherwise.

### **7.1 Access for Individuals with Disabilities (ADA Access).**

The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the Contractor agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA), 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in programs and Activities Receiving or Benefiting from Federal Financial Assistance, 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

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- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; FTA regulations, "Transportation for Elderly and Handicapped Persons", 49 C.F.R. Part 609; and
- (10) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. Part 39;
- (11) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance"; and
- (12) Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.

## 7.2 Access to Records and Reports.

The Contractor agrees to provide County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to comply and will require all subcontractors of any tier to comply with the record retention requirements in accordance with 2 C.F.R. 200.333. The Contractor agrees to retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, all books, records, accounts, statistics, leases, subcontracts, arrangements other third party arrangements of any type, reports, and supporting materials related to those records required under the Agreement for a period of not less than three years after the date of termination or expiration of the Agreement, except in the event of litigation or settlement of claims arising from the performance of the Agreement, in which case Contractor agrees to maintain same until County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation,

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appeals, claims or exceptions related thereto.

### 7.3 Breaches and Disputes.

The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties. Disputes arising in the performance of this Agreement that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County. This decision shall be final and conclusive unless within ten [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the County. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the County shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by County, Contractor shall continue performance under the Agreement while matters in dispute are being resolved.

The requirement to seek mediation may be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or equity under any applicable statute of limitations.

Claims for Damages - Should either party to the Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Rights and Remedies - The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the County or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Contractor shall place this clause in all subcontracts for more than the small purchase currently set at \$50,000 by the County, to address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. As applicable for procurement over \$50,000.

### 7.4 Civil Rights Requirements.

Nondiscrimination in Federal Public Transportation Programs - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. §

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5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, gender identity, age, status as a parent or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity - The following equal employment opportunity requirements apply to the Agreement:

7.5 Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, disability, age, sexual orientation, gender identity, or status as a parent. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

7.6 Disadvantaged Business Enterprise (DBE).

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The Agreement is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs including 49 C.F.R. Part 26, Section 1101(b) of the FAST Act (23 U.S.C. § 101 note). The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. **A separate contract goal has not been established for this procurement.** Contractor will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs).

The Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26.

The Contractor and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S.FTA-assisted subagreements, third party contracts, and third party subcontracts, as applicable.

Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable which may result in the termination of the Agreement or such other remedy as County deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the Contractor from future bidding as non-responsible. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The Contractor is required to pay its subcontractors performing work related to the Agreement for satisfactory performance of that work no later than 30 days after the Contractor’s receipt of payment for that work from County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor’s work related to the Agreement is satisfactorily completed.

The Contractor must promptly notify County whenever a DBE subcontractor performing work related to the Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of County.

#### 7.7 Distracted Driving.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes

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caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or behalf of the County.

7.8 Environmental Justice.

The Contractor agrees to, and assures that it will, promote environmental justice by following:

(1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) the most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

7.9 Environmental Protections.

The Contractor agrees to, and assures that it will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

7.10 Notice to Third Party Participants.

Federal requirements that apply to the County or the Award, the accompanying Award Agreement or any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Award Agreement including any information incorporated by reference and made part of that Award Agreement will apply to the Contractor and any other Third-Party Agreements.

7.11 FTA Interest.

Contractor understands and agrees that FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving federal funds used towards this Agreement, including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise."

7.12 Government-wide Debarment and Suspension.

The Contractor shall comply and facilitate compliance with U.S. FTA regulations, Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and

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supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- (1) Debarred from participation in any federally assisted Award;
- (2) Suspended from participation in any federally assisted Award;
- (3) Proposed for debarment from participation in any federally assisted Award;
- (4) Declared ineligible to participate in any federally assisted Award;
- (5) Voluntarily excluded from participation in any federally assisted Award; or
- (6) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

"The Certification in this clause is a material representation of fact relied upon by the County. If it is later determined by the County that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

#### 7.13 Incorporation of FTA Terms.

The provisions in this Section include, in part, certain Standard Terms and Conditions required by FTA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FTA, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause County to be in violation of the FTA terms and conditions.

#### 7.14 No Government Obligation to Third Parties.

County and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the contract, absent the express written consent by the Federal Government, the Federal Government is not a party to the Agreement and shall not be subject to any obligations or liabilities to County, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the contract. The Contractor agrees to include this clause in each

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subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

7.15 Notification to FTA.

Contractor understands that if a current or prospective legal matter that may affect the Federal Government emerges, the County must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the County is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the federal funds used towards this Agreement, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

7.16 Duty to Report False Claims.

If the County has credible evidence that Contractor or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the County must promptly notify the U.S. FTA Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the County is located.

7.17 Prevailing Wage (Davis-Bacon) and Copeland Anti-Kickback Acts.

For all prime construction, alteration or repair contracts in excess of \$2,000 funded with awards from FTA, the Contractor shall comply with the Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Under 49 U.S.C. §5333(a), prevailing wage protections apply to laborers and mechanics employed in FTA assisted construction, alteration, or repair projects. In accordance with the statute, contractors shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor agrees to pay wages not less than once a week. Contractor also agrees to comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. County shall report all suspected or reported violations to the FTA. The Contractor also agrees to include these requirements in each subcontract or third-party contract at any tier.

7.18 Privacy Act.

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If Contractor maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts. The Federal Privacy Act requirements flow down to each third party Contractor and their contracts at every tier.

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the Agreement. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

7.19 Program Fraud and False or Fraudulent Statements and Related Acts.

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Agreement or the FTA assisted project for which the Agreement work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

7.20 Prompt Payment.

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Under this contract, the prime contractor agrees to pay each subcontractor for satisfactory performance of its contract within 30 days from the receipt of each payment the prime contractor receives from the County. The prime contractor further agrees to full payment of retainage to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the County. This clause applies to both DBE and non-DBE subcontracts.

7.21 Resource Recovery

The Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

7.22 Safe Operation of Motor Vehicles (Seat Belt).

Contractor shall encourage their employees and other personnel that operate company-owned vehicles, company rented-vehicles, or personally operated vehicles to adopt on-the-job seat belt policies and programs.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when performing any work for this Agreement.

7.23 Seismic Safety.

The Contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, "Seismic Safety," 49 .F.R. part 41, specifically, 49 C.F.R. § 41.117, and agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under the Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

7.24 Termination.

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(a) Termination for Convenience County may terminate the Agreement, in whole or in part, at any time by written notice to the Contractor. If the Contractor has any property in its possession belonging to County, the Contractor will account for the same, and dispose of it in the manner County directs.

(b) Termination for Cause

- (1) County may terminate the whole or any part of this Agreement for cause in the following circumstances:
  - a. If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
  - b. If Contractor materially breaches any of the covenants or terms and conditions set forth in the Agreement or fails to perform any of the other provisions of the Agreement or so fails to make progress as to endanger performance of the Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- (2) If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County as if the contract had been terminated for convenience.
- (3) Upon termination of the Agreement, County shall compensate Contractor in accordance with the terms for payment set out in the agreement, above, for those services which were provided under the Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in the Agreement.
- (4) The County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the County may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the County in completing the work.
- (5) The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God,

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acts of another contractor in the performance of a contract with the County, epidemics, quarantine restrictions, strikes, and freight embargoes.

- (6) In the case of delay, the Contractor shall within ten (10) days from beginning of any delay, notify the County in writing of the causes of any delay. If, in the judgment of County, the delay is excusable, the time for completing the work shall be extended. The judgment of County shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of the Agreement. Contractor understands that all contracts in excess of \$10,000, including subcontracts, must address termination for cause and for convenience by the Contractor including the manner by which it will be effected and the basis for settlement.

#### 7.25 Veterans Preference.

The Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 USC Section 2108) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

#### 7.26 Change Orders.

Verbal change orders to the Agreement are not permitted. No changes in the scope, specifications, character, or complexity of work shall be made by the Contractor without first receiving written approval by the Fort Bend County Public Transportation Director or their designee properly defining and limiting any such change. Contractor shall be liable for all costs resulting from and/or for satisfactorily correcting any specification change not properly ordered by written modification to the Contract and signed by the County.

Within 14 calendar days after Contractor's receipt of the written change order request for modification of the Contract, Contractor shall submit to County a detailed price schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiation between Contractor and the County. At the time both parties shall execute a detailed Contract modification in writing. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the contract disputes clause.

It is distinctly understood and agreed that no claim for payment for work done or materials furnished by the Contractor outside of these parameters shall be paid by County. Any such services or materials furnished by Contractor without such written order shall be at the risk, cost and expense of the Contractor, and no claim for compensation for any such services or materials shall be made.

All such changes, which are mutually agreed upon by and between all parties, shall be incorporated in written amendments to the Contract. All such amendments shall state any increase or decrease in the amount of the compensation due to County for the change in

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the scope.

#### 7.27 Force Majeure

Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") control, including, but not limited to, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) a natural disaster (fires, explosions, earthquakes, hurricane, flooding, storms, explosions, infestations), epidemic, or pandemic; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; and (i) shortage of adequate power or transportation facilities. The Impacted Party shall give notice in writing within three (3) business days of the Force Majeure Event to the other party disclosing the estimated length of the delay and the cause of the delay. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ten (10) days following Notice given by it, the other party may thereafter terminate this Agreement upon notice.

#### 7.28 Federal Tax Liability

Contractor certifies that they do not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

#### 7.29 Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. As applicable for procurement over \$150,000.

Initials of Vendor: \_\_\_\_\_

### 7.30 Child Support

Per Texas Family Code 231.006, a child support obligor or business entity remains ineligible to receive payments from state funds under a contract to provide property, materials, or services; or a state funded loan until: (1) All arrearages have been paid; (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from ineligibility as part of a court-supervised effort to improve earnings and child support payments. Before payment can be released Contractor will supply County with the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity. Contractor 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.

### 7.31 Debt to State

The State of Texas shall not be responsible for the debts of the County or Subcontractor.

### 7.32 Required Assurance

The Contractor and any Sub-contractors shall not discriminate on the basis of race, color, religion, national origin, or sex (including gender identity), disability, or age in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this contract or such other remedy as the County deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the Contractor from future bidding as non-responsible.

## 8.0 INDEMNIFICATION:

Respondent shall save harmless County from and against all claims, liability, and expenses, including reasonable attorney's fees, arising from activities of respondent, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of respondent or any of respondent's agents, servants or employees.

8.1 Respondent shall timely report all such matters to Fort Bend County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide Fort Bend County with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of Fort Bend County required by Respondent in the defense of each matter.

Initials of Vendor: \_\_\_\_\_

- 8.2 Respondent's duty to defend, indemnify and hold Fort Bend County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of any contract unless otherwise agreed by Fort Bend County in writing. The provisions of this section shall survive the termination of the contract and shall remain in full force and effect with respect to all such matters no matter when they arise.
- 8.3 In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Respondent, Respondent shall never-the-less fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Respondent are not at issue in the matter.
- 8.4 Respondent's indemnification shall cover, and Respondent agrees to indemnify Fort Bend County, in the event Fort Bend County is found to have been negligent for having selected Respondent to perform the work described in this request.
- 8.5 The provision by Respondent of insurance shall not limit the liability of Respondent under an agreement.
- 8.6 Respondent shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this request, to agree to indemnify Fort Bend County and to hold it harmless from all claims for bodily injury and property damage that may arise from said Respondent's operations. Such provisions shall be in form satisfactory to Fort Bend County.
- 8.7 Loss Deduction Clause - Fort Bend County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Respondent and/or trade contractor providing such insurance.

**9.0 LIMIT OF APPROPRIATION:**

Prior to the execution of this Contract, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this Contract, that County shall have available only those funds specifically allocated in this Contract to fully discharge any and all liabilities which may be incurred by County in bringing this Project to an absolute conclusion, and that the total of any and all basic construction costs, costs of providing the required materials, labor and equipment, all fees and compensation of any sort to the Contractor, and any and all costs for any and all things or purposes ensuing under or out of this Contract, irrespective of the nature thereof, shall not exceed said specifically allocated sum, notwithstanding any word, statement or thing contained in or inferred from the preceding provision of this Contract which might in any light by any person be interpreted to the contrary.

Initials of Vendor: \_\_\_\_\_

**10.0 RIGHT TO ASSURANCE:**

Whenever Fort Bend County in good faith has reason to question the Contractor's intent to perform, Fort Bend County may demand that the Contractor give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) days, Fort Bend County may treat this failure as an anticipatory repudiation of the Contract.

**11.0 STATE LAW REQUIREMENTS FOR CONTRACTS:**

The contents of this section are required by Texas Law and are included by County regardless of content.

11.1 Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

11.2 Texas Government Code Section 2251.152 Acknowledgment: By signature on vendor form, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

**12.0 HUMAN TRAFFICKING:**

By acceptance of this contract, Contractor acknowledges that Fort Bend County is opposed to human trafficking and that no County funds will be used in support of services or activities that violate human trafficking laws.

**13.0 PREVAILING WAGES:**

This project is subject to the prevailing wage rate requirements of Chapter 2258 of the Government Code. The Contractor shall pay Fort Bend County sixty dollars (\$60.00) for each worker employed by the Contractor for the provision of services described herein for each calendar day or part of the day that the worker is paid less than the below stated rates. Contractors may also visit [www.wdol.gov/dba.aspx](http://www.wdol.gov/dba.aspx)

General Decision Number: TX20210247 07/09/2021  
Superseded General Decision Number: TX20200247

State: Texas  
Construction Type: Building  
County: Fort Bend County in Texas.

**BUILDING CONSTRUCTION PROJECTS** (does not include single family homes or apartments

Initials of Vendor: \_\_\_\_\_

up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

| Modification Number | Publication Date |
|---------------------|------------------|
| 0                   | 01/01/2021       |
| 1                   | 03/12/2021       |
| 2                   | 07/09/2021       |

ASBE0022-009 06/01/2019

|   | Rates    | Fringes |
|---|----------|---------|
| ASBESTOS WORKER/HEAT & FROST INSULATOR<br>(Duct, Pipe and Mechanical System Insulation) | \$ 24.28 | 14.16   |

BOIL0074-003 01/01/2017

|             |          |       |
|-------------|----------|-------|
| BOILERMAKER | \$ 28.00 | 22.35 |
|-------------|----------|-------|

CARP0551-008 04/01/2016

|   |          |      |
|---|----------|------|
| CARPENTER (Excludes Acoustical Ceiling Installation,<br>Drywall Hanging, Form Work and Metal Stud Installation) | \$ 23.05 | 8.78 |
|---|----------|------|

ELEC0716-005 08/24/2020

|   |          |       |
|---|----------|-------|
| ELECTRICIAN (Excludes Low Voltage Wiring and Installation<br>of Alarms) | \$ 32.55 | 10.35 |
|---|----------|-------|

ELEV0031-003 01/01/2021

|                   |          |        |
|-------------------|----------|--------|
| ELEVATOR MECHANIC | \$ 45.48 | 36.365 |
|-------------------|----------|--------|

Initials of Vendor: \_\_\_\_\_

FOOTNOTES:

A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

B. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; and Veterans Day.

ENGI0450-002 04/01/2014

|                                 |          |      |
|---------------------------------|----------|------|
| POWER EQUIPMENT OPERATOR Cranes | \$ 34.85 | 9.85 |
|---------------------------------|----------|------|

\*IRON0084-002 06/01/2020

|  |          |      |
|--|----------|------|
| IRONWORKER (ORNAMENTAL AND STRUCTURAL) | \$ 25.26 | 7.13 |
|--|----------|------|

PLAS0079-004 01/01/2015

|           |          |      |
|-----------|----------|------|
| PLASTERER | \$ 19.92 | 1.00 |
|-----------|----------|------|

PLUM0068-002 10/01/2020

|         |          |       |
|---------|----------|-------|
| PLUMBER | \$ 36.15 | 11.88 |
|---------|----------|-------|

PLUM0211-010 10/01/2018

|   |          |       |
|---|----------|-------|
| PIPEFITTER (Including HVAC Pipe Installation) | \$ 35.68 | 12.46 |
|---|----------|-------|

SHEE0054-003 04/01/2020

|   |          |       |
|---|----------|-------|
| SHEET METAL WORKER (Excludes HVAC Duct and Unit Installation) | \$ 29.70 | 13.85 |
|---|----------|-------|

SUTX2014-023 07/21/2014

|                             |          |      |
|-----------------------------|----------|------|
| ACOUSTICAL CEILING MECHANIC | \$ 16.41 | 3.98 |
|-----------------------------|----------|------|

|            |          |      |
|------------|----------|------|
| BRICKLAYER | \$ 19.86 | 0.00 |
|------------|----------|------|

|         |          |      |
|---------|----------|------|
| CAULKER | \$ 15.36 | 0.00 |
|---------|----------|------|

|                                |          |      |
|--------------------------------|----------|------|
| CEMENT MASON/CONCRETE FINISHER | \$ 13.82 | 0.00 |
|--------------------------------|----------|------|

|                        |          |      |
|------------------------|----------|------|
| DRYWALL FINISHER/TAPER | \$ 16.30 | 3.71 |
|------------------------|----------|------|

|   |          |      |
|---|----------|------|
| DRYWALL HANGER AND METAL STUD INSTALLER | \$ 17.45 | 3.96 |
|---|----------|------|

Initials of Vendor: \_\_\_\_\_

|  |          |      |
|--|----------|------|
| ELECTRICIAN (Alarm Installation Only)              | \$ 17.97 | 3.37 |
| ELECTRICIAN (Low Voltage Wiring Only)              | \$ 18.00 | 1.68 |
| FLOOR LAYER: Carpet                                | \$ 20.00 | 0.00 |
| FORM WORKER  | \$ 11.87 | 0.00 |
| GLAZIER  | \$ 19.12 | 4.41 |
| INSULATOR – BATT                                   | \$ 14.87 | 0.73 |
| IRONWORKER, REINFORCING                            | \$ 12.10 | 0.00 |
| LABORER: Common or General                         | \$ 10.79 | 0.00 |
| LABORER: Mason Tender – Brick                      | \$ 13.37 | 0.00 |
| LABORER: Mason Tender - Cement/Concrete            | \$ 10.50 | 0.00 |
| LABORER: Pipelayer                                 | \$ 12.94 | 0.00 |
| LABORER: Roof Tearoff                              | \$ 11.28 | 0.00 |
| LABORER: Landscape and Irrigation                  | \$ 9.49  | 0.00 |
| LATHER:  | \$ 19.73 | 0.00 |
| OPERATOR:<br>Backhoe/Excavator/Trackhoe            | \$ 14.10 | 0.00 |
| OPERATOR: Bobcat/Skid Steer/Skid Loader            | \$ 13.93 | 0.00 |
| OPERATOR: Bulldozer                                | \$ 20.77 | 0.00 |
| OPERATOR: Drill                                    | \$ 16.22 | 0.34 |
| OPERATOR: Forklift                                 | \$ 15.64 | 0.00 |
| OPERATOR: Grader/Blade                             | \$ 13.37 | 0.00 |
| OPERATOR: Loader                                   | \$ 13.55 | 0.94 |
| OPERATOR: Mechanic                                 | \$ 17.52 | 3.33 |
| OPERATOR: Paver (Asphalt, Aggregate, and Concrete) | \$ 16.03 | 0.00 |

Initials of Vendor: \_\_\_\_\_

|  |          |      |
|--|----------|------|
| OPERATOR: Roller   | \$ 16.00 | 0.00 |
| PAINTER (Brush, Roller and Spray), Excludes Drywall Finishing/Taping | \$ 16.77 | 4.51 |
| ROOFER   | \$ 15.40 | 0.00 |
| SHEET METAL WORKER (HVAC Duct Installation Only)                     | \$ 17.81 | 2.64 |
| SHEET METAL WORKER (HVAC Unit Installation Only)                     | \$ 16.00 | 1.61 |
| SPRINKLER FITTER (Fire Sprinklers)                                   | \$ 22.17 | 9.70 |
| TILE FINISHER  | \$ 12.00 | 0.00 |
| TILE SETTER  | \$ 16.17 | 0.00 |
| TRUCK DRIVER: 1/Single Axle Truck                                    | \$ 14.95 | 5.23 |
| TRUCK DRIVER: Dump Truck   | \$ 12.39 | 1.18 |
| TRUCK DRIVER: Flatbed Truck  | \$ 19.65 | 8.57 |
| TRUCK DRIVER: Semi-Trailer Truck                                     | \$ 12.50 | 0.00 |
| TRUCK DRIVER: Water Truck  | \$ 12.00 | 4.11 |
| WATERPROOFER   | \$ 14.39 | 0.00 |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking.

Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Initials of Vendor: \_\_\_\_\_

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

Initials of Vendor: \_\_\_\_\_

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Initials of Vendor: \_\_\_\_\_

Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

**14.0 ASSIGNMENT:**

Contractor shall not sell, assign, transfer or convey these services, in whole or in part, without the prior written consent of Fort Bend County and as a condition of such consent, contractor shall remain liable for completion of the services in the event of default by the successor contractor or assignee.

**15.0 INDEPENDENT CONTRACTOR:**

The Contractor shall be an independent contractor and any provisions of this Contract that may appear to give Fort Bend County the right to direct the Contractor as to the details of the manner of doing the Project shall be deemed to mean that the Contractor shall follow the desires of Fort

Bend County in the results of the Project only and not in the means whereby the Project is to be accomplished. The Contractor shall be responsible as to the details of completing the Project. Neither the agents, representatives, nor employees of the Contractor, shall be deemed to be the agents, representatives, or employees of Fort Bend County. The Contractor further represents that it accepts a fiduciary role and responsibility with respect to Fort Bend County and will, to its best abilities, act in the best interests of Fort Bend County and the timely completion of the Project. The Contractor agrees and understands that neither it nor any of its agents or employees may act in the name of Fort Bend County except and unless specifically authorized in writing by Fort Bend County to do so. The Contractor shall furnish construction administration and management services and use the Contractor's best efforts to complete the Project in an expeditious and economical manner consistent with the interests of Fort Bend County.

**16.0 PUBLIC CONTACT:**

Contact with the news media, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of Fort Bend County. Under no circumstances, whatsoever, shall Contractor release any material or information developed in the performance of its services hereunder without the express written permission of Fort Bend County, except where required to do so by law.

**17.0 MODIFICATIONS:**

This instrument contains the entire Contract between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

Initials of Vendor: \_\_\_\_\_

**18.0 SILENCE OF SPECIFICATIONS:**

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item quote.

**19.0 SEVERABILITY:**

In the event one or more of the provisions contained in these requirements or the specifications shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and these requirements or the specifications shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**20.0 GOVERNING FORMS:**

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Fort Bend County's interpretation shall govern.

**21.0 TAX EXEMPT:**

Fort Bend County is exempt from state and local sales and use taxes under Section 151.309 of the Texas Tax Code. This Contract is deemed to be a separate contract for Texas tax purposes, and as such, Fort Bend County hereby issues its Texas Exemption for the purchase of any items qualifying for exemption under this Contract. Contractor is to issue its Texas Resale Certificate to vendors and subcontractors for such items qualifying for this exemption, and further, contractor should state these items at cost.

**22.0 ENTIRE AGREEMENT:**

The Parties agree that this Contract contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Contract. By entering into this Contract, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Contract.

**23.0 APPLICABLE LAW AND VENUE**

This Contract shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas, and that

Initials of Vendor:\_\_\_\_\_

venue for any litigation arising out of or related to this Contract shall lie solely in the court of appropriate jurisdiction located in Fort Bend County, Texas.

**24.0 PERMITS:**

It shall be the sole responsibility of the successful vendor to obtain all required permits in the name of Fort Bend County.

**25.0 REFERENCES:**

Quotes must submit, with this response a list of three (3) references of similar projects performed as stated herein by their firm within the last five (5) years. Fort Bend County reserves the right to contact the references provided. The reference information shall include name of firm address telephone number, name of representative, type of services provided, date of services and the quantity of carriers completed.

**26.0 SPECIFICATIONS AND PRICING:**

Vendor is to complete pricing below to include all costs associated with the below services as stated herein including labor, materials, preparation, equipment, chemicals and PPE. Quote prices are all inclusive including but not limited to delivery. No additional fees are permitted.

26.1 Install two (2) shade structures at Fort Bend County Public Transportation Park & Ride located at AMC Theatre, 3301 Town Centre Blvd South, Sugar Land, TX 77479.

26.1.1 One (1) shade structure 18 feet by 29 feet at 9 feet eave height with four-post frame design including: sealed stamped engineered drawing, surface mount anchor bolts and plates, and any other hardware needed. Shipping/Delivery of all required materials to the installation site.

26.1.2 One (1) shade structure 18 feet by 18 feet at 9 feet eave height with four post frame design including: sealed stamped engineered drawing, surface mount anchor bolts and plates, and any other hardware needed. Shipping/Delivery of all required materials to the installation site.

26.1.3 Complete assembly and installation of two (2) shade structures at the installation site.

26.1.4 Preparation of the site for installation, including: Underground line locating, Equipment required for installation.

26.1.5 Waste material removal.

Initials of Vendor: \_\_\_\_\_

26.2 Documentation Needed to Submit with Quote:  
Government-Wide Debarment and Suspension Certification form

26.3 Engineered Drawings

**Total Cost \$\_\_\_\_\_.**

**27.0 PROJECT DURATION:**

Vendor agrees, if awarded the contract, to complete all work required by the contract documents **within 90 calendar days**, after issuance of a purchase order by the County Purchasing Agent.

**28.0 AWARD:**

This contract will be awarded to the overall lowest and best vendor meeting specifications.

**29.0 ATTACHMENT:**

29.1 Exhibit A- Project site map. Four (4) blue squares of possible shade locations. The two (2) exact locations will be determined after walk through.

**30.0 REQUIRED FORMS:**

All vendors submitting are required to complete and provide with submission:

30.1 References as stated in Section 25.0

30.2 Vendor Form

30.3 Proof of Required Insurance

30.4 W9 Form

30.5 Tax Form/Debt/Residence Certification

Initials of Vendor:\_\_\_\_\_

- 30.6 Contractor Acknowledgement of Stormwater Management Program
- 30.7 Government-Wide Debarment and Suspension Certification form
- 30.8 Certified payroll
- 30.9 Warranty Document
- 30.10 Certificate of Compliance to Section 2.12
- 30.11 Consolidated Certification Form PTN-130

Initials of Vendor: \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

|   |  |  |
|---|--|--|
| <b>Print or type<br/>See Specific<br/>Instructions on page 2.</b> | <b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.   |  |
|   | <b>2</b> Business name/disregarded entity name, if different from above  |  |
|   | <b>3</b> Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes:<br><input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate<br><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____<br><b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.<br><input type="checkbox"/> Other (see instructions) ▶ _____ | <b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):<br>Exempt payee code (if any) _____<br>Exemption from FATCA reporting code (if any) _____<br><i>(Applies to accounts maintained outside the U.S.)</i> |
|   | <b>5</b> Address (number, street, and apt. or suite no.)   | Requester's name and address (optional)  |
|   | <b>6</b> City, state, and ZIP code   |  |
|   | <b>7</b> List account number(s) here (optional)  |  |

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

|                                       |  |
|---------------------------------------|--|
| <b>Social security number</b>         |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
| <b>or</b>                             |  |
| <b>Employer identification number</b> |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |
|                                       |  |

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

|                  |                            |        |
|------------------|----------------------------|--------|
| <b>Sign Here</b> | Signature of U.S. person ▶ | Date ▶ |
|------------------|----------------------------|--------|

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . .  | THEN the payment is exempt for . . .  |
|--|---|
| Interest and dividend payments   | All exempt payees except for 7  |
| Broker transactions  | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends                                   | Exempt payees 1 through 4   |
| Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup> | Generally, exempt payees 1 through 5 <sup>2</sup>   |
| Payments made in settlement of payment card or third party network transactions        | Exempt payees 1 through 4   |

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

- 1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
- 2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
- 3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
- 4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
- 5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

| For this type of account:   | Give name and SSN of:   |
|---|---|
| 1. Individual   | The individual  |
| 2. Two or more individuals (joint account)  | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Custodian account of a minor (Uniform Gift to Minors Act)  | The minor <sup>2</sup>  |
| 4. a. The usual revocable savings trust (grantor is also trustee)<br>b. So-called trust account that is not a legal or valid trust under state law  | The grantor-trustee <sup>1</sup><br><br>The actual owner <sup>1</sup>                                   |
| 5. Sole proprietorship or disregarded entity owned by an individual   | The owner <sup>3</sup>  |
| 6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))  | The grantor*  |
| For this type of account:   | Give name and EIN of:   |
| 7. Disregarded entity not owned by an individual  | The owner   |
| 8. A valid trust, estate, or pension trust  | Legal entity <sup>4</sup>   |
| 9. Corporation or LLC electing corporate status on Form 8832 or Form 2553   | The corporation   |
| 10. Association, club, religious, charitable, educational, or other tax-exempt organization   | The organization  |
| 11. Partnership or multi-member LLC   | The partnership   |
| 12. A broker or registered nominee  | The broker or nominee   |
| 13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity   |
| 14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))  | The trust   |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



**Mandatory Form**



**Contractor Acknowledgement of Stormwater Management Program**

I hereby acknowledge that I am aware of the stormwater management program and standard operating procedures developed by Fort Bend County in compliance with the TPDES General Permit No. TXR040000. I agree to comply with all applicable best management practices and standard operating procedures while conducting my services for Fort Bend County. I agree to conduct all services in a manner that does not introduce illicit discharges of pollutants to streets, stormwater inlets, drainage ditches or any portion of the drainage system. The following materials and/or pollutant sources must not be discharged to the drainage system as a result of any services provided:

1. Grass clippings, leaves, mulch, rocks, sand, dirt or other waste materials resulting from landscaping activities, (except those materials resulting from ditch mowing or maintenance activities)
2. Herbicides, pesticides and/or fertilizers, (except those intended for aquatic use)
3. Detergents, fuels, solvents, oils and/or lubricants, other equipment and/or vehicle fluids,
4. Other hazardous materials including paints, thinners, chemicals or related waste materials,
5. Uncontrolled dewatering discharges, equipment and/or vehicle wash waters,
6. Sanitary waste, trash, debris, or other waste products
7. Wastewater from wet saw machinery,
8. Other pollutants that degrade water quality or pose a threat to human health or the environment.

Furthermore, I agree to notify Fort Bend County immediately of any issue caused by or identified by:

\_\_\_\_\_  
(Company/Contractor)

that is believed to be an immediate threat to human health or the environment.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title



# Consolidated Certification Form

Form PTN-130  
(Rev. 6/21)  
Page 1 of 14

This form is to assist subrecipients with managing the federal and state clauses related to the procurement they're interested in completing. This document complies with all pertinent federal and state regulations for each procurement type.

To begin, select the procurement's funding source. If TxDOT is the pass-through entity (Direct Recipient), both Federal and State must be checked.

Federal and State     State Only

## Federal Clauses – Procurement Types Summary:

### All FTA-Assisted Third-Party Contracts and Subcontracts

1. No Federal Government Obligations to Third Parties
2. Access to Third Party Contract Records
3. Changes to Federal Requirements
4. Civil Rights (EEO, Title VI & ADA)
5. Incorporation of FTA Terms
6. Energy Conservation
7. Veterans Preference
8. False or Fraudulent Statements or Claims
9. Disadvantaged Business Enterprises (DBE)
10. Fly America
11. ADA Access
12. Special Notification Requirements for States

### Award Exceeding \$10,000

13. Terminating the Contract

### Award Exceeding \$25,000

14. Debarment and Suspension

**Award Exceeding \$50,000**

15. Contracting with the Enemy

**Award Exceeding \$100,000**

16. Resolution of Disputes, Breaches, or Other Litigation

17. Lobbying Restrictions

**Award Exceeding \$150,000**

18. Environmental Protection (Clean Air and Water Pollution Control)

## All FTA-ASSISTED THIRD-PARTY CONTRACTS AND SUBCONTRACTS

### 1. No Federal Government Commitment or Liability to Third Parties

Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- A. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third-Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
- B. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third-Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third-Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

### 2. Access to Third-Party Contract Records

The Recipient agrees to require, and assures that each of its Subrecipients will require, its Third-Party Contractors at each tier to provide:

- A. The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all Third-Party Contract records (at any tier) as required under 49 U.S.C. § 5325(g); and
- B. Sufficient access to all Third-Party Contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure.

### 3. Changes to Federal Requirements

The Recipient agrees to include notice in each Third-Party Agreement that:

- A. Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and
- B. Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

### 4. Civil Rights

The following Federal Civil Rights laws and regulations apply to all contracts.

- A. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to: a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity. b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- B. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- C. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

- D. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- E. Equal Opportunity: The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
- I. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- II. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- III. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- IV. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- V. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## 5. Incorporation of Federal Transit Administration (FTA) Terms

The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

## 6. Energy Conservation

The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform

an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

## 7. Veterans Preference

As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- A. Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a Third-Party Contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and
- B. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

## 8. False or Fraudulent Statements or Claims

A. Civil Fraud. The Recipient acknowledges and agrees that:

- I. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31.
- II. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
- III. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

B. Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

## 9. Disadvantaged Business Enterprises

The recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- A. Withholding monthly progress payments;
- B. Assessing sanctions;
- C. Liquidated damages; and/or
- D. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. §26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written

consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

## 10. Fly America

The recipient agrees to comply with the air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

## 11. ADA Access

The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:

### A. Federal laws, including:

- I. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
- II. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
  - a. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
  - b. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
- III. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
- IV. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
- V. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

### B. Federal regulations and guidance, including:

- I. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37;
- II. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27;
- III. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38;
- IV. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39;
- V. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35;
- VI. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36;
- VII. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630;
- VIII. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F;
- IX. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194;
- X. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609;
- XI. FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
- XII. Other applicable federal civil rights and nondiscrimination regulations and guidance.

## 12. Special Notification Requirements for States

- A. Types of Information. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
- I. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
  - II. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
  - III. The amount of federal assistance FTA has provided for a State Program or Project.
- B. Documents. The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

### Awards Exceeding \$10,000

## 13. Termination

All contracts in excess of \$10,000 must address termination for cause by the non-federal entity including the manner by which it will be effected and the basis for settlement.

### Awards Exceeding \$25,000

## 14. Debarment and Suspension

The Recipient agrees to the following:

- A. It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
- B. It will not enter into any "covered transaction" (as that phrase is defined at 2 C.F.R. §§ 180.220 and 1200.220) with any Third-Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by—
  - I. U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200;
  - II. U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180; and
  - III. Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third-Party Participants.
- C. It will review the U.S. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 C.F.R. part 1200.
- D. It will ensure that its Third-Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
- E. If the Recipient suspends, debar, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the:
  - I. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;
  - II. FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
  - III. FTA Chief Counsel.

## State of Texas Procurement Contract Clauses

### State of Texas - Procurement Types Summary:

#### All Texas-Assisted Third-Party Contracts and Subcontracts

1. Debarment
2. Family Code Child Support Obligation Certification
3. Debts and Delinquencies Affirmations
4. Disaster Recovery Plan
5. Disclosure of Prior State Employment
6. Entities that Boycott Israel
7. Federal Executive Order 13224 Excluded Parties
8. False Statements
9. Financial Participation Prohibited Affirmation
10. Foreign Terrorist Organizations
11. Disaster Relief Contract Violation
12. Public Information Act
13. Signature Authority
14. State Auditor's Right to Audit
15. Suspension and Debarment
16. Assignment
17. Contracting Information Responsibilities
18. Human Trafficking Prohibition

#### 1. 34 TAC §20.585 Debarment

The Recipient agrees that The State of Texas, in order to protect the interests of the state may:

- A. Conduct an investigation upon a complaint regarding a contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- B. Cancel one or more of the contractor's active or pending contracts upon a complaint regarding the contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- C. Assess actual damages and costs incurred due to contractor's failure to perform as specified in the contract;
- D. Debar a contractor for a specified period of time; and
- E. Take any other action authorized by law.

#### 2. §231.006 Family Code Child Support Obligation Certification

Under Section 231.006(d) of the Texas Family Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified GRANT and acknowledges that this Agreement may be terminated and payment or grant funds may be withheld if this certification is inaccurate.

#### 3. §2252.903 Gov't Code Debts and Delinquencies Affirmations

Sub-recipient agrees that any payments due it under the Agreement shall be applied toward any debt or delinquency that is

owed to the State of Texas.

**4. §444.190 Gov't Code Disaster Recovery Plan**

In accordance with 13 TAC (Texas Administrative Code) §6.94(a)(9), Sub-recipient shall provide descriptions of its business continuity and disaster recovery plans

**5. §2254.033 Gov't Code Disclosure of Prior State Employment**

In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, RESPONDENT certifies that it does not employ an individual who has been employed by TxDOT or another agency at any time during the two years preceding the submission of the Response or, in the alternative, RESPONDENT has disclosed in its Response the following:

- A. The nature of the previous employment with TxDOT or the other agency;
- B. The date the employment was terminated; and
- C. The annual rate of compensation for the employment at the time of its termination.

**6. §2271.001 Gov't Code Entities that Boycott Israel**

Pursuant to Section 2271.001 of the Texas Government Code, Sub-recipient certifies that either:

- A. It meets an exception criterion under Section 2271.002, or
- B. It does not boycott Israel and will not boycott Israel during the term of this Agreement. Sub-recipient shall in a writing to TxDOT state any fact(s) that make it exempt from the boycott certification.

**7. Federal Executive Order 13224 Excluded Parties**

Sub-recipient certifies that it is not listed on the prohibited vendors list authorized by Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

**8. §2155.077(a)(2) Gov't Code False Statements**

Sub-recipient represents and warrants that all statements and information prepared and submitted in this document are current, complete, true and accurate. Submitting a false statement or material misrepresentation made during the performance of a contract is a material breach of contract and may void this agreement.

**9. §2155.004 Gov't Code Financial Participation Prohibited Affirmation**

Under Section 2155.004(b) of the Texas Government Code, Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated, and payment withheld if this certification is inaccurate.

**10. §2252.152 Gov't Code Foreign Terrorist Organizations**

Sub-recipient represents and warrants that is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.

**11. §2155.006 and 2261.053 Gov't Code Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated and payment withheld if this certification is inaccurate.

**12. Chapter 552, Gov't Code and §2252.907 Gov't Code Public Information Act**

Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, the Sub-recipient is required to make any information created or exchanged with the State pursuant to the Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

**13. §2252.0012 Gov't Code Signature Authority**

The Sub-recipient represents and warrants that the individual executing this Agreement is authorized to sign this Agreement on behalf of the Sub-recipient and to bind the Sub-recipient.

**14. §2262.154 Gov't Code State Auditor's Right to Audit**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. The acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

**15. §2155.077 Gov't Code Suspension and Debarment**

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

**16. §2262.056 (b) Gov't Code Assignment**

Sub-recipient shall not assign its rights under the Agreement or delegate the performance of its duties under the Agreement without prior written approval from the TxDOT. Any attempted assignment in violation of this provision is void and without effect.

**17. §552.372 Gov't Code Contracting Information Responsibilities**

In accordance with Section 552.372 of the Texas Government Code, Sub-recipient agrees to:

- A. preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT for the duration of the Agreement,
- B. promptly provide to TxDOT any contracting information related to the Agreement that is in the custody or possession of the Sub-recipient on request of TxDOT, and
- C. on termination or expiration of the contract, either provide at no cost to TxDOT all contracting information related to the Agreement that is in the custody or possession of the Sub-recipient or preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Agreement and the Sub-recipient agrees that the Agreement can be terminated if the Sub-recipient knowingly or intentionally fails to comply with a requirement of that subchapter.

**18. §2155.0061 Gov't Code Human Trafficking Prohibition**

Under Section 2155.0061 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in the Agreement is not ineligible to receive the specified Agreement/GRANT and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

### Certification to Purchaser

1. The undersigned vendor certifies that the manufactured good(s) furnished will meet or exceed the specifications, and/or that services rendered will comply with the terms of the solicitation or contract.
2. The undersigned vendor certifies that it has read all of the bid, proposal, or contract documents and agrees to abide by the terms, certifications, and conditions thereof.

**Name of Company:**

**Address:**

**Telephone:**

**SS# or Tax ID#:**

**Printed Name of Person Completing Form:**

**Signature**

**Date:**

**Description of Commodity Service:**

#### Disadvantaged Business Enterprise Information

Type of Organization (check the application type of organization)

- Sole Proprietorship     General Proprietorship     Corporation     Limited Partnership     Limited Proprietorship

Is your firm a DBE?     Yes     No

**If yes, what type?**

## Third Party Procurement Contract Provisions

### Third Party Procurement Contracting Provisions

Select the additional third-party procurement contracting provisions based on the type of solicitation you're procuring:

*\*Procurements cannot be combined. Example: Construction procurement and Rolling Stock procurement, use separate PTN 130s for each.*

- 1. Construction Related Clauses**
  - Federal and State
  - State Clauses
  
- 2. Rolling Stock Related Clauses**
  - Federal and State
  - State Clauses
  
- 3. Professional Services / Architectural Engineering**
  - Federal and State
  - State Clauses
  
- 4. Materials & Supplies Related Clauses**
  - Federal and State
  - State Clauses
  
- 5. Operations / Management Related Clauses**
  - Federal and State
  - State Clauses

## 1a. Federal Construction Related Clauses

- A. Davis-Bacon Act
- B. Copeland Anti-Kickback Act Section 1 and Section 2
- C. Recycled Products
- D. Bonding
- E. Cargo Preference
- F. Seismic Safety
- G. Special DOL EEO Clauses
  - Awards Exceeding \$100,000
- H. Contract Work Hours and Safety Standards Act
  - Awards Exceeding \$150,000
- I. Buy America

### A. Davis Bacon

All prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 - 3144, and 3146 - 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

### B. Copeland Anti-Kickback Act

The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

### C. Recycled Products

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

### D. Bonding

- I. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid" guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- II. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

III. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**E. Cargo Preference**

The contractor agrees to comply with the shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference - U.S.-Flag Vessels," 46 C.F.R. part 381.

**F. Seismic Safety**

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

**G. Special DOL EEO Clauses**

The contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

| <b>Davis-Bacon Act, Copeland Anti-Kickback Act, and Seismic Safety Certification</b> |  |
|--|--|
| Name of Company  | Printed Name of Person Completing Form |
| Date   | Signature                              |

**Construction Certification**

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with Federal Transit Administration (FTA) funds. Vendors are certifying by reference the entire list FTA's current fiscal year Certifications and Assurances (for fiscal year \_\_\_\_\_), and shall download at:

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

|                 |  |
|-----------------|--|
| Name of Company | Printed Name of Person Completing Form |
| Date            | Signature                              |

## 1b. State of Texas Required Clauses: Construction

### Dispute Resolution

#### 1. §2260.004 Gov't Code Dispute Resolution

The Recipient agrees to the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute under this Agreement.

### Construction Certification

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with State of Texas funds.

|                 |  |
|-----------------|--|
| Name of Company | Printed Name of Person Completing Form |
| Date            | Signature                              |

# Exhibit A

**Exhibit A**

