

REQUEST FOR PROPOSAL

by

The University of Texas at Austin
Center for Energy and Environmental Resources

for

Selection of a Vendor to Provide
Operations and Maintenance Services

related to

The Corpus Christi Air Monitoring and Surveillance Camera Project

RFP No. 20040601-mpblb

Submittal Deadline: **CLOSED**

Issued: July 21, 2004 * **Second Request** *

REQUEST FOR PROPOSAL

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******* Please note: This may be a second request for some vendors. Please read the revised specifications very carefully! If you previously submitted a proposal for the first request, you MUST re-submit your ENTIRE proposal in response to this second request, to be considered for award.**

SECTION 1

INTRODUCTION

1.1 Description of the University

The University of Texas was established by the state legislature in 1881; by popular vote, the Main University was located at Austin and the Medical Branch at Galveston. The Austin campus was opened in September, 1883, with a faculty of 8 and a student body of 218; about three-quarters of the students were registered in the Academic Department and the remainder in the Law Department. In the intervening eleven decades, the central campus has grown from 40 to more than 360 acres, while the student body has increased to about 38,000 undergraduates and 12,000 graduate students. In 1967, with the creation of The University of Texas System, the name of the Main University was changed to the University of Texas at Austin.

The University is accredited by the Southern Association of Colleges and Schools and is one of three Southwestern members of the Association of American Universities.

1.2 Background and Special Circumstances

The University of Texas at Austin is establishing seven (7) new air quality monitoring and camera surveillance sites in the Corpus Christi area in accordance with the terms and conditions of an agreement with the US District Court, Corpus Christi. These sites must be operational through October, 2010, and may be operational beyond that date. Proposals are requested for services to maintain and operate these sites in accordance with specifications and protocols included and/or referenced in this request for proposal.

1.3 Objective of this Request for Proposal

The University of Texas at Austin (the “**University**”) is soliciting proposals in response to this Request for Proposal for Selection of a vendor(s) to Provide Operation and Maintenance Services related to the Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project, RFP No. 20040601-mpblb (this “**RFP**”), from qualified vendors to provide Operation and Maintenance services (the “**Services**”) related to the Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project. The Services are more specifically described in **Section 5.4** (Scope of Work) of this RFP.

SECTION 2**NOTICE TO PROPOSER****2.1 Submittal Deadline**

University will accept proposals submitted in response to this RFP until 2:30 pm, Central Prevailing Time on **Thursday, August 5, 2004** (the “**Submittal Deadline**”).

2.2 University Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following University contact (the “**University Contact**”):

Purchasing Office Contact:
Brenda Black, Buyer II
Purchasing Office,
The University of Texas at Austin
2200 Comal Street
Austin, Texas 78722-2596
512-471-4266
bblack@austin.utexas.edu

University specifically instructs all interested parties to restrict contact and questions regarding this RFP to the University Contact noted above. Written communications forwarded to the University Contact are preferred, however a telephone number has been provided above, if Proposer requires more direct assistance. University will have a reasonable amount of time to respond to questions or concerns. It is University’s intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer(s) will be the Proposer(s) that submits a proposal in response to this RFP on or before the Submittal Deadline that is the most advantageous to University.

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) services to University, (2) total overall cost to University, and (3) project management expertise. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to University in a contract for the Services.

An evaluation team will evaluate proposals. The evaluation of proposals and the selection of the successful Proposer(s) will be based on the information provided by Proposer in its proposal. University may give consideration to additional information if University deems such information relevant.

The criteria to be considered by University in evaluating proposals and selecting the successful Proposer(s), will be those factors listed below:

- 2.3.1 The Quality of the Proposer's Services *maximum total points 40*
- 2.3.1.a Organization of project team and experience of personnel that will be assigned to operate and maintain the sites. (30 points)
 - 2.3.1.b Extent to which the services meet the University's needs. (10 points)
- 2.3.2 Cost of Options (*cost of services*) *max. total points 40*
- 2.3.2.a Annual cost of the option proposed. (20 points)
 - 2.3.2.b Total long term cost to the University of acquiring the Proposer's services. (20 points)
- 2.3.3 References, qualifications and past experience of the proposer *max. total points 20*
- 2.3.3.a Reputation of the Proposer and of the Proposer's services (based on references and past projects cited). (15 points)
 - 2.3.3.b Proposer's past relationship with the University. (5 points)
- 2.3.4 Compliance with University policies and procedures. *max. total points 20*
- 2.3.4.a The Impact on the ability of the University to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities (5 points)
 - 2.3.4.b The proposer's acceptance of the terms and conditions set forth in Section 4 of this RFP. (15 points)

Each proposal is eligible to receive a maximum of 120 points.

Method of Award

The award of a contract shall be based on the demonstrated competence, experience, and qualifications of the vendor whose proposal is determined to represent the best value for the Air Monitoring and Camera Surveillance Project in the Corpus Christi Area taking into consideration the relative importance of price and other evaluation factors listed above. The University of Texas at Austin reserves the right to award a contract to more than one vendor.

Submission of proposal indicates proposer's acceptance of the evaluation technique and proposer's recognition that some subjective judgment may be made by the University during the assigning of points.

Following receipt of proposals, and prior to award, The University of Texas at Austin reserves the option to request oral presentations from any or all vendors submitting proposals. All travel and presentation costs incurred, shall be at the expense of the proposer.

2.4 Key Events Schedule

Issuance of RFP	<u>July 21, 2004</u>
Submittal Deadline (ref. Section 2.1 of this RFP)	2:30 pm Central Prevailing Time on <u>August 5, 2004</u>

2.5 Historically Underutilized Businesses

All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, the successful Proposer subcontracts any of the Services, then the successful Proposer must make a good faith effort to utilize HUBs certified by the Texas Building and Procurement Commission. Each Proposer acknowledges that, if selected by University, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by the successful Proposer is subject to review by the University to ensure compliance with the HUB program.

University has reviewed this RFP in accordance with Chapter 1, *Texas Administrative Code*, Section 111.13 (a), and has determined that subcontracting opportunities are probable under this RFP.

Accordingly, a HUB Subcontracting Plan (“**HSP**”) or alternate authorized documentation is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with University’s Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX THREE** and incorporated for all purposes.

Each Proposer must complete and return the HSP or alternate authorized documentation in accordance with the terms of **APPENDIX THREE**. **Proposer should contact the University’s HUB Representative, noted below, for assistance in completing these forms.** Proposals that do not include the HSP or alternate authorized documentation will be considered non-responsive to this RFP in accordance with Section 2161.252, Texas Government Code.

The successful Proposer will not be permitted to change its HSP or alternate authorized HUB documentation unless: (1) the successful Proposer provides the University with revised versions of such documents that set forth all changes requested by the Proposer, (2) the University approves such revised documents in writing, and (3) all agreements or contractual arrangements resulting from this RFP are amended in writing by the University and the successful Proposer to conform to the modified HSP or alternate authorized HUB documentation.

2.5.1. If the Proposer proposes to use subcontractors to perform such subcontracting opportunities, the HSP will include:

- 2.5.1.1 A letter of transmittal stating that the Proposer has read and understands the Policy on Utilization of Historically Underutilized Businesses;
 - 2.5.1.2 The tabulation of annual procurement utilization goals;
 - 2.5.1.3 The Historically Underutilized Business Letter(s) of Intent (HUB-LOI) identifying the subcontractor(s) that will be used during the course of the Agreement, the expected percentage of work to be subcontracted, and the approximate dollar value of that percentage of work; and
 - 2.5.1.4 The Determination of Good Faith Effort (DGFE – Parts 1 and 2) explaining in what ways the Proposer has made a good faith effort in developing the HSP (see **Attachments A, B, C, D, and E of APPENDIX THREE**).
- 2.5.2 **If the Proposer proposes to perform such subcontracting opportunities with its own employees and resources, the HSP will include:**
- 2.5.2.1 A letter of transmittal stating that the Proposer has read and understands the Policy on Historically Underutilized Businesses;
 - 2.5.2.2 The tabulation of annual procurement utilization goals; and
 - 2.5.2.3 The Historically Underutilized Business Statement of Intent (HUB-SOI) (see **Attachments F, B, and G of APPENDIX THREE**.)]

Proposer should contact Mr. Arthur McDonald, HUB Director at The University of Texas at Austin for direction and with questions concerning HUB subcontracting documentation at:

Phone 512-471-2852 or 512-471-4266

(or) by email

arthurmc@mail.utexas.edu

ALL PROPOSERS ARE REQUIRED TO INCLUDE A HUB SUBCONTRACTING PLAN (HSP) WITH THEIR SUBMITTED PROPOSAL. PROPOSALS THAT DO NOT INCLUDE A COMPLETE HSP WILL BE CONSIDERED NON-RESPONSE.

***** PLEASE CONTACT THE UT AUSTIN HUB OFFICE CONTACT, NOTED ABOVE, FOR ASSISTANCE IN CORRECTLY COMPLETING THESE FORMS!!! *****

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Number of Copies

Proposer should submit a total of six (6) complete, identical, and unbound (spiral binding is not recommended) copies of its *entire* proposal which are suitable for copying. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of the Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal.

******Note: One CD version of the proposal in PDF or MS Word format should be submitted with the paper copies of the proposal.******

3.2 Submission

Proposals **MUST** be received by University on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

Attn: Brenda Black
Purchasing Office
The University of Texas at Austin
2200 Comal Street
Austin, Texas 78722-2596
Phone: 512-471-4266

3.3 Proposal Validity Period

Each proposal submitted must state that it will remain valid for University's acceptance for a minimum of one-hundred and twenty (120) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

3.4.1.1. Specifications (ref. **Section 5** of this RFP);

3.4.1.2. Agreement (ref. **APPENDIX TWO**);

3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);

3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then University may reject the proposal:

- 3.5.1 **Signed and Completed Execution of Offer** (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Responses to questions and requests for information in the Specifications Section (ref. **Section 5** of this RFP)

Checklist for Section 5:

- 3.5.4.a proposal must clearly identify the Option the Proposer is responding to
 - 3.5.4.b any exception(s) to the attached agreement (Appendix Two) should be listed.
 - 3.5.4.c submit narrative describing how vendor will maintain security and comply with all safety and environmental regulations.
 - 3.5.4.d submit names of personnel, including subcontractors, who will be assigned to this project - include certificates of applicable training and experience
 - 3.5.4.e complete Cost Summary Form (Section 5.5.1)
 - 3.5.4.f submit twelve (12) month per site cost, with total cost reflecting operating and maintenance up to and including October 2011*
 - 3.5.4.g submit references (should provide minimum of ten (10))
- 3.5.5 Signed and completed HUB Subcontracting Plan or other applicable documents (ref. **APPENDIX THREE**)
- Please note: **PROPOSALS THAT DO NOT INCLUDE A COMPLETE HSP WILL BE CONSIDERED NON-RESPONSE.***

Proposers are reminded that they should submit six (6) unbound copies of their complete proposal, along with one CD version of the complete proposal in PDF or MS Word format (Reference Section 3.1).

SECTION 4**GENERAL TERMS AND CONDITIONS**

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any contract or agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer should submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

Any modifications to the attached Agreement shall be minimal, must be consistent with the laws of the State of Texas, and will require approval of The University and the University of Texas System's Office of General Counsel.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below:

5.2 Proposal Requirements

Each Proposal must be structured to clearly identify if the proposer is responding to any or all of the following Options:

Option 1. Operation and maintenance of all seven (7) sites and all equipment, except the two Perkin-Elmer Auto GC systems at sites 1.a and 1.g.

Option 2. Operation and maintenance of the two Perkin-Elmer Auto GC systems and support equipment only found at sites 1.a. and 1.g.

Option 3. Operation and maintenance of all sites and all equipment at each site

5.3 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer's proposal:

5.3.1 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. APPENDIX TWO), Proposer will submit a list of the exceptions.

5.4 Scope of Work

Successful Proposer will provide the following services to University:

Services are requested from experienced qualified parties to operate and maintain the seven (7) air quality monitoring and camera surveillance sites listed in Table 1. Latitude and longitude locations provided are approximate and all sites will be in the Corpus Christi area, on land.

Table 1. Schedule of Air Monitoring Sites, Locations and Major Instrumentation

Site Contract Reference	Latitude	Longitude	Description of Site Location	Major Monitoring Equipment/Systems				
				Auto GC	Event Triggered Samplers	Sulphur Compound Monitors	Meteorology Station	Surveillance Camera
1.a	27.79861° North	97.43394° West	Oak Park Recreation Center	Yes	Yes		Yes	
1.b	27.81837° North	97.42130° West	Grain Elevator @ Port of Corpus Christi		Yes	Yes	Yes	
1.c	27.82485° North	97.43227° West	J. I. Hailey Site @ Port of Corpus Christi		Yes	Yes	Yes	
1.d	27.81165° North	97.46561° West	TCEQ Monitoring Site C199 @ Dona Park		Yes	Yes		Yes
1.e	27.84418° North	97.52525° West	Port of Corpus Christi building on west end of CC Inner Harbor		Yes	Yes	Yes	
1.f	27.82769° North	97.52952° West	Off Up River Road on Flint Hills Resources easement		Yes	Yes	Yes	
1.g	27.82906° North	97.54322° West	Solar Estates Park at end of Sunshine Road	Yes	Yes	Yes	Yes	Yes

With the exception of the meteorology and air quality sensors and the surveillance cameras, all of the instrumentation at each site will be housed inside an 8 ft by 16 ft climate controlled EKTO shelter modified for the specific air monitoring and support equipment specified in Table 1. These shelters have a special compartment attached to the exterior of the trailer for flammable gas storage. With the exception of the Perkin-Elmer Auto GC, the following equipment will be rack mounted, where specified for a site in Table 1.

- TECO Model 43C SO₂ Analyzer
- TECO Model 45C H₂S Analyzer
- TECO Model 55C NMHC Analyzer
- ENTECH Model 1800 VOC Sampler
- Tanabyte Model 300 Dynamic Dilution Calibrator
- API Model 701 Clean Air Supply
- ZENO Model 3200 Data Acquisition System

The Auto GCs will be located on a separate table. The meteorology sensors will be mounted on a telescoping 33 ft aluminum tower at the end of the trailer. The surveillance cameras, Panasonic Model WV-CW 864 systems, will be mounted on either the meteorology tower or an alternate location in close proximity to the trailer. The camera systems include a digital disk recorder and multiplex unit, which will be housed in the EKTO shelter. All data transfer will be via a DSL (static IP address) connection. All software for equipment and any required software licenses will be provided by University with the equipment. Each site has a 40 ft by 40 ft limestone/cement pad and a six foot fence with security top at the perimeter of the site. Smoking is not allowed within the fence line of any site.

It will be the responsibility of the contractor selected, to operate and maintain each site as fully operational in the condition presented to them when they assume operation of the site. All sites and equipment will be complete and fully operational and in compliance with the current revision of the TCEQ NAMS/SLAMS and PAMS QAPPS. Proposers shall be required to maintain compliance with these protocols and shall be required to follow the specific QAPP for each site. It is the proposer's responsibility to obtain the most current revision of the Texas Commission on Environmental Quality (TCEQ) NAMS/SLAMS and PAMS QAPPS to reference in preparing their proposals. In addition to the minimum requirements specified by the TCEQ NAMS/SLAMS and PAMS QAPPS, the following additional requirements will be imposed:

1. Auto GC, H₂S & SO₂: Conduct performance challenges (through the probe tip) annually and after any repair or major maintenance.

2. Auto GC, H₂S & SO₂: Use second source standards to run checks over range not just points, annually and after any repair or major maintenance.
3. Auto GC: Conduct calibrations (gases) for multiple (50+) compound mixtures to be specified by UNIVERSITY annually and after any repair or major maintenance.
4. Auto GC: Conduct calibrations annually and after any repair or major maintenance for each compound in multiple compound mixture.
5. Auto GC: Conduct calibrations with dry gas annually and after any repair or major maintenance. Report individual compound calibration checks for all 50+ compounds.
6. Auto GC: Conduct calibrations with humidified samples also to evaluate matrix effects, annually and after any repair or major maintenance.
7. Maintain ongoing detailed inventories of equipment, manuals, consumable supplies and repair items at each site. University personnel will conduct at least semiannual audits of inventories of all equipment, supplies and repair items at each site. Any discrepancies that cannot be accounted for during the semiannual audit, will be deducted from the contractor's current monthly invoice to University. University will be responsible for equipment replacement.
8. Maintain security at each of the seven (7) monitoring sites and comply with safety and local, state, and federal environmental regulations associated with these sites in the Corpus Christi area. (Note: Current site construction does not include plans to install a "security system" at each site, other than the fence referenced on page 10 of 16, Section 5, in this proposal) **Therefore, regardless of the Option proposed, Proposers shall submit narrative describing how vendor will maintain security and comply with all safety and environmental regulations.** Any standard company protocol or environmental/safety plans which demonstrate standard operating procedure in this area can be submitted with your proposal.
9. Maintain controlled access to each site for authorized personnel only, including sign in and sign out logs for operators and visitors.
10. Trim the weeds and grass/vegetation a distance of six feet beyond the fence line of each site as needed and within the requirements of the property owners.

Reports and Documentation Required from Awarded Vendor(s):

The awarded contractor shall submit formal reports as required by University and at the intervals outlined/defined in the TCEQ NAMS/SLAMS and PAMS QAPPS.

Awarded vendor shall provide quarterly or semi-annual quality assurance reports specified in the QAPP.

The University will provide the site specific QAPPS.

The awarded proposer will have a right to review and accept the specific QAPPS provided by the University.

Awarded vendor shall also maintain electronic files and/or hard-copy files of performance challenges, standard runs, and calibrations which shall be provided to the University at any time, upon University's request.

Awarded vendor shall maintain ongoing detailed inventories of equipment, manuals, consumable supplies, and repair items at each site.

Awarded contractor(s) shall be responsible for full turn-key operation and maintenance including field operations, routine maintenance and calibration (if required in the QAPP) of all equipment, and equipment repair, as well as data review, validation and/or reprocessing, as appropriate, of all data streams with the exception of the event canister analysis, which will be performed by University. The contractor shall be responsible for shipping canisters to University and maintaining a log of all canisters shipped and returned per the QAPP. The contractor selected to operate and maintain the Auto GC and related support systems will be required to perform optimization of the Auto GC methods at intervals determined by University to be necessary.

Proposers are required to provide, in their proposal submittal, the names of individual personnel, including subcontractors, who will be assigned to this project. Proposer individual personnel information should include copies of certificates of training and experience with all of the instrumentation (or equivalent) listed previously and/or TCEQ data validation protocols. If such proposal documentation and/or experience, based on the evaluation of the vendor's proposal by University and the TCEQ, is not satisfactory, those personnel shall be required to complete a sixty (60) day data validation training course in Corpus Christi. Training shall begin following execution of the contract between University and the awarded contractor. Training must occur prior to the start of the work to maintain and operate the seven (7) monitoring sites

All awarded contractor(s) shall be required to attend field operations (up to 25 days) training to familiarize themselves with the specific equipment, software, and protocols required at each site. Training for field operations and data validation will be provided by a University contractor. The cost of personnel travel, lodging, and salaries associated with attending either the 60 day training course referenced above, or the 25 day field operations training, shall be the responsibility of the awarded contractor. Only personnel who have demonstrated satisfactory training and experience, or who have received the required training arranged by University for this project and are approved by University and the TCEQ, shall be allowed to operate or maintain any equipment at these seven (7) sites.

Proposers should not include the cost of software license renewal in their proposal. However, it is assumed that the awarded contractor(s) will receive electronic notification of pending software license expiration at the sampling sites. Therefore, awarded contractor(s) will be required to notify University in writing, a minimum of 60 days prior to expiration of a software license, as part of their responsibilities.

Proposers should not include the cost of utilities (electricity and telecommunications (telephone lines and DSL lines)) in their proposal. University will be responsible for these costs.

5.5 Format for Submission of Proposals (also reference Section 3.1 and Appendix One (1.9.6))

Proposers shall structure their response to include any or all of the following Options:

Option 1: Operation and maintenance of all seven (7) sites and all equipment except the two Perkin-Elmer Auto GC systems at sites 1.a and 1.g.

Option 2: Operation and maintenance of the two Perkin-Elmer Auto GC systems and support equipment only found at sites 1.a. and 1.g.

Option 3: Operation and maintenance of all sites and all equipment at each site.

Proposers shall clearly specify if they are responding to Option 1, Option 2 and/or Option 3. The proposal for each Option should be broken down into twelve (12) month per site cost proposals, with the total cost proposal reflecting operating and maintenance costs for a period

up to and including October, **2011***. The percent of annual increases built into twelve (12) month per site costs should be identified in a justification included in your cost proposal. In addition to the 12 month per site cost proposals the total operating and maintenance costs per site through October **2011*** should be provided on the **Cost Summary Form found in Section 5.5.1** or Proposer's comparable spreadsheet of similar formatting.

*******Any proposals presented in a format that does not allow for the identification of twelve (12) month per site costs in addition to the completion of the form found in the Cost Summary Form (or proposer's similarly formatted spreadsheet) will not be considered.*******

The cost proposals should calculate costs beginning with the start of the work of maintaining and operating the seven (7) monitoring sites (after all training requirements are met).

Proposal costs will be evaluated assuming a project start date of November 1, 2004.

The proposal for each year should include an annual fixed cost and an estimate of consumables and equipment maintenance and routine repair costs for each site. Fixed costs and consumable replacement costs will be on a cost reimbursement basis, no more frequently than monthly. Annual operating and maintenance costs for a period of up to and including October, **2011*** shall be included as part of the proposal. Awarded contractor(s) shall be reviewed annually by University and continuation of the contract shall be based on satisfactory performance during the preceding year. "Satisfactory performance" shall be at the discretion of The University of Texas at Austin.

Please note: The University's initial purchase of the equipment included the manufacturer's standard warranty for this equipment. No extended warranties have been purchased by the University. For purposes of proposal preparation, the University anticipates that equipment standard warranties will expire approximately eight (8) months after an awarded vendor begins operations and maintenance services against any resulting contract based on this RFP.

The University has not pre-purchased any long-term equipment service agreements from the manufacturer. Proposer shall include the cost of equipment maintenance, in their proposal. If proposer intends to subcontract equipment maintenance, this subcontractor should be clearly identified in the submitted proposal. Should proposer subcontract equipment maintenance to a vendor other than the manufacturer of the equipment, proposer should verify that the subcontractor is qualified (trained/certified) to maintain the equipment.

Proposers shall provide a description of the project team organization and responsibilities of each team member. Proposers should provide adequate documentation to demonstrate the training and experience of all personnel that will be assigned to this project and their assignment in the project team organization proposed. This documentation should include the specific training and experience each person has with the instrumentation listed previously (or equivalent) and TCEQ data validation protocols. Proposers should also address in their project organization how they will provide back-up coverage at each site with trained personnel when the operator assigned to a site is ill, on vacation, or otherwise not at work.

All proposers should provide a minimum of ten (10) references. References provided should include a primary contact name, company/organization name, company/organization address, telephone number, and email address (if applicable), for each of the ten references. Please note: the ten references provided by proposer, shall reflect ten projects the proposer has completed or is currently conducting in Texas, with requirements similar to those outlined in this request. Proposer shall supply a summary of the project, for each of the ten references. The University reserves the option to contact any or all references provided.

Section 5.5.1.	COST SUMMARY FORM		
BIDDER:			
	OPTION I	OPTION II	OPTION III
	Operation and Maintenance costs of seven sites without Perkin Elmer Auto GC Systems at Sites 1.a and 1.g.	Operation and Maintenance costs of two Perkin Elmer Auto GC Systems at Sites 1.a and 1.g.	Operation and Maintenance costs of seven sites including Perkin Elmer Auto GC Systems at Sites 1.a and 1.g.
Site 1.a	0.00		0.00
Site 1.a (Auto GCs)		0.00	0.00
Site 1.b	0.00		0.00
Site 1.c	0.00		0.00
Site 1.d	0.00		0.00
Site 1.e	0.00		0.00
Site 1.f	0.00		0.00
Site 1.g	0.00		0.00
Site 1.g (Auto GCs)		0.00	0.00
Total	0.00	0.00	0.00

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas at Austin

Ref.: Operation and Maintenance Services related to the Corpus Christi Air Monitoring and Surveillance Camera Project

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RFP No.: 20040601-mpblb

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the Operation and Maintenance Services related to the Corpus Christi Air Monitoring and Surveillance Camera Project required pursuant to the above-referenced Request for Proposal upon the terms quoted below.

6.1 Pricing for Services Offered

(A section/page of the submitted proposal may be referenced here.)

6.2 Delivery Schedule of Events and Time Periods

(A section/page of the submitted proposal may be referenced here.)

6.3 University's Payment Terms

University's standard payment terms for services will be in accordance with the agreement between University and contractor and are "Net 30 days." Proposer agrees that University will be entitled to withhold ____ percent (____%) of the approved total payment due under the Agreement until after University's acceptance of the final work product. Indicate below the prompt payment discount that Proposer will provide to University:

Prompt Payment Discount: _____% _____days/net 30 days

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

**APPENDIX ONE
PROPOSAL REQUIREMENTS**

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SECTION 1

GENERAL INFORMATION**1.1 Purpose**

University is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by University.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of the Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Inquiries and Interpretations

University may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by University as having received a copy of this RFP. Only University's responses that are made by formal written Addenda will be binding on University. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by University prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4 of APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer's proposal.

Any interested party that receives this RFP by means other than directly from University is responsible for notifying University that it has received an RFP package, and should provide its name, address, telephone number and FAX number to University, so that if University issues Addenda to this RFP or provides written answers to questions, that information can be provided to such party.

1.3 Public Information

University considers all information, documentation and other materials requested to be submitted in response to this RFP to be of a non-confidential and non-proprietary nature and therefore subject to public disclosure under the *Texas Public Information Act (Government Code, Chapter 552.001, et seq.)* after the award of an Agreement.

Proposer is hereby notified that University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

1.4 Type of Agreement

The Proposer who is selected by University in accordance with the requirements and specifications set forth in this RFP ("**successful Proposer**") will be required to enter into a contract with University in a form substantially similar to the Agreement between University and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

University will select the successful Proposer by using the competitive sealed proposal process described in this Section. Proposals submitted by the Submittal Deadline will be opened publicly to identify the name of each Proposer submitting a proposal. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, University may invite one or more selected Proposers to participate in oral presentations. Each proposal will be afforded security sufficient to preclude disclosure of its contents prior to selection of the successful Proposer.

University may make the selection of the successful Proposer on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, University may make the selection of the successful Proposer on the basis of negotiation with any of the Proposers. In conducting such negotiations, University will not disclose any information derived from the proposals submitted by competing Proposers.

At University's sole option and discretion, University may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University will defer further action on proposals not included within the competitive range pending the selection of the successful Proposer; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of University.

After submission of a proposal but before final selection of the successful Proposer is made, University may permit a Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. University will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. University is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to University overall, as determined by University.

University reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of University. Proposer is hereby notified that University will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by University.

1.6 Proposer's Acceptance of Evaluation Methodology

By submitting a proposal, Proposer acknowledges (1) Proposer's acceptance of [a] the Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] the Criteria for Selection (ref. **2.3** of this RFP), [c] the Specifications (ref. **Section 5** of this RFP), [d] the terms and conditions of the Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) Proposer's recognition that some subjective judgments must be made by University during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and University has made no representation written or oral that one or more agreements with University will be awarded under this RFP; (2) University issues this RFP predicated on University's anticipated requirements for the Services, and University has made no representation, written or oral, that any particular scope of services will actually be required by University; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

1.8 Proposal Requirements and General Instructions

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of University.
- 1.8.3 University will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer, unless otherwise expressly agreed in writing. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by University, at University's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 University makes no warranty or guarantee that an award will be made as a result of this RFP. University reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in University's best interest. University reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to University, at University's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by University, in University's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to information requested in Specifications and Additional Questions (ref. Section 5 of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (not applicable) or N/R (no response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized

to bind the Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by University, in its sole discretion.

1.9.3 Pricing and Delivery Schedule

Proposer must complete and return the Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery Schedule, the Proposer should describe in detail (a) the total fees for the entire scope of the Services; and (b) the method by which the fees are calculated. The fees must inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

University will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Delivery Schedule.

In the Pricing and Delivery Schedule, Proposer should describe each significant phase in the process of providing the Services to University, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by University, in its sole discretion.

1.9.6 Submission

Proposer should submit all proposal materials enclosed in a sealed envelope, box, or container. The RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of the Proposer should be clearly visible.

Upon Proposer's request and at Proposer's expense, University will return to a Proposer its proposal received after the Submittal Deadline if the proposal is properly identified. University will not consider a proposal received after the Submittal Deadline under any circumstances.

University will not accept proposals submitted by telephone, proposals submitted by Facsimile ("FAX") transmission, or proposals submitted by electronic transmission (i.e., e-mail) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to University, in University's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on University that are not set forth in this RFP or in the Appendices to this RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified herein and that such intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

1.9.7 Page Dividers

Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

SECTION 2

EXECUTION OF OFFER

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

- 2.1 By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer; (3) University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
 - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.6 If selected by University, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.7 If selected by University, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
 - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that University will rely on such statements, information and representations in selecting the successful Proposer. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.9 Proposer will defend, indemnify, and hold harmless University, The University of Texas System, the State of Texas, and all of their regents, officers, agents and employees, from and against all claims, actions, suits, demands, costs (including, but not limited to reasonable attorneys' fees), damages, and liabilities, arising out of, connected with, or resulting from any negligent acts or omissions or willful misconduct of Proposer or any agent, employee, subcontractor, or supplier of Proposer in the execution or performance of any contract or agreement resulting from this RFP.
 - 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2 By signature hereon, Proposer offers and agrees to furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and the Proposer may be removed from all proposal lists at University.
- 2.4 By signature hereon, a corporate Proposer certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, *Tax Code*, or that the corporate Proposer is exempt from the payment of such taxes, or that the corporate Proposer is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable. A false certification will be deemed a material breach of contract and, at University's option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

- 2.6** By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.
- 2.7** By signature hereon, Proposer certifies as follows:
 "Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in the Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."
- 2.8** By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to University in writing and (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline. All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into a contract or agreement with Proposer.
- 2.9** By signature hereon, Proposer affirms that no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP, in accordance with Section 2155.004, *Government Code*.
- 2.10** By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.11** By signature hereon, Proposer represents and warrants that all products and services offered to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.
- 2.12** Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time University makes an award or enters into any contract or agreement with Proposer.
- 2.13 Proposer should complete the following information:**
 If Proposer is a Corporation, then State of Incorporation: _____
 If Proposer is a Corporation then Proposer's Corporate Charter Number: _____
 RFP No.: 20040601-mpbl

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, *GOVERNMENT CODE*, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer will explain the reason when responding N/A or N/R.

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

Address of office that would be providing service under the Agreement:

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

NOTE: If Proposer is a subsidiary, University prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.

3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under an Agreement with University (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than ten (10) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services of a type and scope similar to those required by University's RFP. Proposer should include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer. (Reference Request for Proposal page no. 13)

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of University? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to Section 231.005, *Family Code*, and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support.

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of an Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed for the options (s) being proposed;
 - 3.2.3.2 Time frames to perform the identified option(s) and tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

- 3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with University, including their specific experiences with similar service projects, and number of years of employment with Proposer.
- 3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with University and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from University.

3.4 Service Support

Proposer will describe its service support philosophy, how is it implemented, and how Proposer measures its success in maintaining this philosophy.

3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

3.6 Miscellaneous

- 3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to University.
- 3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by University from doing business with Proposer.
- 3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

SECTION 4
ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas at Austin

Ref.: _____ Services related to the _____

RFP No.: 20040601-mpblb

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (**initial if applicable**).

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO

AGREEMENT

Below, is a model agreement which is subject to change depending on the requirements of the specific project between the university and the contractor. At the direction of the university's business office and UT system, the university may use a different contract template when finalizing the agreement between contractor and the university.

AGREEMENT BETWEEN UNIVERSITY AND CONTRACTOR

This Agreement between University and Contractor ("Agreement") is made and entered into effective as of _____, _____ (the "Effective Date"), by and between **The University of Texas at Austin**, an agency and institution of higher education organized under the laws of the State of Texas ("University"), and _____, a _____ ("Contractor"), Federal Tax Identification Number _____.

University and Contractor hereby agree as follows:

1. **Scope of Work.**

- a. The scope of the work ("Work") is set forth in **Exhibit A** attached and incorporated for all purposes. The schedule ("Schedule") for the Work is set forth in **Exhibit B** attached and incorporated for all purposes.
- b. Upon execution of this Agreement, all services previously performed by Contractor on behalf of University and included in the description of the Work, shall become a part of the Work and shall be subject to the terms and conditions hereof.
- c. Contractor shall obtain and make payment for any and all approvals, licenses, filings, registrations and permits required by federal, state or local law for the performance of the Work.

2. **The Project.**

The Work, as more particularly set forth in **Exhibit A**, shall be provided in connection with _____ and all other related, necessary and appropriate services (the "Project").

3. **Time for Commencement and Completion.**

The term of this Agreement shall commence on the Effective Date and terminate upon _____, _____. University shall have the option to renew this Agreement for _____ (____) additional _____ (____) year terms.

It is understood that time is of the essence with regard to this Agreement and that Contractor shall complete all authorized Work to the satisfaction of University in accordance with the Schedule, and in a minimum of time consistent with the highest customs, standards, and practices of Contractor's business or profession. University shall have no obligation to accept late performance or to waive timely performance by Contractor.

4. **Contractor's Duties and Representations.**

- a. Notwithstanding anything to the contrary contained in this Agreement, University and Contractor agree and acknowledge that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing the Work. Contractor accepts the relationship of trust and confidence established between it and University by this Agreement. Contractor covenants with University to use its best efforts, skill, judgment, and abilities to perform the Work and to further the interests of University in accordance with University's requirements and procedures, in accordance with the highest standards of Contractor's profession or business and in compliance with all applicable national, federal, state and municipal, laws, regulations, codes, ordinances and orders and with those of any other body or authority having jurisdiction. Contractor warrants, represents, covenants, and agrees that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of the Work.
- b. Contractor warrants, represents, covenants, and agrees that all of the Work to be performed by Contractor under or pursuant to this Agreement shall be of the standard and quality that prevail among similar businesses and organizations of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances and involving an undertaking such as the Project.
- c. Contractor warrants, represents, covenants, and agrees that the Work will be accurate and free from any material errors. Contractor's duties as set forth herein shall at no time be in any way diminished by reason of any approval by University nor shall Contractor be released from any liability by reason of such approval by University, it being understood that University at all times is ultimately relying upon Contractor's skill and knowledge in performing the Work.
- d. Contractor warrants, represents, covenants, and agrees to maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. The Contractor warrants, represents, covenants, and agrees that all persons connected with the Contractor directly in charge of the Work are duly registered and/or licensed under the laws, rules and regulations of any authority having jurisdiction, if so required by such laws, rules and regulations. Contractor shall assign to University a designated representative who shall be responsible for the administration and coordination of the Work. Contractor represents and agrees to furnish efficient business administration and coordination and perform the Work in an expeditious and economical manner consistent with the interests of University.
- e. Contractor warrants, represents, covenants, and agrees that it is aware of and is fully informed about the various problems known generally as the "Year 2000 Problem." Upon written request, Contractor shall provide University with evidence reasonably satisfactory to University, that Contractor is Year 2000 compliant and will not fail to perform the Work in accordance with the terms of this Agreement due to the Year 2000 Problem. Contractor shall be liable to University for all loss and damage suffered by University for any and all delay in performance of or failure to perform Contractor's duties and obligations under the terms of this Agreement that are directly or indirectly related to the Year 2000 Problem.

- f. Contractor warrants, represents, covenants, and agrees to call to University's attention all information in any reports, studies, plans, drawings, specifications, lists, computations, art work, sketches, models, data, photographs, tapes, renderings, publications, instructions, information, requirements, procedures and all other documentation and materials supplied to Contractor (by University or any other party) that it regards in its opinion as unsuitable, improper or inaccurate in connection with the purposes for which such documentation or material is furnished. Nothing shall excuse or detract from Contractor's responsibilities or obligations hereunder in a case where such documentation or material is furnished, unless Contractor advises University in writing that in its opinion such documentation or material and any requests made therein for action are unsuitable, improper or inaccurate and University confirms in writing that it wishes Contractor to proceed in accordance with the documentation and material as originally given.
- g. Contractor warrants, represents, covenants and agrees that it shall, at its own cost, correct any defects in the Work as soon as is practical after Contractor becomes aware of such defects or is notified of such defects. Should Contractor refuse or neglect to make good such defects within a reasonable time after receiving notice requesting such remedial work, then University shall be entitled to make good such defective Work at the expense of Contractor. This commitment by Contractor is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.
- h. Contractor warrants, represents, and agrees that if (i) it is a corporation or limited liability company, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, or limited liability partnership, then it has all necessary partnership power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder; and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- i. Neither the execution and delivery of this Agreement by Contractor nor the performance of its obligation hereunder will result in the violation of any provision, if a corporation, of Contractor's articles of incorporation or by-laws, if a limited liability company, of its articles of organization or regulations, or if a partnership, by any partnership agreement by which Contractor is bound, or any agreement by which Contractor is bound or to the best of Contractor's knowledge and belief will conflict with any order or decree of any court or governmental instrumentality relating to Contractor.
- j. Except for the obligation of University to pay Contractor certain fees and expenses pursuant to the terms of this Agreement, University shall have no liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement. Notwithstanding any obligation or liability of University to Contractor, no present or future partner or affiliate of University or any agent, officer, director, employee, or regent of University, The University of Texas System, or of the components comprising The University of Texas System, or anyone claiming under University has or shall have any personal

liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement.

5. **The Contract Amount.**

- a. So long as Contractor has provided University with its current and accurate Federal Tax Identification Number in writing, University shall pay Contractor in current funds for the performance of the Work, subject to adjustments, additional services and reimbursable expenses, if any, as set forth in **Exhibit C.**
- b. The Contract Amount includes any applicable federal, state or local sales or use tax payable on this transaction.

6. **Payment Terms.**

- a. Prior to ten (10) days before the end of each calendar month during the term of this Agreement, Contractor shall submit to University an application for payment (each a "Progress Payment") covering the services performed for University to that date, in accordance with **Exhibit C.** which application shall be accompanied by lien waivers and other forms, statements, invoices, and payroll reports that University may reasonably require to support the amount requested and to be submitted. University will, within thirty (30) days from the date it receives such application and supporting documentation for payment, approve or disapprove the amount reflected in such application and if University approves such amount or any portion of such amount, it shall promptly pay to Contractor the amount so approved, provided Contractor is not in breach of or in default under this Agreement. If University disapproves any amount requested by Contractor, University shall give Contractor specific reasons for its disapproval in writing.
- b. The cumulative amounts of all Progress Payments and the Final Payment (defined below) shall not exceed the Contract Amount as more particularly set forth in **Exhibit C.**
- c. Within ten (10) days after final completion of the Work and acceptance thereof by University or as soon thereafter as possible, Contractor shall submit a final request ("Final Request") that shall set forth all amounts due and remaining unpaid to Contractor and upon approval thereof by University, University shall pay ("Final Payment") to Contractor the amount due under such Final Request.
- d. Any provision hereof to the contrary notwithstanding, University shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor hereunder if any one or more of the following conditions precedent exist:
 - (1) Contractor is in breach or default under this Agreement; or
 - (2) Any part of such payment is attributable to Work that is not performed in accordance with this Agreement; provided, however, such payment shall be made as to the part thereof attributable to Work that is performed in accordance with this Agreement.
- e. No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the Work to which such partial payment relates or relieve Contractor of any of its obligations hereunder with respect thereto.

- f. The acceptance of Final Payment shall constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Final Request for payment.
- g. University shall have the right to verify the details set forth in Contractor's billings, certificates, and statements, either before or after payment therefor, by (1) inspecting the books and records of Contractor at mutually convenient times; (2) examining any reports with respect to the Project; (3) interviewing Contractor's employees; (4) visiting any place where performance of all or a portion of the Project occurs; and (5) other reasonable action.

7. **Ownership and Use of Work Material.**

- a. All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with the Work (collectively, "Work Material"), whether or not accepted or rejected by University, are the property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions.
- b. Contractor hereby grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and shall cooperate fully with University in any steps University may take to obtain copyright, trademark or like protections with respect thereto.
- c. University shall have the right to use the Work Material for the completion of the Work or otherwise. University may, at all times, retain the originals of the Work Material. The Work Material shall not to be used by any person other than University on other projects unless expressly authorized by University in writing.
- d. The Work Material shall not be used or published by Contractor or any other party unless expressly authorized by University in writing. Contractor shall treat all Work Material as confidential.

8. **Default and Termination.**

- a. In the event of a material failure by a party hereunder to perform in accordance with the terms hereof, the other party may terminate this Agreement upon fifteen (15) days' written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that, said failure is through no fault of the terminating party.
- b. University may, without cause, terminate this Agreement at any time upon giving seven (7) days' advance notice to Contractor. Upon termination pursuant to this Section, Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement, provided that, Contractor shall have delivered to University such statements, accounts, reports and other materials as required by Section 8.d., and provided that, Contractor shall have delivered to University all reports, documents and other materials prepared by Contractor prior to the termination date. Notwithstanding any provision in this Agreement to the contrary, University shall not be required to pay or reimburse Contractor for any services performed or expenses incurred by

Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.

- c. Termination under Sections 8.a. or 8.b. shall not relieve Contractor or any of its employees from liability for violations of this Agreement or any other act or omission of Contractor. The provisions of Sections 6.g., 9., 12.m., 12.p. and 12.t. shall survive the termination of this Agreement. In the event of a termination under Sections 8.a. or 8.b., Contractor hereby consents to employment by University of a substitute contractor to complete the Work under this Agreement, with the substitute contractor having all rights and privileges of the original contractor for the Project. If Contractor is terminated pursuant to Section 8.a., and the cost to complete the Work exceeds the remaining balance of the Contract Amount as more particularly set forth in **Exhibit C**, then Contractor shall be liable to University and shall reimburse University on demand for the amount of such excess.
- d. As of the termination date of this Agreement, Contractor shall furnish to University all Work Material.
- e. If Contractor fails to cure any default hereunder within fifteen (15) days after receiving written notice of such default, University shall be entitled (but shall not be obligated) to cure any such default and shall have the right to offset against all amounts due to Contractor hereunder, any and all reasonable expenses incurred in connection with such curative actions.

9. **Indemnification.**

- a. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS UNIVERSITY AND THE UNIVERSITY OF TEXAS SYSTEM, AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION (COLLECTIVELY "CLAIMS") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR'S PERFORMANCE UNDER THIS AGREEMENT AND WHICH ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW.
- b. IN ADDITION, CONTRACTOR SHALL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR PURSUANT TO THIS AGREEMENT, OR THE USE BY CONTRACTOR, OR BY INDEMNITEES AT

THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR SUCH INFRINGEMENT, UNIVERSITY SHALL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR SHALL BE GIVEN FULL OPPORTUNITY TO NEGOTIATE A SETTLEMENT. CONTRACTOR DOES NOT WARRANT AGAINST INFRINGEMENT BY REASON OF UNIVERSITY'S DESIGN OF ARTICLES OR THE USE THEREOF IN COMBINATION WITH OTHER MATERIALS OR IN THE OPERATION OF ANY PROCESS. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO COOPERATE REASONABLY WITH CONTRACTOR AND ALL PARTIES SHALL BE ENTITLED, IN CONNECTION WITH ANY SUCH LITIGATION, TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

- c. The indemnities contained herein shall survive the termination of this Agreement for any reason whatsoever.

10. **Independent Contractor.**

Contractor recognizes that it is engaged as an independent contractor and acknowledges that University shall have no responsibility to provide vacation, insurance or other fringe benefits normally associated with employee status. Contractor, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of University by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of University, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Contractor hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.

11. **Insurance.** [Note: These are minimum insurance requirements.]

- a. Contractor, consistent with its status as an independent contractor, shall carry at least the following insurance in such form, with such companies and in such amounts (unless otherwise specified) as University may require:
- (1) Director and Officer Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) on an occurrence basis;
 - (2) Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limit of not less than One Million Dollars (\$1,000,000) per accident or disease. Policies must include All States Endorsement and a waiver of all rights of subrogation and other rights against the University;
 - (3) Commercial General Liability insurance, including Blanket Contractual Liability, Broad Form Property Damage, Personal and Advertising Injury, Completed Operations/Products Liability, Medical Expenses, Interest of Employees as additional insured and Broad Form General Liability Endorsements, for at least One Million Dollars (\$1,000,000) per occurrence on an occurrence basis; and
 - (4) Comprehensive Automobile Liability insurance covering all owned, non-owned or hired automobiles to be used by Contractor, with coverage for

at least One Million Dollars (\$1,000,000) Combined Single Limit Bodily Injury and Property Damage.

- b. Contractor shall deliver to University:
- (1) Evidence satisfactory to University in its sole discretion, evidencing the existence of all such insurance promptly after the execution and delivery hereof and prior to the performance or continued performance of any services to be performed by Contractor hereunder from or after the date of this Agreement; and
 - (2) Additional evidence, satisfactory to University in its sole discretion, of the continued existence of all such insurance not less than thirty (30) days prior to the expiration of any such insurance. If, however, Contractor fails to pay any of the renewal premiums for the expiring policies, University shall have the right to make such payments and set-off the amount thereof against the next payment coming due to Contractor under this Agreement.

Such insurance policies, with the exception of Workers' Compensation and Employer's Liability, shall name and such evidence shall reflect University as an Additional Insured and shall provide that the policies will not be canceled until after thirty (30) days' unconditional written notice to University, giving University the right to pay the premium to maintain coverage, in which event Section 11.b.(2) shall apply.

- c. The insurance policies required in this Agreement shall be kept in force for the periods specified below:
- (1) Director and Officer Liability Insurance, Employer's Liability Insurance, Commercial General Liability Insurance and Comprehensive Automobile Liability Insurance shall be kept in force until receipt of Final Payment by Contractor; and
 - (2) Workers' Compensation Insurance shall be kept in force until the Work has been fully performed and accepted by University in writing.

12. **Miscellaneous.**

- a. **Assignment.** This Agreement is a personal service contract for the services of Contractor, and Contractor's interest in this Agreement, duties hereunder and/or fees due hereunder may not be subcontracted, assigned or delegated to a third party, in whole or in part, and any attempt to do so shall be void and of no effect. The benefits and burdens of this Agreement are, however, assignable by University.
- b. **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- c. **Eligibility Certification.** Pursuant to Section 2155.004, *Texas Government Code*, Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and

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

- d. **Franchise Tax Certification.** A corporate or limited liability company Contractor certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.
- e. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- f. **Products and Materials Produced in Texas.** Contractor covenants and agrees that as required by Section 2155.4441, *Texas Government Code*, in performing the Work and its other duties and obligations under this Agreement, the Contractor shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
- g. **Loss of Funding.** Performance by University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then University shall issue written notice to Contractor and University may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.
- h. **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and University and shall constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by University and Contractor.
- i. **Force Majeure.** Neither party hereto shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes, beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character. Provided, however, Contractor shall be liable and responsible to University for all loss and damage suffered by University for any and all delays in performance of or failures to perform Contractor's duties and obligations under the terms of this Agreement that are directly or indirectly related to the Year 2000 Problem.
- j. **Captions.** The captions of sections and subsections in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

- k. **Governing Law.** This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- l. **Waivers.** No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.
- m. **Confidentiality.** All information owned, possessed or used by University that is communicated to, learned, developed or otherwise acquired by Contractor in the performance of services for University, that is not generally known to the public, shall be confidential and Contractor shall not, beginning on the date of first association or communication between University and Contractor and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Contractor's own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Contractor shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of University in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of University. Contractor shall obtain assurances similar to those contained in this Section from persons, contractors, and subcontractors retained by Contractor. Contractor acknowledges and agrees that a breach by Contractor of the provisions hereof will cause University irreparable injury and damage. Contractor, therefore, expressly agrees that University shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.
- n. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- o. **Appointment.** University hereby expressly reserves the right from time to time to designate by notice to Contractor a representative to act partially or wholly for University in connection with the performance of University's obligations hereunder. Contractor shall act only upon instructions from such representative unless otherwise specifically notified to the contrary.
- p. **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments shall be available to University or its authorized representative during business hours and shall be retained for four (4) years after final Payment or abandonment of the Project, unless University otherwise instructs Contractor in writing.
- q. **Notices.** Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or

when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to University: _____

Attention: _____

with copy to: _____

Attention: _____

If to Contractor: _____

Attention: _____

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

Notwithstanding any other requirements for notices given by a party under this Agreement, if Contractor intends to deliver written notice to University pursuant to Section 2251.054, *Texas Government Code*, then Contractor shall send that notice to University as follows:

Fax: _____
Email: _____
Attention: _____

with copy to: _____

Fax: _____
Email: _____
Attention: _____

or such other person or address as may be given in writing by University to Contractor in accordance with this Section.

- r. **Severability.** In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included herein.
- s. **Enforcement.** It is acknowledged and agreed that Contractor's services to University are unique, that gives Contractor a peculiar value to University and for the loss of which University cannot be reasonably or adequately compensated in

damages; accordingly, Contractor acknowledges and agrees that a breach by Contractor of the provisions hereof will cause University irreparable injury and damage. Contractor, therefore, expressly agrees that University shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement, but only if University is not in breach of this Agreement.

- t. **State Auditor's Office.** Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
- u. **Dispute Resolution.** (1) To the extent that Chapter 2260, *Texas Government Code*, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor:

(A) Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by subchapter B of Chapter 2260, to University in accordance with the notice provisions in this Agreement. Contractor's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that University allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The Chief Business Officer of University, or such other officer of University as may be designated from time to time by University by written notice thereof to Contractor in accordance with the notice provisions in this Agreement, shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.

(B) If the parties are unable to resolve their disputes under subparagraph (A) of this Section, the contested case process provided in subchapter C of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.

(C) Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action

or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.

- (2) The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
- (3) University and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

v. **[This provision may be deleted if this Contract does not relate to computer information systems, including hardware and software: Technology Access Clause.** In accordance with Section 2157.005, *Texas Government Code*, Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to University that the technology provided to University for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services that would constitute reasonable accommodations under the federal Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.]

w. **[This provision may be deleted if this Agreement does not relate to and the Contractor does not have access to health information: HIPAA Compliance.** Contractor agrees to keep private and to secure any information provided by University that is considered either Individually Identifiable Health Information ("IIHI") by the Health Insurance Portability and Accountability Act of 1996, codified at 42 USC § 1320d through d-8 ("HIPAA"), or Protected Health Information ("PHI") as promulgated in 45 CFR Part 164 ("HIPAA Privacy Regulations") and 45 CFR Part 142 ("HIPAA Security Regulations") should the HIPAA Security Regulations become final and effective. Contractor agrees to only use and disclose PHI (i) received from, (ii) used, created, received, maintained or disclosed by University, or (iii) otherwise associated with University (collectively, "University PHI") as required to perform the services outlined in this Agreement, which services may include the proper management and administration of this Agreement and data aggregation services for the health care operations of University. Contractor will not use or further disclose University PHI other than as permitted under this Agreement and Contractor will use appropriate safeguards to prevent the use or disclosure of University PHI for any reason other than as provided by this Agreement. Contractor agrees to

promptly notify University of any use or disclosure of University PHI not permitted under this Agreement. Contractor agrees to notify University of its corrective actions to cure any breaches of this Section, HIPAA, or the HIPAA Privacy Regulations as soon as possible. Contractor understands that University may terminate this Agreement immediately without liability to Contractor if Contractor's actions are not successful in remedying the breach. University may also report the problem to the Secretary of Health and Human Services. Contractor shall require any of its agents or subcontractors who receive University PHI to be bound by the same restrictions and conditions set forth in this Agreement. Contractor agrees to comply with §164.524 (Access of Individuals to PHI), 164.526 (Amendment of PHI) and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Regulations. Contractor agrees to make its internal practices, books, and records relating to the use and disclosure of University PHI available to the Secretary of Health and Human Services or University for purposes of determining the Contractor's compliance with the HIPAA Privacy Regulations. After Contractor has completed working with or using University PHI, Contractor agrees to return or destroy all University PHI, if feasible, and if not feasible, Contractor agrees to continue to protect the University PHI from wrongful uses and disclosures. If Contractor decides to destroy University PHI under this Agreement, Contractor will maintain a record of the proper destruction of University PHI or provide University with notice and certification of proper destruction of University PHI.]

IN WITNESS WHEREOF, University and Contractor have executed and delivered this Agreement as a sealed instrument effective as of the Effective Date.

UNIVERSITY:

CONTRACTOR:

THE UNIVERSITY OF TEXAS AT AUSTIN

By: _____
Name: Kevin P. Hegarty
Title: Vice President and
Chief Financial Officer

By: _____
Name: _____
Title: _____

[If Contractor is a corporation:
Attest: _____
Corporate Secretary]

Attach:

EXHIBIT A - Scope of Work

EXHIBIT B - Schedule

EXHIBIT C - Payment for Services

EXHIBIT A

SCOPE OF WORK

[Provide a detailed description and break-down of all tasks the Contractor is to perform and technical standards for such tasks, if appropriate.]

EXHIBIT B

SCHEDULE

[Describe specific time deadlines and due dates for each phase of the Work and, if appropriate, for the Work as a whole.]

EXHIBIT C**PAYMENT FOR SERVICES**

SERVICE FEES: *[Specify payment model. If the fee is not a stipulated lump sum, include a “not to exceed” fee cap amount.]*

Notwithstanding the foregoing, the cumulative amount of Service Fees remitted by University to Contractor shall not exceed \$_____ (“Fee Cap”) without the prior written approval of University. In addition, total fees for each Phase of the Work shall not exceed the following specified amounts without the prior written approval of University:

If University submits, in advance, a written request for additional services not contemplated or reasonably inferred by this Agreement, Contractor shall be paid for actual hours incurred by Contractor’s personnel directly and solely in support of such additional services at the Rates set forth above.

EXPENSES AND DISBURSEMENTS: Contractor shall be reimbursed without mark-up for reasonable expenses, including meals (when traveling from _____ to the _____ area), lodging (when traveling to the _____ area), and coach class airfare for travel to the _____ area, validly incurred directly and solely in support of the Project and approved by University in advance. Contractor and University anticipate _____ () trips by Contractor to _____. Provided, however, Contractor agrees and acknowledges that Contractor shall be subject to the Travel Allowance Guide promulgated by the Comptroller of Public Accounts for the State of Texas with regard to meals, lodging, mileage and all other expenses related to travel. Further, Contractor agrees and acknowledges that Contractor shall not be reimbursed by University for expenses that are prohibited or that exceed the allowable amounts set forth in the Travel Allowance Guide. As a condition precedent to receiving reimbursement for expenses and disbursements, Contractor shall submit to University receipts, invoices, and other documentation as required by University. Notwithstanding the foregoing, reimbursement for expenses and disbursements shall not exceed a maximum of \$_____ (“Expense Cap”) without the prior written approval of University.

The Fee Cap and the Expense Cap are sometimes collectively referred to as the “Contract Amount.”

APPENDIX THREE

HUB SUBCONTRACTING PLAN

The University of Texas at Austin

Historically Underutilized Business Subcontracting Plan (HSP)

Information for Bidders

Contact Arthur McDonald, HUB Director with questions concerning this document at

Phone 512-471-2852 or 512-471-4266

Or email

arthurmc@mail.utexas.edu

Good Faith Effort

In accordance with Texas Government Code, Sections 2161.181-182 and section 111.11 of the Texas Administrative Code (TAC), state agencies shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction, services (including professional and consulting services), and commodity procurements. The University of Texas at Austin encourages the use of HUBs by implementing these policies through a Good Faith Effort Program (GFEP) using racially, ethnically and gender-neutral means per the Texas Building and Procurement Commission (TBPC) HUB Rules, 1 TAC 111.11-111.28.

The purpose of the GFEP is to promote full and equal business opportunities for all businesses in State contracting in accordance with the goals specified in the State of Texas disparity study dated 1996.

Goals established through the disparity study and 1 TAC 111.

- 11.9% Heavy Construction other than building contracts
- 26.1% Building Construction, including general contractors and operative builders contracts
- 57.2% Special Trade Construction contracts
- 20.0% Professional Services contracts
- 33.0% All Other Services contracts, and
- 12.6% Commodities contracts

POLICY

To achieve these goals it is the policy of The University of Texas at Austin to contract directly with HUBs or indirectly through subcontracting opportunities in accordance with Texas Government Code, Chapter 2161, Subchapter F and 1TAC 111.14. In accordance with the State's policy of encouraging the use of HUBs in state procurement, each state procurement official and each contractor/vendor shall make a good faith effort to utilize HUBs in subcontracting opportunities.

DETERMINATION OF HUB SUBCONTRACTING PLAN

The attached HUB Subcontracting Plan form must be completed and returned by bidders with the bid or the bid will be considered NON-RESPONSIVE and bid will be disqualified.

HUB Subcontracting Plan (HSP) Procedures

- 1) The University shall determine if there are probable subcontracting opportunities. "Subcontract" means a written third party contract between a prime contractor/vendor and another contractor for the performance of all or part of the contract being received from the State. If subcontracting opportunities are probable, University will state such probability in its bids, proposals, offers, or other applicable expression of interest and require the submission of a HSP. See # 3 below for more details. The HSP when accepted, will be a provision of the contract. The University will identify the potential subcontracting opportunities and bidders may obtain a list of vendors from the TBPC Centralized Master Bidders List (CMBL) (website: <http://www.gsc.state.tx.us/cmb/cmbhub.html>) that may be capable of performing the contract opportunities. The list provided is for information only and University does not endorse, recommend nor attest to the capabilities of any company or individual listed. A complete list of all TBPC certified HUBs may be electronically accessed through the Internet web site listed above. Although there are alternative means to connect to or reach this data, one method is by using an Internet web browser (like Netscape, Mosaic, etc.). When using a web browser, please connect to <http://www.gsc.state.tx.us>.
- 2) In order to demonstrate good faith effort to fulfill a HSP, the participating prime contractor must notify HUBs of the work that the contractor intends to subcontract. The preferable method of notice shall be in writing. The notice shall, in all instances, include a quantitative description of the subcontracting opportunities and identify a location or means to review contract specifications. The notice must be provided to potential subcontractors prior to submission of the contractor's bid. The prime contractor shall provide potential subcontractors a reasonable period of time to respond to the contractor's notice. "Reasonable time" in this context is no less than five working days from receipt of the notice to respond unless circumstances require a different time period which is to be determined by University and documented in the project file. Should a HUB not be selected as a subcontractor, see Form HUB-S - Part 2, at the web site <http://www.utsystem.edu/bpm/58appendix2.htm>.
- 3) If subcontracting opportunities are probable, a HSP is required as part of your bids, proposals, offers, or other applicable expression of interest. The bid shall be rejected as a material failure to comply with the advertised specifications if the bid documents do not contain the required information listed on the HSP form. If you are not subcontracting any portion of the contract, the HSP form must still be filled out and submitted with the bid.
- 4) No changes shall be made to an accepted subcontracting plan prior to its incorporation into the contract. The University shall review the supporting documentation submitted by the potential contractor/vendor to determine if a good faith effort has been made.
- 5) If a potential contractor/vendor has determined that it can perform all the subcontracting opportunities that are probable, a statement of the potential contractor's/vendor's intent to complete the work with its own employees and resources without any subcontracting will be submitted with the potential contractor's/vendor's bid, proposal, offer, or other expression of interest. If the potential contractor/vendor is selected and decides to subcontract any part of the contract after the award, the contractor/vendor must comply with provisions of items 2 & 3 above relating to developing and submitting a subcontracting plan prior to any modifications or

performance in the awarded contract. Subcontracting, in this case, must be authorized by University before proceeding. If the selected contractor/vendor subcontracts any of the work without prior authorization and approval of the contract administrator, the contractor/vendor is deemed to have breached the contract and is subject to any remedial actions provided by Texas Government Code, Chapter 2161, and 1 TAC '111.14 University may report non-performance relative to its contracts to the commission in accordance with 1 TAC Chapter 113, Subchapter F (relating to the Vendor Performance and Debarment Program).

6) The contractor/vendor shall maintain business records documenting its compliance with the approved HSP and shall submit a compliance report to University in accordance with and in the format required by the contract documents. The contractor/vendor shall report to University the identity and the amount paid to its subcontractors. (See forms at <http://www.utsystem.edu/bpm/58appendix2.htm>). Documentation shall be maintained of the contractor's/vendor's efforts for determining whether the value of the subcontracts to HUBs meets or exceeds the HUB subcontracting provisions specified in the contract.

All forms referenced are located at <http://www.utsystem.edu/bpm/58appendix2>. The new HUB rules are available electronically at <http://www.utsystem.edu/bpm/58-06-00.htm>

(BUSINESS LETTERHEAD)

Ms. Brenda Black
The University of Texas at Austin
Purchasing Office
2200 Comal Street
Austin, Texas 78722

**Re: Historically Underutilized Business (HUB) Subcontracting Plan for
(Procurement Solicitation/Project Title)**

Dear Ms. Black:

In accordance with the requirements outlined in the specification section "HUB Participation Program," I am pleased to forward this HUB Subcontracting Plan as an integral part of our response (bid, proposal, offer, or other applicable expression of interest) in connection with your procurement solicitation (invitation for bids, request for proposals, etc.) # _____.

I have read and understand The University of Texas at Austin Policy on Utilization of Historically Underutilized Businesses (HUBs).

This HUB Subcontracting Plan includes _____ LOIs (no. of LOIs) totaling \$ _____. These figures represent a cumulative percentage of _____ % for minority-owned HUBs and _____ % for woman-owned HUBs. When a HUB is owned by minority women, I have classified that HUB as minority-owned rather than woman-owned.

Sincerely,

Professional/Contractor/Vendor Name

Copy: HUB Coordinator
Contract Administrator

HUB SUBCONTRACTING PLAN

STATE OF TEXAS

**ANNUAL PROCUREMENT UTILIZATION GOALS
1 Texas Administrative Code §111.13**

11.9% for heavy construction other than building contracts;
26.1% for all building construction, including general contractors
and operative builders contracts;
57.2% for all special trade construction contracts;
20.0% for professional services contracts;
33.0% for all other services contracts, and
12.6% for commodities contracts.

Attachment C

**HUB SUBCONTRACTING PLAN HISTORICALLY UNDERUTILIZED BUSINESS
LETTER OF INTENT (HUB-LOI)**

(HUB-LOI IS USED BY POTENTIAL PROFESSIONAL/CONTRACTOR/VENDOR TO
IDENTIFY SUBCONTRACTORS SELECTED FOR WORK ON THE CONTRACT)

Bidder: _____
Vendor Identification Number: _____

Address: _____

Phone: ____ - ____ - ____ Bid Number: _____
Contract Amount: _____

Description _____ of _____ commodities/specifications:

Time _____ period _____ covered:

Name of Subcontractor/Supplier: _____

Address: _____

Phone: ____ - ____ - ____

Is the subcontractor a HUB? ____ Yes ____ No if yes, is the subcontractor certified? ____ Yes
____ No

GSC Certificate (VID) _____

Dollar amount of contract with this subcontractor/supplier: \$ _____

Percentage amount of contract with this subcontractor/supplier: % _____

Description of work performed under agreement with the subcontractor for amount indicated
above:

PLEASE SUBMIT A SEPARATE FORM FOR EACH SUBCONTRACTOR/SUPPLIER.

Attachment D

DETERMINATION OF GOOD FAITH EFFORT (DGFE), PART 1, PAGE 1

Historically Underutilized Business (HUB)

This form must be completed and submitted as part of the HUB Subcontracting Plan

Contractor/Vendor Name: _____

Vendor Identification Number: _____

Address:

Phone: ____ - ____ - ____ Solicitation Number: _____

Contract Amount: _____

In determining whether a good faith effort has been made in development of the HUB Subcontracting Plan, a state agency shall require the potential professional/contractor/vendor to submit supporting documentation explaining in what ways the potential professional/contractor/vendor has made a good faith effort. Please answer the questions below. Provide necessary documentation to support your answers. Use continuation sheets as required.

1. Did your company divide the contract work into reasonable portions in accordance with prudent industry practices?

2. Did your company send notices containing adequate information about bonding, insurance, the plans, the specifications, scope of work, and other requirements of the contract to three or more qualified HUBs allowing reasonable time for HUBs to participate effectively (include Attachment E)?

3. Did your company negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were the best value responsive bidder?

DETERMINATION OF GOOD FAITH EFFORT (DGFE), PART 1, PAGE 2

Historically Underutilized Business (HUB)

This form must be completed and submitted as part of the HUB Subcontracting Plan

Contractor/Vendor Name: _____
BID Number _____

4. Did your company document reasons for rejection or meet with rejected HUBs to discuss the rejection?

5. Did your company advertise in general circulation, trade association, and minority/women focus media concerning subcontracting opportunities? (Attach copies of advertisements)

6. Did your company assist non-certified HUBs to become certified?

NOTE: The contracting agency will review the supporting documentation submitted by the potential professional/contractor/vendor to determine if a good faith effort was made in accordance with applicable 1 TAC rules and the contract specifications. If it is determined that a good faith effort was not made, the bid or other response shall be rejected as a material failure to comply with advertised specifications. The reasons for rejection will be recorded in the project file.

Attachment E

Determination of Good Faith Effort (DGFE) Part 2

**HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)
SOLICITATION (HUB-S)**

This form must be completed and submitted as part of the HUB Subcontracting Plan
(Reproduce as required to report additional solicitations)

Contractor/Vendor Name: _____

Vendor Identification Number: _____

Address:

Phone: ____ - ____ - ____ Bid Number: _____

Contact Name: _____

Are you certified as a Texas HUB? ___ Yes ___ No;
If yes, please provide your GSC VID/Certificate Number above.

Specific Subcontract Solicited:

Contractor's Estimate of Approximate Dollar Value of Subcontract Advertised:

** Identify each HUB to which a notice of solicitation was given. Attach a copy of each solicitation letter.*

1. Name of HUB Subcontractor/Supplier:

Address: _____

Phone: ____ - ____ - ____

Owner(s): _____

If GSC certified, enter Vendor Identification Number: _____ If not GSC certified, please complete the following information:

- Black American Male Female
- Native American Male Female
- Woman
- Hispanic American Male Female
- Asian Pacific American Male Female

Date certification packet delivered to HUB subcontractor _____

2. Name of HUB Subcontractor/Supplier:

Address: _____
Phone: _____ - _____ - _____
Owner(s): _____

If GSC certified, enter Vendor Identification Number: _____ If not GSC certified, please complete the following information:

- Black American Male Female
- Native American Male Female
- Woman
- Hispanic American Male Female
- Asian Pacific American Male Female

Date certification packet delivered to HUB subcontractor _____

3. Name of HUB Subcontractor/Supplier:

Address: _____
Phone: _____ - _____ - _____
Owner(s): _____

If GSC certified, enter Vendor Identification Number: _____ If not GSC certified, please complete the following information:

- Black American Male Female
- Native American Male Female
- Woman
- Hispanic American Male Female
- Asian Pacific American Male Female

Date certification packet delivered to HUB subcontractor _____

(BUSINESS LETTERHEAD)

Ms. Brenda Black
The University of Texas at Austin
Purchasing Office
2200 Comal Street
Austin, Texas 78722

Dear Ms. Black,

I am pleased to forward this HUB Subcontracting Plan as an integral part of our bid (proposal, offer, or other expression of interest) in connection with your invitation for bids (request for proposals, etc.) #_____.

I have read and understand The University of Texas at Austin Policy on Utilization of Historically Underutilized Businesses (HUBs). The enclosed HUB-SOI expresses our intent to perform and/or supply all contracted goods or services with our employees and resources.

Sincerely,

(Signature)
(Printed Name)
(Printed Title)

Attachment G

**HUB SUBCONTRACTING PLAN Historically Underutilized Business
STATEMENT OF INTENT (SOI)**

(Must be completed and submitted when the professional/contractor/vendor plans to complete all work with its employees and resources.)

If the potential professional/contractor/vendor can perform the subcontracting opportunities identified by The University of Texas at Austin with its employees and resources, the HUB Subcontracting Plan must express the potential professional's/contractor's/vendor's intent to complete the work with its employees and resources. The potential professional/contractor/vendor must attest to this fact by completion of the Statement of Intent below.

By completing the following Statement of Intent, the potential professional's/contractor's/vendor's HUB Subcontracting Plan may be considered responsive, qualified and/or valid:

STATEMENT OF INTENT:

I _____, an authorized representative of (**professional/contractor/vendor**) have reviewed the purchase solicitation, and have determined that the entire work of the contract will be completed with (**professional's/contractor's/vendor's**) own employees and internal resources without subcontracting any portion of the contract.

I hereby agree to act in good faith and understand that if my company is awarded the contract, that as a provision of this contract, I agree to complete all subcontracting opportunities, identified by the agency, with my company's resources and to report information to The University of Texas at Austin regarding my performance of the contract as specified.

If circumstances necessitate the use of any subcontractors, I agree to seek the timely authorization by the contracting agency and to adhere to the provisions of 1 TAC, Section 111.14 (relating to the submission of HUB Subcontracting Plan documents). I also agree and understand that if I fail to comply with this Statement of Intent, I will be in breach of the performance of the contract.

Printed Name of Contractor/Vendor

Signature of Contractor/Vendor

Date: _____

If the selected professional/contractor/vendor decides to subcontract any part of the contract after the award, as a provision of the contract, the professional/contractor/vendor must seek authorization and comply with provisions of 1 TAC, Section 111.14, prior to any modifications or performance in the awarded contract involving subcontracting.

If the professional/contractor/vendor subcontracts any of the work without prior authorization and without complying with contract specifications including development of a HUB Subcontracting Plan, the professional/contractor/vendor is deemed to have breached the contract. The professional/contractor/vendor also is subject to any other remedial actions provided by Chapter 2161 of the Texas Government Code and 1 TAC, Section 111.14. U. T. System Administration/Component Institutions also may report non-performance to the GSC in accordance with the GSC's Vendor Performance and Debarment Program.

Attachment H

**HISTORICALLY UNDERUTILIZED BUSINESS
PROGRESS ASSESSMENT REPORT
DOCUMENTATION OF SUBCONTRACTED WORK**

Date of Award _____ Contract/Requisition Number _____ Object Code (agency use): _____

NON-HUB/Prime Contractor Name _____

HUB Prime Contractor Name _____

Contractor/Vendor Identification Number (VID Number) _____

Total Contract Amount Paid this Reporting Period to Contractor _____

Report Subcontractor Information below:

Subcontractor/Supplier Name	TBPC VID/Certificate Number for HUB Subcontractor	Object Code (agency use only)	Total Contract \$ Amount from LOI with HUB Subcontractor	Total \$ Amount Paid This Period to Subcontractor	Total Contract \$ Amount Paid to Date to Subcontractor
TOTAL REPORTED			\$	\$	\$

Form to be completed and submitted to the Contracting Agency, Procurement Team on a monthly or quarterly basis according to the dates below. Please identify the month or quarter being reported:

Signature: _____ Title: _____

Date: _____
Month or Quarter Included Deadline Identify Month/Quarter

First (Sep., Oct., Nov.) _____
Second (Dec., Jan., Feb.) _____

Third (Mar., Apr., May) _____
Fourth (Jun., Jul., Aug.) _____

Attachment I

Non-Subcontractors Affidavit (NON-SUB-AFF)

Document completed as a provision of the contract after the Contract has been awarded to be compliant with the HUB Subcontracting Plan.

In accordance with the HUB Subcontracting Plan, I _____, an authorized representative of _____ company certify that during this reporting period, NO subcontractors have been used on this contract.

Printed Name of Contractor/Vendor

Signature of Contractor/Vendor

Subscribed and sworn before me, the undersigned notary public, on this ____ day of ____ (month) _____ (year)

(Notary Public Seal)

Notary Public: _____

My commission expires: _____

Form to be completed and submitted to the Contracting Agency, Procurement Team on a monthly or quarterly basis according to the dates below. Please identify the month or quarter being reported:

Signature: _____ **Title:** _____

Date: _____
Month or Quarter Included Deadline Identify Month/Quarter
First (Sep., Oct., Nov.) _____
Second (Dec., Jan., Feb.) _____
Third (Mar., Apr., May) _____
Fourth (Jun., Jul., Aug.) _____

Attachment J

(BUSINESS LETTERHEAD)

Ms. Brenda Black
The University of Texas at Austin
Purchasing Office
2200 Comal Street
Austin, Texas 78722

**Re: Historically Underutilized Business (HUB) Subcontracting Plan for
(Procurement Solicitation/Project Title)**

Dear Ms. Black,

In accordance with the requirements outlined in the specification section “HUB Participation Program,” I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for proposals, referencing proposal #_____.

I have read and understand The University of Texas at Austin Policy on Utilization of Historically Underutilized Businesses (HUBs).

Good Faith Effort will be documented with each bid package and will contain a letter of transmittal (Attachment A), Annual Procurement Utilization Goals (Attachment B), Historically Underutilized Business Letter(s) of Intent Form(s) (HUB – LOI) (Attachment C), and Determination of Good Faith Effort Form (DGFE) (Attachments D & E), with each bid package solicited. An updated HUB Subcontracting Plan will be submitted at the completion of each bid process along with the percent of “buyout” to date for the project. Documentation of subcontracted work will be provided with each pay request.

Sincerely,

Constructor’s Name

Copy: HUB Coordinator
Contract Administrator

APPENDIX FOUR:

Sample Site Plans

Sites referenced in this RFP are still under construction and are not available for formal site visits. However, three sample site plans are attached (jpeg files).

1. Proposed Site Modifications for City of Corpus Christi Oak Park Recreation Center Air Monitoring Site.
2. Proposed Site Modifications for TCEQ Monitoring Site at Donna Park.
3. Proposed Site Modifications for Air Monitoring Site on Flint Hills Resources Property Adjacent to Solar Estates Park

