



**THE UNIVERSITY OF TEXAS PERMIAN BASIN**  
**INVITATION FOR BIDS**  
**(IFB) 742-22-195-1 STC ANIMAL BIOLOGY LAB 2205**

**Return sealed bids to:**  
**THE UNIVERSITY OF TEXAS PERMIAN BASIN**  
**Attn: Pam Jenkins**  
**Office of Purchasing**  
**Mailing Address: 4901 E. University Blvd.**  
**Odessa, TX 79762**

**BID OPENING DATE: Thursday, December 16, 2021**  
**2:00 PM (CST)**

**Or by email: Jenkins\_p@utpb.edu**

**Send invoices to:**  
**The University of Texas Permian Basin**  
 Accounting Department  
 Attention: Accounts Payable  
 4901 E. University Blvd.  
 Odessa, Texas 79762

Bidder Agrees to Comply with All Conditions Shown on  
 this Form and Attached Terms & Conditions  
**FAILURE TO SIGN WILL DISQUALIFY BID**

\_\_\_\_\_  
 AUTHORIZED SIGNATURE

\_\_\_\_\_  
 DATE

**Quote FOB Destination Prepaid & Allowed for Shipment To:**

**The University of Texas Permian Basin**  
 Central Receiving  
 4901 E. University Blvd.  
 Odessa, Texas 79762

**RETURN SEALED BIDS TO:**  
 THE UNIVERSITY OF TEXAS PERMIAN BASIN  
 PURCHASING  
 MESA BUILDING MB 4270  
 4901 E. University Blvd., Odessa, Texas 79762  
**(7:30 am – 5:30 pm M-TH)**

**Or Email : Jenkins\_p@utpb.edu**

**ALL BIDS MUST BE RECEIVED BY PROCUREMENT SERVICES NO  
 LATER THAN THE DUE DATE AND TIME SPECIFIED ABOVE TO BE  
 CONSIDERED**

**TERMS OF PAYMENT FOR THE STATE OF TEXAS ARE NET 30.**  
**PLEASE QUOTE ANY DISCOUNTS FOR EARLY PAYMENT**

**TOTAL AMOUNT OF BID:** \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

CONTACT NAME \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**AWARD NOTICE BASED ON BEST VALUE DETERMINATION** Section 51.9335, Texas Education Code, states that UTPB may acquire goods and services by the method that provides the best value to The University of Texas Permian Basin.

For additional information Contact Buyer Jenkins\_p@utpb.edu

Enter the Texas ID Number assigned and used by the Comptroller of Public Accounts of Texas. If this number is not known, complete the following:  
 Enter Federal Employer's Identification Number or Sole owner should also enter Social Security Number

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**AWARD NOTICE:** The University reserves the right to make an award on the basis of low line bid, low total of lines, or in any other combination that will serve the best interest of the University and to reject any and all bids in the sole discretion of the University.

The following disclosure applies ONLY if you are a Sole Owner or do NOT provide your Federal Employer's Identification Number above:

**General Mandatory Disclosure:**

Disclosure of your Social Security Number ("SSN") is required of you, in order for The University of Texas Permian Basin to invite you to participate in the University's Invitation for Bid for the purpose of entering into a purchase arrangement for goods and/or services, as mandated by **Federal Statute or Regulation** 26 U.S.C. §§ 3402, 6051, 6103, 6109; 26 C.F.R. §§ 301.6109-1, 301.7701-11 which requires that the social security number be the taxpayer identification number and requires that a person who must file a return, statement, or other document under the Internal Revenue Service Code include the social security number as the taxpayer number (withholding and annual reporting on Forms W-2 and 1099 are included in this requirement).

**Additionally,** Texas Family Code §§ 231.006, 231.302 requires that the bid or application to provide property, materials, or services to a state agency, or to receive a state funded grant or loan include the name and social security number of the individual, sole proprietor, and each partner, shareholder, or owner with an ownership interest of 25%.

**Notice about Information Laws and Practices:**

With few exceptions, you are entitled on your request to be informed about the information The University of Texas Permian Basin collects about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you are entitled to receive and review the information. Under Section 559.004 of the Texas Government Code, you are entitled to have The University of Texas Permian Basin correct information about you that is held by us and that is incorrect, in accordance with the procedures set forth in The University of Texas System Business Procedures Memorandum 32. The information that The University of Texas Permian Basin collects will be retained and maintained as

required by Texas records retention laws (Section 441.180 et seq. of the Texas Government Code) and rules. Different types of information are kept for different periods of time.

## THE UNIVERSITY OF TEXAS PERMIAN BASIN

Odessa, Texas 79762

### SECTION 1 - INTRODUCTION

#### 1.1 Description of The University of Texas Permian Basin

The Texas Legislature established the University of Texas Permian Basin in 1969 as an upper-level institution, offering junior, senior and graduate level classes. Courses were first taught in the fall of 1973. In 1991, UTPB was granted authority by the legislature to offer freshman and sophomore level classes. Currently, UTPB offers degrees in 34 undergraduate programs and 19 Graduate areas of study. The University of Texas Permian Basin has become a leader in on-line education and offers several degrees completely on-line at the undergraduate and graduate level. Enrollment fall 2020 was approximately 6,200 with about 1,200 students residing on campus. Accredited programs include Petroleum Engineering (ABET), Mechanical Engineering (ABET), Teacher Certification (NCATE), Athletic Training (CAATE), Music (NASM), Social Work (CSWE), Business (AACSB), and Nursing (CCNE).

The first school in Texas to offer a \$10,000 bachelor's degree in select majors, UTPB has now been recognized as the fourth least expensive Texas public, four-year institution for all college expenses, including tuition and fees, according to a College for All Texans' report. The Athletic program consists of 16 NCAA Division II athletic teams involving over 400 student-athletes. UTPB is a member of the Lone Star Conference, one of the traditionally strongest conferences in the country. UTPB has been recognized by the Texas Higher Education Coordinating Board as having had a greater percentage of students employed or attending graduate school after graduation than other Texas schools. In addition, as College for Texans has pointed out, UTPB graduates exceed the state average for salaries one year after graduation. To find out more about UT Permian Basin, please visit [www.utpb.edu](http://www.utpb.edu)

#### 1.2 Objective

University is seeking bids for: IFB 742-22-195-1 UTPB STC ANIMAL BIOLOGY LAB 2205

The Project consists of the finish out of the existing shelled space for a new lecture hall located on the 2<sup>nd</sup> floor of Science and Technology Building.

**Owners Name:** University of Texas Permian Basin.

**Architects Name:** JSA Architects, Inc., Odessa, Texas

**Contract Description:** Sealed Competitive Proposal.

**Work By Owner:** Items Not In Contract (NIC) will be furnished and installed by the Owner before Substantial Completion (furnishings, small equipment)

**Owner Occupancy:** the University intends to occupy the Project upon Substantial Completion.

**Contractors use of site and premises:** These areas are limited to the areas noted on the drawings. The Building is occupied and classes will be ongoing during construction. The contractor is expected to respect the Mission of the University by keeping the noise to a minimum. Noisy tasks shall be scheduled for after hours.

**Contractor's Behavior on Campus:** Contractors are expected behave in a professional manor, there shall be no rude or suggestive commits to the Students, Faculty or Staff, use of profanity is prohibited, use of tobacco is also prohibited (including e-cigarettes).

**Permits:** No City of Odessa permits are required, inspections will be done by the Project Architect and the UTPB Project Manager.

**Quality of work:** All work is to be done in accordance to the latest IBC, NEC, NFPA and state and local codes. All work is to be done using the finest of quality and craftsmanship, any questionable work shall be repaired, removed and replaced and no added cost to the Owner.

**Site Cleaning:** The Building is occupied so the contractor shall keep the project site clean at all times, including the pathway to and from the trash container, trash and debris shall not be allowed to accumulate at any time. The Owner shall provide a trash container; the Contractor shall furnish a cover for the container and maintain the covered container to keep trash and debris from blowing out of the container.

**Final Cleaning:** After completion of the project and before the final punch list walkthrough, the contractor shall completely clean the entire renovated spaces. Cleaning to include but not limited to the following; dust walls and ceilings, clean light fixtures and lenses inside and out, vacuum the entire area. The contractor shall also clean the pathway to and from the trash container.

**Safety:** All workers are required to wear orange or yellow safety vest and the proper personal protection gear, to include but not limited to, proper footwear, safety glasses, headgear, gloves, etc. All work is to be done safely and all work activities shall comply with the latest OSHA rules and regulations. Unsafe work conditions shall be corrected immediately before the next activity commences, unsafe workers can be removed from the campus.

**Pre Proposal Meeting:** There will be a pre-proposal meeting on Tuesday, November 30, 2021 at 10:00 AM (CST)  
**Questions:** Questions will be accepted until Friday, December 3, 2021 5:00 PM (CST). Please direct all questions to  
 Mrs. Pam Jenkins @ [Jenkins\\_p@utpb.edu](mailto:Jenkins_p@utpb.edu)  
 Phone: 432-552-2793  
**University Project Manager:** Jay Haney [haney\\_j@utpb.edu](mailto:haney_j@utpb.edu) Phone 432-552-2763

## **SECTION 2 – NOTICE TO BIDDERS**

### **2.1 University Contact**

Please direct questions about administrative requirements and/or technical specifications and drawings in writing to:

Pam Jenkins  
 The University of Texas Permian Basin  
 Procurement Services  
 4901 E. University Blvd.  
 Odessa, TX 79762

**Questions will be accepted until Friday, December 3, 2021 5:00 PM (CST)**

It is the University's intent to respond to all appropriate questions; however, the University reserves the right to decline to respond to any question. Deadline for questions/clarification is:

A Bidder that contacts someone other than University Contact identified above or the HUB Contact identified in Section 4.5 regarding this IFB may result in disqualification of that Bidder's proposal in the University's sole discretion.

### **2.2 Bid Submittal Deadline**

#### **2.2.1 University will accept bids until: Thursday, December 16, 2021 @ 2:00 pm (CST)**

The Owner will receive HUB Subcontracting Plans at the time and location described below.

#### **2.2.2 HUB SUBCONTRACTING PLAN DEADLINE AND LOCATION: Friday, December 17, 2021 @ 2:00 pm (CST) p.m. local time in MESA BUILDING MB 4270.**

Elsa Montalvo, Purchasing Director, CTPM  
 The University of Texas Permian Basin  
 Procurement Services  
 4901 E. University Blvd.  
 Odessa, TX 79762  
[montalvo\\_e@utpb.edu](mailto:montalvo_e@utpb.edu)

##### **2.2.2.1 Submit one (1) original and one (1) copies of the HUB Subcontracting Plan as separate attachments to the Bids as described in Section 4.**

##### **2.2.3 Bid Packages or HUB Subcontracting Plans that are received late will be returned to the Bidder unopened. The Point-of-Contact identified in Section 2 will identify the official time clock at the Proposal submittal location identified above.**

##### **2.2.2 The Owner will not acknowledge or receive Base Bids, Alternates, Qualifications or HUB Subcontracting Plans that are delivered by telephone, facsimile (fax).**

##### **2.2.3 Properly submitted Bid Packages or HUB Subcontracting Plans will not be returned to the Bidders.**

2.2.6 Base Bids, Alternates, Qualifications and HUB Subcontracting Plans materials must be enclosed in a sealed envelope (box or container) addressed to the Point-of-Contact identified in Section 2; the package must clearly identify the submittal deadline, the IFB Number, and the name and return address of the Bidder.

2.2.7 Properly submitted Bids will be opened publicly and the names of the Bidders will be read aloud after the HUB Subcontracting Plans are received and confirmed by the Owner.

## **2.3 Public Information**

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

Bidder is hereby notified that the University strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General related to the disclosure of bid information.

## **2.4 Type of Contract**

Any Contract awarded as a result of this solicitation shall be in the form of a Purchase Order and/or a University of Texas standard agreement and issued to the successful Bidder (hereinafter referred to as "Contractor"). Successful Bidder shall be subject to University's required terms and conditions in attachment D and specifications as stated in Section 3 of this Invitation for Bid. The University's Purchase Order terms and conditions are available online via the following link: <https://www.utpb.edu/university-offices/purchasing/index>

## **2.5 Bid Validity Period**

Each bid must state that it will remain valid for University's acceptance for a minimum of ninety (90) days after the Submittal Deadline to allow time for any unforeseen delays.

## **2.6 Submittal Checklist**

Bidders are instructed to complete, sign and return the following documents as a part of their bid submittal. Failure to return these documents may subject your bid to disqualification.

1. Invitation for Bid Coversheet, Completed and Signed.
2. Bidder's Pricing Schedule and Payment Terms, Section 3.
3. Evidence of Insurability.
4. Three (3) References per Section 5.
5. Any Exceptions to Terms and Conditions.
6. One (1) original complete copy of the entire bid submittal.
7. One (1) original complete copy of the HUB Subcontracting Plan per Section 2.2.

## **2.7 Funding Out**

ANY CONTRACT AWARDED PURSUANT TO THIS IFB IS SUBJECT TO CANCELLATION, EITHER IN PART OR WHOLE, IF FUNDS ARE NOT APPROPRIATED BY THE TEXAS LEGISLATURE, OR OTHERWISE MADE AVAILABLE TO UNIVERSITY. BIDDER ACKNOWLEDGES THAT APPROPRIATION, ALLOTMENT, AND ALLOCATION OF FUNDS ARE BEYOND THE CONTROL OF UNIVERSITY.

## **2.8 Safety**

Bidder represents and warrants that all articles and services quoted in response to this IFB meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation. For any contract that requires Bidder to provide on-site services, the awarded Bidder shall, prior to commencement of work, provide University with a Health & Safety Program outline, see Attachment A.

## **2.9 INSURANCE**

For any contract which requires the Bidder to provide on-site services, the Bidder shall, prior to commencement of work, provide University with Certificates of Insurance as described in Section 2.9 and shall maintain such coverage in effect for the full duration of the Contract.

Worker's Compensation: Statutory Limits

Employer's Liability: per accident and employee

Commercial General Liability (including contractual liability)

Product/Completed Operations

Auto Liability

Bidders are not required to provide a Certificate of Insurance at the time of proposal submittal. However, services may not begin prior to submittal of the Certificate of Insurance.

- 2.9.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code, having an A.M. Best Rating of A-VII or better, and in amounts not less than the following minimum limits of coverage:

2.9.1.1 Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

Employers Liability - Each Accident	\$1,000,000
Employers Liability - Each Employee	\$1,000,000
Employers Liability - Policy Limit	\$1,000,000

Workers' Compensation policy must include under Item 3.A. on the information page of the Workers' Compensation policy the state in which Work is to be performed for University.

2.9.1.2 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$ 300,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000

The required Commercial General Liability policy will be issued on a form that insures Contractor's and subcontractor's liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

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

2.9.2 Contractor will deliver to University:

- 2.9.2.1 Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all required insurance policies after the execution and delivery of this Agreement and prior to the performance of any Work by Contractor under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

2.9.2.1.1 **All insurance policies** (with the exception of workers' compensation and employer's liability) will be endorsed and name the Board of Regents of The University of Texas System, and University of Texas Permian Basin as Additional Insureds for liability caused in whole or in part by Contractor's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability Additional Insured endorsement including ongoing and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.

2.9.2.1.2 Contractor hereby waives all rights of subrogation against the Board of Regents of The University of Texas System, and University of Texas Permian Basin. **All insurance policies** will be endorsed to provide a waiver of subrogation in favor of the Board of Regents of The University of Texas System, and University of Texas Permian Basin. No policy will be canceled until after thirty (30) days' unconditional written notice to University. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to University thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

2.9.2.1.3 Contractor will pay any deductible or self-insured retention for any loss. Any self-insured retention must be declared to and approved by University prior to the performance of any Work by Contractor under this Agreement. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

2.9.2.1.4 Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed or emailed to the following University contact:

Name: Lail Grant  
Environmental Health and Safety  
University of Texas Permian Basin  
4901 E. University Blvd.  
Odessa, TX 79762  
Email Address: grant\_l@utpb.edu

2.9.3 Contractor's or subcontractor's insurance will be primary to any insurance carried or self-insurance program established by University of Texas Permian Basin. Contractor's or subcontractor's insurance will be kept in force until all Work has been fully performed and accepted by University in writing.

## **2.10 IFB Evaluation Criteria**

The successful Bidder, if any, selected by University in accordance with the requirements and specifications set forth in this IFB will be the Bidder that submits a response to this IFB on or before the Submittal Deadline.

UT Permian Basin conducts all purchasing activities in a manner that ensures that each purchase of goods or services provides the "best value" per Texas Education Code Section 51.9335, to UT Permian Basin. In determining the best value to an institution of higher education, UT Permian Basin shall consider:

1. The purchase price of goods or services
2. the reputation of the vendor and of the vendor's goods or services;
3. the quality of the vendor's goods or services;
4. the extent to which the goods or services meet the institution's needs;
5. the vendor's past relationship with the institution;
6. the impact on the ability of the institution to comply with laws and rules relating to Historically Underutilized Businesses;
7. the total long-term cost to the institution of acquiring the vendor's goods or services;
8. any other relevant factor that a private business entity would consider in selecting a vendor; and
9. the use of material in construction or repair to real property that is not proprietary to a single vendor unless the

institution provides written justification in the request for bids for use of the unique material specified.

For more information see Texas Education Code § [51.9335](#).

Bidder is encouraged to propose terms and conditions offering the best value to the University.

Bidders should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to University in a resulting contract.

An evaluation team from the University will evaluate bid responses. The evaluation of bids and the selection of the Contractor will be based on the information provided by Bidder in its bid. University may give consideration to additional information if University deems such information relevant.

Bidders shall carefully read the information contained in this IFB and submit a complete response to all requirements and questions as directed. Incomplete bids will be considered non-responsive and subject to rejection.

### **SECTION 3 – SPECIFICATIONS AND DELIVERY**

3.1 University requests bids from Bidders

**All specified work shall be completed during standard business hours, 7:30 a.m. to 5:30 p.m. (CT), Monday through Thursday and Friday 8:00 a.m. to 12:00 p.m., excluding University observed holidays. Work may be completed during hours after 5:30 p.m. and on weekends upon approval from University.**

**A Non- Mandatory Pre-Bid Meeting and Site Walkthrough will be held Tuesday, November 30, 2021. 10:00AM at the Science Technology Lab #2205**

### **3.2 Pricing Schedule and Payment Terms NA**

	DESCRIPTION	QTY	UNIT	UNIT PRICE
1.				
2.				
3.				
4.				

### **3.3 ADDITIONAL SERVICES**

Requesting Additional Services. The University may request Additional Services from the Contractor by providing written notice.

Amendment to Include Additional Services. If the Contractor agrees to provide Additional Services;

- (a) the parties shall amend contract to include the Additional Services, so that
- (b) after the amendment, all references to Services in the contract will include such requested and agreed on Additional Services

Additional Services Definition. "Additional Services" means services similar in nature but outside the scope of the Services requested.

All amendments to include additional services require a purchase order change order from the University.

**3.4 PAYMENT TERMS:**

The University is exempt from State of Texas Sales Tax and Federal Excise Tax under Texas Tax Code, Section 151.309. Tax Exemption Certificate furnished on request. Vendor shall submit an itemized invoice showing purchase order number and a valid vendor ID number. Materials will be considered received by University upon final acceptance by end user.

University's standard payment terms for services are "Net 30 days

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THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, Texas 79761

#### **SECTION 4 – HISTORICALLY UNDERUTILIZED BUSINESSES SUBMITTAL REQUIREMENTS:**

- 4.1 It is the policy of The University of Texas System, and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the University of Texas at Tyler has adopted Attachment C, HUB Subcontracting Plan included in the Bidding Documents). The Policy applies to all contracts with an expected value of \$100,000 or more. If The University of Texas Permian Basin determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Bids. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Bids.
- 4.2 STATEMENT OF PROBABILITY: The University of Texas Permian Basin has determined that subcontracting opportunities are probable in connection with this procurement solicitation. Therefore, a HUB Subcontracting Plan (HSP) is a required element of the Bid. The Bidder shall develop and submit an HSP as a part of the Bid in accordance with the HUB Subcontracting Plan, Attachment C.
- 4.3 Refer to Attachment C, HUB Subcontracting Plan and the Summary of Requirements for a detailed list of attachments required with the Bids.
- 4.4 The “Statement of Probability” determines the probability for subcontracting opportunities. This determination will clarify which attachments, of the HUB Plan, will be required to be completed and returned.
- 4.5 All questions regarding the HUB Subcontracting Plan shall be directed to the HUB Coordinator Elsa Montalvo at [montalvo\\_e@utpb.edu](mailto:montalvo_e@utpb.edu) or 432.552.2795. The University of Texas Permian Basin’s HUB Coordinator will review and answer questions pertaining to the HUB Subcontracting Plans until Friday, December 3, 2021, 2:00 PM, (CST). For HUB Subcontracting Plan questions only, or if you wish to schedule a review of your HUB Subcontracting Plan, please contact the HUB Coordinator as follows.

The University of Texas Permian Basin  
Elsa Montalvo, Purchasing Director & HUB Coordinator  
4901 E. University Blvd.  
Odessa, Texas 79762  
[montalvo\\_e@utpb.edu](mailto:montalvo_e@utpb.edu)

HUB Subcontracting Plans are due as indicated in 2.2.2.

#### **SECTION 5 - BIDDER'S PAST REPRESENTATIVE PROJECTS AND REFERENCES**

Identify and describe past experience for providing specified services that are MOST RELATED TO THIS PROJECT within the last three (3) years. Please include the following:

Project name, location, and description

Type of Project

References for service provided to include:

- name of Reference's business representative
- Referenced business's current telephone number
- Length of business relationship between Bidder and referenced business

References shall be considered relevant based on specific project participation and experience with the Bidder. The University may contact references during any part of this solicitation process. The University reserves the right to contact any other references at any time during the solicitation process.

#### **SECTION 6 BIDDING REQUIREMENTS**

- 6.01 Bidders must comply with requirements set forth in this IFB, including all applicable rules, regulations and statutes of the State of Texas and the University of Texas Permian Basin terms and conditions.

Odessa, Texas 79762

- 6.02 Bids should be submitted on this form. Bidders must price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the bid, the quotation must be referenced on the bid document and signed by the Bidder to establish formal linkage to the bid.
- 6.03 Bids must be time stamped at University's Purchasing Department on or before the hour and date specified for the bid opening.
- 6.04 Late and/or unsigned bids will not be considered under any circumstances. Person signing bid must have the authority to bind the firm in a contract.
- 6.05 Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
- 6.06 Bid prices are requested to be firm for University acceptance for sixty (60) days from bid opening date unless otherwise stated. "Discount from list" bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts offered will be taken if earned.
- 6.07 Bidder should enter Texas Identification Number System (TINS) number, full firm name and address of Bidder on the face of this form. Enter in the space provided.
- 6.08 Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by Bidder or his authorized agent. No bid can be withdrawn after opening time without approval by University of Texas Permian Basin based on an acceptable written reason.
- 6.09 Purchases made for State use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.
- 6.10 AWARD NOTICE: University reserves the right to make an award on the basis of low line bid, low total of lines, or in any other combination that will serve the best interest of University and to reject any and all bids at the sole discretion of University. University also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of University. Any contract may also be extended up to three months at the sole discretion of University.
- 6.11 Consistent and continued tie bidding could cause rejection of bids by UNIVERSITY and/or investigation for antitrust violations.
- 6.12 Inquiries pertaining to this IFB must include the IFB number and opening date.

## **SECTION 7 – SPECIFICATION(S)**

- 7.1 Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised under §2155.067, Texas Government Code (Gov't Code). If bidding on other than references, bid should show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require Bidder to furnish specified brand names, numbers, etc.
- 7.2 Unless otherwise specified, shall be new and unused and of current production.
- 7.3 All electrical connections must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
- 7.4 Samples, when requested, must be furnished free of expense to University. If not destroyed in examination, they will be returned to the Bidder, on request, at Bidder's expense. Each sample should be marked with Bidder's name and address, and requisition number. Do not enclose in or attach bid to sample.
- 7.5 University will not be bound by any oral statement or representation contrary to the written specifications of this Invitation for Bids (IFB).
- 7.6 Manufacturer's standard warranty shall apply unless otherwise stated in the IFB.

**SECTION 8 - TIE BIDS**

Awards will be made in accordance with 34 TAC Rules 20.36(b) (3) and 20.38 (Preferences).

**SECTION 9 - DELIVERY**

- 9.1 Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates Bidder to deliver in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.
- 9.2 If delay is foreseen, Bidder shall give written notice to University. Bidder must keep University advised at all times of status of order.
- 9.3 Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes University to purchase the goods or services of this IFB elsewhere and charge any increased costs for the goods or services, including the cost of rebidding, to the Bidder.
- 9.4 No substitutions permitted without the written approval of University.
- 9.5 Delivery shall be made during normal working hours only, unless prior approval has been obtained from University.

**SECTION 10 - INSPECTION AND TESTS**

All goods will be subject to inspection and testing by University. Authorized University personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the Bidder in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at University's option, be returned to the Bidder or held for disposition at Bidder's expense. Latent defects may result in revocation of acceptance.

**SECTION 11 - AWARD OF CONTRACT**

A response to this IFB is an offer to contract based upon the terms, conditions, and specifications contained herein. Bids do not become contracts until they are accepted through an open market purchase order or a UT standard agreement. The contract shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in §§2155.074, 2155.144, 2156.007, and 2157.003, Gov't Code, shall also be considered in making an award when specified. Any legal actions must be filed in Ector County, Texas.

**SECTION 12 - PAYMENT**

Bidder shall submit an itemized invoice showing University's purchase order number on all copies. University will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Payment shall be made in accordance with Chapter 2251, Gov't Code.

**SECTION 13 - PATENTS, TRADEMARKS, OR COPYRIGHTS**

Bidder agrees to defend and indemnify University from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of University's use of any good or service provided by the Bidder as a result of this IFB.

**SECTION 14 - BIDDER ASSIGNMENTS**

Bidder hereby assigns to University any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. §1, *et seq.*, and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code §15.01, *et seq.*

**SECTION 15 - BIDDER AFFIRMATIONS**

Signing this bid with a false statement is a material breach of contract and shall void the submitted bid and any resulting contracts, and the Bidder shall be removed from all bid lists. By signature hereon affixed, the Bidder hereby certifies that:

- 15.1 The Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.

- 15.2 Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the Bidder nor the firm, corporation, partnership, or institution represented by the Bidder, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
- 15.3 Pursuant to §2155.004, Gov't Code, neither the Bidder nor any person or entity which will participate financially in any contract resulting from this IFB has received compensation for participation in the preparation of the specifications for this IFB.
- 15.4 Pursuant to §231.006(d), Texas Family Code, regarding child support, the Bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.
- 15.5 Under §2155.004, Gov't Code, the Bidder certifies that the individual or business entity named in this bid or any contract resulting from this IFB is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if they received compensation for participating in preparing the solicitation or specifications for the contract.
- 15.6 As required by §2252.903, Gov't Code, Bidder agrees that any payments due under a contract resulting from this IFB shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until the debt is paid in full. Bidder shall comply with rules adopted by University under §§403.055, 403.0551, 2252.903, Gov't Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.
- 15.7 Pursuant to §669.003, Gov't Code, University may not enter into a contract with a person who employs a current or former executive head of the University until four years has passed since that person was the executive head of the University. By submitting a bid, the Bidder certifies that it does not employ any person who was the executive head of University in the past four years. If Bidder does employ a person who was the executive head of University, provide the following information:

Name of Former Executive:  
 Name of State Agency:  
 Date of Separation from State Agency:  
 Position with Bidder:  
 Date of Employment with Bidder:

- 15.8 Bidder certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Bidder is in compliance with the State of Texas statutes and rules relating to procurement and that Bidder is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/SAM/>.
- 15.9 Bidder represents and warrants that it has no actual or potential conflicts of interest in providing the requested services to University under the IFB and any resulting contract, if any, and that Bidder's provision of the requested services under the IFB and any resulting contract, if any, would not reasonably create an appearance of impropriety.

## **SECTION 16 - NOTE TO BIDDER**

If Bidder takes any exceptions to any provisions of the IFB, these exceptions must be specifically and clearly identified by section in Bidder's bid in response to the IFB and Bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire IFB. If any Bidder takes a 'blanket exception' to the entire IFB or does not provide proposed alternative language, the Bidder's bid may be disqualified from further consideration.

## **SECTION 17 - PROTEST PROCEDURES**

Any actual or prospective Bidder who is aggrieved in connection with this IFB, evaluation, or award of any contract resulting from this IFB may formally protest as provided in State rules at 34 TAC Rule 20.384.

## **SECTION 18 – BREACH OF CONTRACT CLAIMS**

The dispute resolution process provided for in Chapter 2260, Gov't Code must be used by University and the Bidder to attempt to resolve any dispute arising under any contract resulting from this IFB.

## **SECTION 19 - NON-APPROPRIATION OF FUNDS**

Any contract resulting from this IFB is subject to termination or cancellation, without penalty to University, either in whole or in part, subject to the availability of state funds. University is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If University becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render University's or Bidder's delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, University will not be liable to Bidder for any damages, which are caused or associated with such termination, or cancellation and University will not be required to give prior notice.

## **SECTION 20 - TEXAS PUBLIC INFORMATION ACT:**

Notwithstanding any provisions of this IFB to the contrary, Bidder understands that University will comply with the Texas Public Information Act (Chapter 552, Gov't Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. Within three (3) days of receipt, Bidder will refer to University any third party requests, received directly by Bidder, for information to which Bidder has access as a result of or in the course of performance under any contract resulting from this IFB. Any part of the solicitation response that is of a confidential or proprietary nature must be clearly and prominently marked as such by the Bidder.

## **SECTION 21 - CONFLICT OF INTEREST**

Under §2155.003, Gov't Code, a University employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and Bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of University or purchasers of other state agencies.

## **SECTION 22 - FORCE MAJEURE**

Neither Bidder nor University shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this IFB caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

## **SECTION 23 - INDEPENDENT CONTRACTOR**

Bidder is and shall remain an independent contractor in relationship to University. University shall not be responsible for withholding taxes from payments made under any contract resulting from this IFB. Bidder shall have no claim against University for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

**SECTION 24 – INDEMNIFICATION**

**BIDDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, ITS OFFICERS, AND EMPLOYEES, AND UNIVERSITY, ITS OFFICERS, AND EMPLOYEES AND CONTRACTORS, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND COURT COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF BIDDER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF BIDDER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT WITH BIDDER RESULTING FROM THIS IFB. BIDDER SHALL COORDINATE ITS DEFENSE WITH THE TEXAS ATTORNEY GENERAL AS REQUESTED BY UNIVERSITY. THIS SECTION IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE BIDDER TO INDEMNIFY OR HOLD HARMLESS THE STATE OR UNIVERSITY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF UNIVERSITY OR ITS EMPLOYEES.**

**SECTION 25 - RIGHT TO AUDIT**

In addition to and without limitation on the other audit provisions of this IFB, pursuant to §2262.003, Texas Government Code, the state auditor may conduct an audit or investigation of the Bidder or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Bidder or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Bidder or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This IFB or any contract resulting from this IFB may be amended unilaterally by University to comply with any rules and procedures of the state auditor in the implementation and enforcement of §2262.003, Texas Government Code. Bidder will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Bidder and the requirement to cooperate is included in any subcontract it awards.

**SECTION 26 – BONDS**

- 26.1 Construction Bonds. Contractor is required to tender to Owner, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov't Code, Chapter 2253.
- 26.1.1 Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to Owner, on Owner's form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to Owner.
- 26.1.1.1 A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of Owner. The performance bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Office of the Attorney General of Texas. The performance bond shall be effective through Contractor's warranty period.
- 26.1.1.2 A Payment bond is required if the Contract price is in excess of \$25,000. The payment bond is to be for the Contract Sum and is payable to Owner solely for the protection and use of payment bond beneficiaries. The form of the bond shall be approved by the Office of the Attorney General of Texas.

**LIST OF ATTACHMENTS:**

**IFB ATTACHMENT A – Campus Map**

**IFB ATTACHMENT B – HUB Subcontracting Plan**

**IFB ATTACHMENT C – Performance and Payment Bond Templates**

**IFB ATTACHMENT D– Terms & Conditions**

**IFB ATTACHMENT E – PROJECT MANUAL**

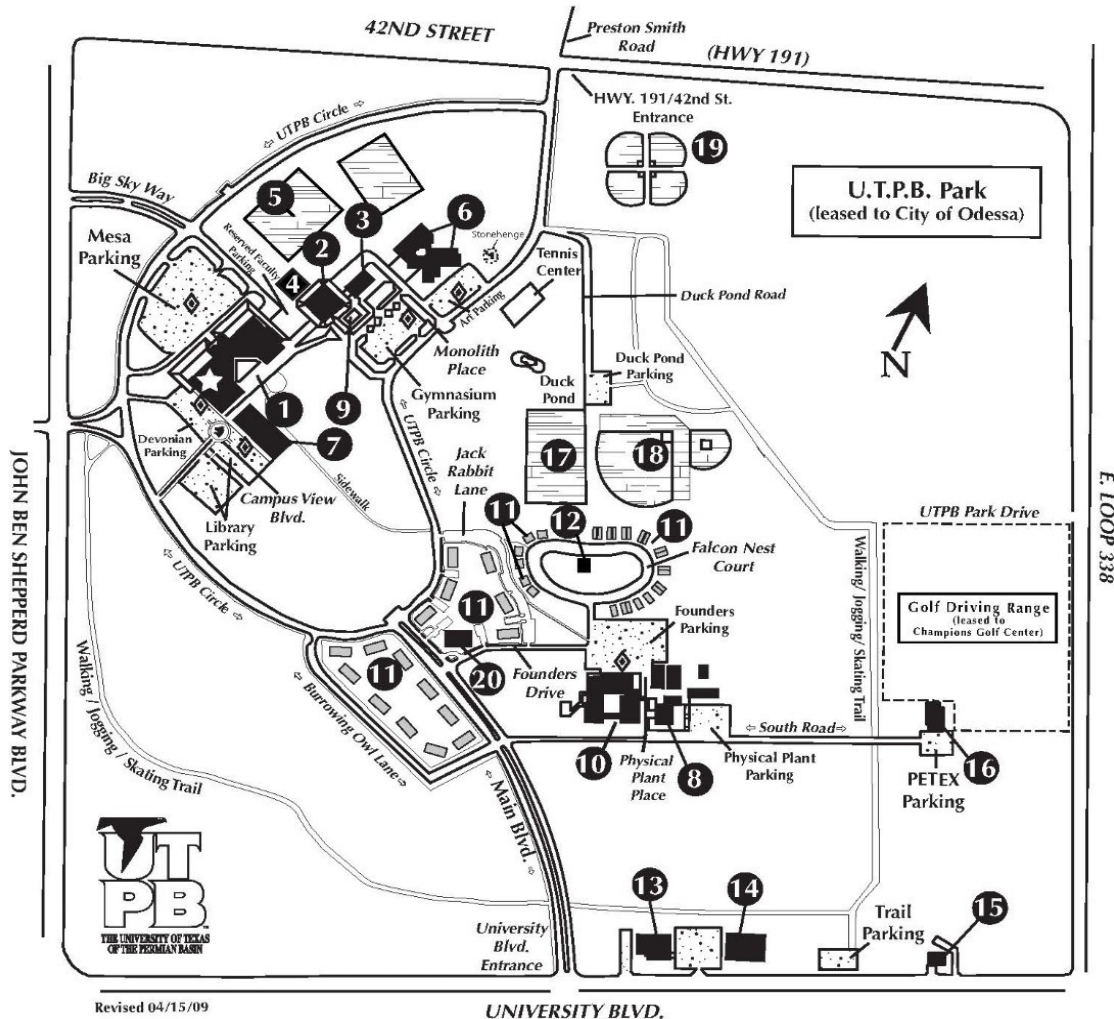
**IFB ATTACHMENT F - DRAWINGS**

THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, Texas 79762

## ATTACHMENT A

## CAMPUS MAP

## The University of Texas of the Permian Basin



Revised 04/15/09

UNIVERSITY BLVD.

- |   |   |
|---|---|
| 1. Mesa Building                            | 11. Student Housing                                     |
| ★ Admissions & Financial Aid Offices        | 12. Music Building                                      |
| 2. Gymnasium Complex                        | 13. Ellen Noël Art Museum                               |
| 3. Thermal Energy Plant                     | 14. Presidential Museum & Leadership Library            |
| 4. Gym Annex Building                       | 15. Fire Station (City of Odessa)                       |
| 5. Intramural/Athletic Fields               | 16. PETEX   |
| 6. Visual Arts Studios                      | 17. Soccer Game Field                                   |
| 7. Library/Lecture Center                   | 18. Ted & Jan Roden Baseball Field                      |
| 8. Industrial/Petroleum Technology Building | 19. Women's Softball Field                              |
| 9. Pool                                     | 20. Parker Ranch House - Student Housing Administration |
| 10. Founders Building                       |   |

- University Buildings
- Student Housing
- Sports Fields
- Parking
- Visitor Parking



THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, Texas 79762

ATTACHMENT B

**HUB SUBCONTRACTING PLAN**

Instructions regarding the HUB Subcontracting Plan, including the forms to be submitted, may be accessed via the following link.

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

THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, TX 79762

ATTACHMENT C

**PERFORMANCE AND PAYMENT BOND TEMPLATES**

PERFORMANCE BOND

Surety Bond No. \_\_\_\_\_

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF §

That we, \_\_\_\_\_, as Principal, and  
 \_\_\_\_\_, as Surety, are hereby held and firmly bound  
 unto the State of Texas as Obligee in the penal sum of  
 \_\_\_\_\_ (\$ \_\_\_\_\_) for payment whereof  
 the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors,  
 jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the Principal entered into a certain  
 contract, hereto attached, and made a part hereof, with the State of Texas, acting by and through the  
 Board of Regents of The University of Texas System for and on behalf of

\_\_\_\_\_, \_\_\_\_\_, dated  
 \_\_\_\_\_, \_\_\_\_\_, for \_\_\_\_\_  
 (Project No. \_\_\_\_\_).

NOW THEREFORE, the condition of this obligation is such that, if the Principal shall faithfully  
 perform the said Contract in accordance with the Plans and Specifications and Contract Documents, and  
 shall fully indemnify and save harmless the State of Texas from all cost and damage which the State of  
 Texas may suffer by reason of Principal's default or failure so to do and shall fully reimburse and repay  
 the State of Texas all outlay and expense which the State of Texas may incur in making good any such  
 default, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

In the event that the Principal is declared in default under the said Contract, the Surety will within  
 Fifteen (15) days of the State of Texas' declaration of such default take over and assume completion of  
 said contract and become entitled to the payment of the balance of the Contract Price. Conditioned upon  
 the Surety's faithful performance of its obligations, the liability of the Surety for the Principal's default shall  
 not exceed the penalty of this bond.

The Surety agrees to pay to the State of Texas upon demand all loss and expense, including  
 attorney's fees, incurred by the State of Texas by reason of or on account of any breach of this obligation  
 by the Surety.

This bond is issued pursuant to the requirements of Section 2253.021, Texas Government Code,  
 as amended.

Provided further, that if any legal action be filed upon this bond, venue shall lie in the county  
 where the said Contract is to be performed.

Provided further, that the Surety, for value received, hereby stipulates and agrees that no change,  
 extension of time, alteration or addition to the terms of the said Contract, or to the work to be performed  
 thereunder, or the Specifications accompanying the same, shall in anywise affect its obligation on this  
 bond, and it does hereby waive notice of any such change, extension of time, alteration or addition, to the  
 terms of the said Contract or to the work or to the Specifications.

By signature hereon, if the amount of this bond exceeds \$100,000, then the Surety attests that at  
 the time the bond was executed (and Surety shall provide the Obligee with evidence of the following):

(1) it was a holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or

(2) had reinsured any liability in excess of \$100,000 by a reinsurer holding a certificate of authority from the United States Secretary of the Treasury.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

(SEAL)

\_\_\_\_\_

\_\_\_\_\_

Principal

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Typed Name and Title)

\_\_\_\_\_  
(Typed Name and Title)

(SEAL)

\_\_\_\_\_

\_\_\_\_\_

Surety

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Typed Name and Title)

\_\_\_\_\_  
(Typed Name and Title)

Surety's Texas Local Recording  
Agent or Resident Agent:

Surety's Home Office Agent or Servicing  
Agent:

\_\_\_\_\_

Name: \_\_\_\_\_

(Signature)

\_\_\_\_\_

Title: \_\_\_\_\_

(Typed Name)

License No. \_\_\_\_\_

File No. \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

PAYMENT BOND

Surety Bond No. \_\_\_\_\_

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF §

That we, \_\_\_\_\_, as Principal, and  
 \_\_\_\_\_, as Surety, are hereby held and firmly  
 bound unto the State of Texas as Obligee in the penal sum of  
 \_\_\_\_\_ (\$\_\_\_\_\_) for the payment whereof,  
 the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and  
 severally, firmly by these presents.

The conditions of this obligation are such that whereas the Principal entered into a certain contract,  
 hereto attached, and made a part hereof, with the State of Texas, acting by and through the Board of Regents of  
 The University of Texas System for and on behalf of

\_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_, for  
 \_\_\_\_\_ (Project No. \_\_\_\_\_).

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall promptly make  
 payments to all claimants as defined in Section 2253.021, Texas Government Code, as amended, of all persons  
 supplying labor and materials in the prosecution of the work provided for in said contract, then this obligation shall  
 be null and void, but otherwise it shall remain in full force and effect.

In the event that the Principal fails to promptly pay when due persons who have supplied labor, materials,  
 or supplies used in the performance of the said contract, the Surety will, upon receipt of notice from the State of  
 Texas or a claim in the form required by law, satisfy all undisputed balances due, and make arrangements  
 satisfactory to the interested parties to resolve all amounts disputed in good faith, but in no event shall the liability  
 of the Surety for the Principal's failure to promptly pay for labor, materials, or supplies exceed the penalty of this  
 bond.

This Surety agrees to pay the State of Texas upon demand all loss and expense, including attorney's  
 fees, incurred by the State of Texas by reason or on account of any breach of this obligation by Surety.

Provided further, that this bond is made and entered into for the protection of all claimants supplying labor  
 and material in the prosecution of the work provided for in said Contract, and all such claimants shall have a direct  
 right of action under the bond as provided in Section 2253.021, Texas Government Code, as amended. If any  
 legal action is filed upon this bond, venue shall be in the county where the said Contract is to be performed.

By signature hereon, if the amount of this bond exceeds \$100,000, then the Surety attests that at the time the bond was executed (and Surety shall provide the Obligee with evidence of the following):

- (1) it was a holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or
- (2) had reinsured any liability in excess of \$100,000 by a reinsurer holding a certificate of authority from the United States Secretary of the Treasury.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

(SEAL)

\_\_\_\_\_  
Principal

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Typed Name and Title)

\_\_\_\_\_  
(Typed Name and Title)

(SEAL)

\_\_\_\_\_  
Surety

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Typed Name and Title)

\_\_\_\_\_  
(Typed Name and Title)

Surety's Texas Local Recording  
Agent or Resident Agent:

Surety's Home Office Agent or Servicing  
Agent:

Name: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

\_\_\_\_\_  
(Typed Name)

License No. \_\_\_\_\_

File No. \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

## ATTACHMENT D

**The University of Texas Permian Basin  
Terms and Conditions**

**1. DELIVERY; SUBSTITUTIONS; INVOICES:** Contractor will keep University advised at all times of the status of delivery or performance under this Purchase Order. If delay is foreseen, Contractor will give prompt written notice to University. Upon notice, University may extend the delivery date in its sole discretion. Contractor will only tender for acceptance those goods and services that conform to the requirements of this Purchase Order. Substitutions, cancellations and price changes will require prior written consent of University. Default in promised delivery or failure to conform to the requirements of this Purchase Order authorizes University to purchase goods or services elsewhere and charge to Contractor any excess cost of such repurchase. Contractor will show this Purchase Order number on all packages, shipments, and invoices.

**2. TITLE AND RISK OF LOSS:** Title to and risk of loss to any goods to be delivered under this Purchase Order will not pass to University until University actually receives and takes possession of such goods at the point of delivery.

**3. PAYMENTS; SALES TAX; ELECTRONIC FUNDS TRANSFER:**

(a) So long as Contractor has provided University with its current and accurate Federal Tax Identification Number in writing, University will pay Contractor for goods and services in accordance with [Chapter 2251, Texas Government Code](#). University, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on goods and services in accordance with §151.309, *Texas Tax Code*, and Title [34 Texas Administrative Code \("TAC"\) §3.322](#).

(b) [Section 51.012, Texas Education Code](#), authorizes University to make any payment through electronic funds transfer methods. Contractor agrees to receive payments from University through electronic funds transfer methods, including the automated clearing house system (also known as ACH). Prior to the first payment under this Purchase Order, University will confirm Contractor's banking information. Any changes to Contractor's banking information must be communicated to University in writing at least thirty (30) days in advance of the effective date of the change.

**4. WARRANTIES:** In addition to all warranties established by law, Contractor hereby represents, covenants, certifies, warrants and agrees that:

(a) Contractor will comply with all requirements of this Purchase Order.

(b) If Contractor is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, it is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized and in good standing to conduct business in the State of Texas.

(c) If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#) ("**Chapter 171**"), Contractor is not currently delinquent in the payment of any taxes due under Chapter 171, or Contractor is exempt from the payment of those taxes, or Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

(d) Pursuant to §§[2107.008](#) and [2252.903, Texas Government Code](#), Contractor agrees that any payments owing to Contractor under this Purchase Order 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.

(e) In accordance with [§231.006, Texas Family Code](#), the individual or business entity named in this Purchase Order is not ineligible to receive the award of or payment under this Purchase Order and this Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.

(f) All goods and services covered by this Purchase Order will conform to the specifications, drawings, samples or other descriptions furnished or adopted by University (collectively "**specifications**"), and will be new, merchantable, fit for the purpose intended, of best quality and workmanship, and free from all defects. University will have the rights of inspection and approval and may reject and return goods or require reperformance of services at Contractor's expense if defective or not in compliance with University's specifications. Defects will not be deemed waived by University's failure to notify Contractor upon receipt of goods or completion of services or by payment of invoice.

(g) No disclosure, description, or other communication of any sort will be made by Contractor to any third person of the fact of University's purchase of goods or services under this Purchase Order, or of the details and characteristics of the goods or services, without University's prior written consent. Anything furnished to Contractor by University pursuant to this Purchase Order including samples, drawings, patterns, and materials will remain the property of University, will be held at Contractor's risk, and will be returned to University upon University's request, and no disclosure or reproduction thereof in any form will be made without University's prior written consent.

(h) Contractor is familiar with and is in full compliance with its obligations, if any, under all applicable federal, state and local, laws, regulations, and ordinances (collectively, "**Applicable Laws**").

(i) All goods delivered or services provided pursuant to this Purchase Order will conform to standards established for such goods and services by all Applicable Laws, including those standards promulgated by the federal Occupational Safety and Health Administration (OSHA) and the Texas Hazard Communication Act, [Chapter 502, Texas Health and Safety Code](#) ("**Texas hazard Communication Act**").

(j) Contractor is familiar with and in full compliance with the Texas Hazard Communication Act and will provide either (1) a Material Safety Data Sheet ("**MSDS**") for each product Contractor, its employees, agents or subcontractors brings on University's premises, or (2) a statement of exemption if the product is not covered by the Texas Hazard Communication Act.

(k) Use or sale of any goods delivered under this Purchase Order, except (with respect to patents) goods produced to University's detailed design, will not infringe any adverse valid patent, copyright, trademark or other intellectual property right.

(l) The price to be paid by University will be that contained in Contractor's bid or proposal, which Contractor warrants to be no higher than Contractor's current prices on orders by others for goods or services of the kind covered by this Purchase Order for similar quantities to similar customers under similar conditions. In the event Contractor breaches its warranty, the prices will be reduced to Contractor's current prices on orders by others or, in the alternative, University may cancel this Purchase Order without liability to Contractor.

(m) Contractor will make records of Contractor's costs, reimbursable expenses and payments pertaining to this Purchase Order available to University or its authorized representative during business hours and retain those records for four (4) years after final payment or abandonment of the project, unless University otherwise instructs Contractor in writing.

(n) If this Purchase Order requires Contractor's presence on University's premises or in University's facilities, Contractor will cause its employees, representatives, agents, and subcontractors to become aware of, fully informed about, and in full compliance with all applicable University rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

(o) Contractor has not given or offered to give, nor does Contractor 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 this Purchase Order.

(p) The foregoing representations, covenants, certifications, warranties and agreements will survive acceptance of goods as well as performance of services under this Purchase Order.

**5. Access by Individuals with Disabilities:** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with applicable requirements in [1 TAC Chapter 213](#) and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement. Contractor will provide all assistance and cooperation necessary for performance and documentation of accessibility testing, planning, and execution criteria conducted by University or University's third party testing resources, as required by [1 TAC §213.38\(g\)](#).

**6. ANTITRUST LAWS; CLAIMS FOR OVERCHARGES:** Contractor warrants and represents that neither Contractor nor any party acting on behalf of Contractor has violated the antitrust laws of the United States or of the State of Texas. Contractor hereby assigns to University any and all claims for overcharges associated with this Purchase Order which arise under the antitrust laws of the United States, [15 U.S.C.A. §1](#), et seq., or of the State of Texas, [Tex. Bus. & Comm. Code Sec. 15.01](#), et seq.

հիմա՝ հետևյալը լրացվում է մինչև 09.06.2024 թ. Գերագույն վարչության կողմից 13.19987. **INDEPENDENT CONTRACTOR:** In performing any services under this Purchase Order, Contractor is, and undertakes performance thereof as, an independent contractor, with sole responsibility for all persons employed in connection therewith, including exclusive liability for the payment of all federal, state, and local unemployment and disability insurance premiums and fees and all social security and other taxes and contributions payable in respect of such persons, from and against which liability Contractor agrees to indemnify, exonerate and hold harmless University.

**8. INDEMNITY:** CONTRACTOR WILL DEFEND, INDEMNIFY AND HOLD HARMLESS UNIVERSITY, THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM ("**BOARD**") AND THE STATE OF TEXAS AND THEIR OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY THE "**INDEMNIFIED PARTIES**") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY "**CLAIMS**") BY ANY PERSON OR ENTITY, ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR THE GOODS OR SERVICES PROVIDED UNDER THIS PURCHASE ORDER, TO THE EXTENT CAUSED BY THE ACTS, OMISSIONS OR WILLFUL MISCONDUCT OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS OR SUPPLIERS. IN ADDITION, CONTRACTOR WILL DEFEND, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR THE GOODS OR SERVICES PROVIDED UNDER THIS PURCHASE ORDER.

**9. INSURANCE:** If Contractor's employees, agents, suppliers or subcontractors will be present on University's property, Contractor will maintain and cause its agents, suppliers and subcontractors (if any) to maintain the following insurance coverages for at least the specified limits:

### Coverages Limits

**Workers' Compensation Statutory Limits**  
**Employer's Liability** \$1,000,000 per accident and employee  
**Commercial General Liability**  
 (including contractual liability) \$1,000,000 per occurrence  
**Personal & Advertising Injury** \$1,000,000 per occurrence  
**Product/Completed Ops** \$1,000,000 aggregate  
**Business Auto Liability** \$1,000,000 combined single limit  
**General Aggregate** \$2,000,000 per policy limit

All policies (except Workers' Compensation) will name University, the Board, and their officers and employees as Additional Insured. A Waiver of Subrogation in favor of University and the Board and thirty (30) day notice of cancellation is required on all policies. Certificates of insurance verifying the foregoing requirements will be provided to University prior to commencement of any services under this Purchase Order. Contractor will endorse all policies to require insurance carriers to notify University of cancellation, termination, material change, or non-renewal of any policy.

**10. VENUE; GOVERNING LAW:** Ector County, Texas, will be the proper place of venue for suit on or in respect of this Purchase Order. This Purchase Order, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to this Purchase Order, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.

**11. ASSIGNMENT AND DELEGATION:** Contractor may not assign any of its rights or delegate any of its obligations under this Purchase Order without University's prior written consent. Any assignment or delegation attempted by Contractor in violation of this clause will be void and ineffective for all purposes.

**12. ENTIRE AGREEMENT; MODIFICATIONS:** This Purchase Order supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. This Purchase Order and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except in writing.

**13. BREACH OF CONTRACT CLAIMS:** To the extent that [Chapter 2260, Texas Government Code](#), is applicable to this Purchase Order and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to [Chapter 2260](#), will be used by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief business officer of University will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of this Purchase Order by University nor any other conduct, action or inaction of any representative of University relating to this



Purchase Order 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.

**14. SUBCONTRACTING:** Contractor will use good faith efforts to subcontract the goods or services performed under this Purchase Order in accordance with the Contractor's Historically Underutilized Business Subcontracting Plan ("HSP") submitted in connection with this Purchase Order, if any. Except as specifically provided in the HSP, Contractor will not subcontract any of its duties or obligations under this Purchase Order, in whole or in part. This Purchase Order is subject to [34 TAC §20.285](#). Contractor will comply with all of its duties and obligations under [34 TAC §20.285](#). In addition to other rights and remedies, University may exercise all rights and remedies authorized by [34 TAC §20.285](#).

**15. LOSS OF FUNDING:** Performance by University under this Purchase Order 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. If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then University will issue written notice to Contractor and University may terminate this Purchase Order without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.

**16. STATE AUDITOR'S OFFICE:** Contractor understands that acceptance of funds under this Purchase Order 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 §§[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 providing all records requested. Contractor will include this provision in all contracts with subcontractors.

**17. LIMITATIONS:** THE PARTIES ARE AWARE THAT THERE MAY BE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THIS PURCHASE ORDER, INCLUDING TERMS AND CONDITIONS (IF ANY) RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

**18. ETHICS MATTERS; NO FINANCIAL INTEREST.** Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at <https://www.utpb.edu/university-offices/compliance-and-accommodations/conflict-of-interest/index>, University's Standards of Conduct Guide available at [https://www.utpb.edu/university-offices/operating-procedures/docs/part\\_i.pdf](https://www.utpb.edu/university-offices/operating-procedures/docs/part_i.pdf), and applicable state ethics laws and rules available at <https://www.utsystem.edu/offices/systemwide-compliance/ethics>. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

Further, Contractor agrees to comply with [§2252.908, Texas Government Code \(Disclosure of Interested Parties Statute\)](#), and [1 TAC §§46.1 through 46.5 \(Disclosure of Interested Parties Regulations\)](#), as implemented by the Texas Ethics Commission (TEC), including, among other things, providing the TEC and University with information required on the form promulgated by TEC. Contractor may learn more about these disclosure requirements, including the use of TEC's electronic filing system, by reviewing the information on TEC's website at [https://www.ethics.state.tx.us/resources/FAQs/FAQ\\_Form1295.php](https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php).

**19. NOTICES:** Except as otherwise provided by 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 Purchase Order will be in writing and will be sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_

with copy to: \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_

If to Contractor: \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_

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

Notwithstanding any other requirements for notices given by a party under this Purchase Order, if Contractor intends to deliver written notice to University pursuant to [§2251.054, Texas Government Code](#), then Contractor will send that notice to University as follows:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_

Attention: \_\_\_\_\_

with copy to: \_\_\_\_\_

Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Attention: \_\_\_\_\_

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

**20. UNDOCUMENTED WORKERS:** The *Immigration and Nationality Act* ([8 United States Code 1324a](#)) ("**Immigration Act**") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form [I-9 Employment Eligibility Verification Form](#) ("**I-9 Form**") as the document to be used for employment eligibility verification ([8 Code of Federal Regulations 274a](#)). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Purchase Order in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, University may terminate this Purchase Order. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

**21. STATE OF TEXAS COMPUTER EQUIPMENT RECYCLING PROGRAM CERTIFICATION:** If Contractor is selling or leasing computer equipment (defined in Section 361.952 (2), *Texas Health and Safety Code*) to the University under this Purchase Order, then pursuant to [§361.965, Texas Health and Safety Code](#), Contractor certifies that it is full compliance with the *State of Texas Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act* set forth in [Subchapter Y, Chapter 361, Texas Health and Safety Code](#), and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in 30 TAC Chapter 328. Contractor acknowledges that this Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.

**22. RESPONSIBILITY FOR INDIVIDUALS PERFORMING WORK; CRIMINAL BACKGROUND CHECKS:** Each individual who is assigned to perform services under this Purchase Order will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing services under this Purchase Order. Prior to commencing services, Contractor will (1) provide University with a list ("**List**") of all individuals who may be assigned to perform services, and (2) have an appropriate criminal background screening performed on all the individuals. Contractor will determine on a case-by-case basis whether each individual assigned to perform services is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform services. Prior to commencing performance of services under this Purchase Order, Contractor will provide University a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide University an updated certification letter each time there is a change in the individuals assigned to perform services.

**23. FORCE MAJEURE:** Neither party hereto will 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 acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("**force majeure occurrence**"). Provided, however, in the event of a force majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide services during the occurrence.

#### **24. TERMINATION:**

(a) Upon written notice to Contractor, University may terminate this Purchase Order, in whole or in part, without cause. If University terminates without cause, University will pay Contractor all reasonable costs incurred up to the date of termination. Under no circumstance will University pay Contractor for anticipatory or lost profits.

(b) In the event of a material failure by Contractor to perform in accordance with the terms of this Purchase Order ("**default**"), University may terminate this Purchase Order upon ten (10) days' written notice of termination setting forth the nature of the default; provided that, the default is through no fault of University. Termination will not be effective if the default is fully cured by Contractor prior to the end of the ten-day period.

**26. EXTERNAL TERMS:** This Purchase Order completely supplants, replaces, and overrides all other terms and conditions or agreements, written or oral, concerning Contractor's performance or provision of goods or services under this Purchase Order ("**External Terms**"). The External Terms are null and void and will have no effect under this Purchase Order, regardless of whether University or its employees, contractors, or agents express assent or agreement to the External Terms. The External Terms include any shrinkwrap, clickwrap, browsewrap, web-based terms and conditions of use, and any other terms and conditions displayed in any format that University or its employees, contractors, or agents are required to accept or agree to before or in the course of accessing or using any goods or services provided by Contractor.

**27. PUBLIC INFORMATION:** University strictly adheres to all statutes, court decisions and opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act* ("**TPIA**", [Chapter 552, Texas Government Code](#)). In accordance with [§552.002](#) of TPJA and [§2252.907, Texas Government Code](#), and at no additional charge to University, Contractor will make any information created or exchanged with University pursuant to this Purchase Order (and not otherwise exempt from disclosure under TPJA) available in a format reasonably requested by University that is accessible by the public.

**28. CONTRACTOR CERTIFICATION REGARDING BOYCOTTING ISRAEL.** Pursuant to [Chapter 2271, Texas Government Code](#), Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**29. CONTRACTOR CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS.** Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a

foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**30. CYBERSECURITY TRAINING PROGRAM.** If Contractor and/or its subcontractors, officers, or employees will have an account on a state computer system (for example, an account to an application, database, or network), then pursuant to [Section 2054.5192, Texas Government Code](#), Contractor and its subcontractors, officers, and employees must complete a cybersecurity training program certified under [Section 2054.519, Texas Government Code](#) and selected by the University. The cybersecurity training program must be completed by Contractor and its subcontractors, officers, and employees during the term and any renewal period of this Agreement. Contractor shall verify completion of the program to the University.

**31. TEXAS PUBLIC INFORMATION ACT - SUBCHAPTER J REQUIREMENTS.** If applicable, pursuant to [Section 552.372 of the Texas Government Code](#), Contractor must:

- (1) preserve all contracting information (ref. [Section 552.003\(7\), Texas Government Code](#)) related to this Agreement as provided by the records retention requirements applicable to University for the duration of this Agreement;
- (2) promptly provide to the University any contracting information related to this Agreement that is in the custody or possession of Contractor on request of the University; and
- (3) on completion of this Agreement, either:
  - (A) provide at no cost to the University all contracting information related to this Agreement that is in the custody or possession of Contractor, or
  - (B) preserve the contracting information related to this Agreement as provided by the records retention requirements applicable to the University.

If applicable, the requirements of [Subchapter J, Chapter 552, Government Code](#) ("Subchapter J") may apply to this Agreement and Contractor agrees that the Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of Subchapter J.

University may not accept a bid for a contract described by [Section 552.371, Texas Government Code](#) or award the contract to an entity that the University has determined has knowingly or intentionally failed to comply with Subchapter J in a previous bid or contract described by Section 552.371 unless the University determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of Subchapter J.

If Contractor fails to comply with the requirements of Subchapter J applicable to Contractor, then University shall provide written notice to Contractor stating the requirement(s) of Subchapter J that Contractor has violated. If applicable, such notice will also advise Contractor that University may terminate this Agreement without further obligation to Contractor if (a) Contractor does not cure the violation on or before the 10th business day after the date the University provides the notice, (b) the University determines that Contractor has intentionally or knowingly failed to comply with a requirement of that Subchapter J, and (c) the University determines that Contractor has not taken adequate steps to ensure future compliance with the requirements of Subchapter J. For purposes of the above, Contractor has taken adequate steps to ensure future compliance with Subchapter J if: (1) Contractor produces contracting information requested by the University that is in the custody or possession of Contractor not later than the 10th business day after the date the University makes the request and (2) Contractor establishes a records management program to enable Contractor to comply with Subchapter J.

**32. CONTRACTOR VERIFICATION REGARDING DISCRIMINATION AGAINST FIREARM ENTITIES OR TRADE ASSOCIATIONS.** Pursuant to Chapter 2274, *Texas Government Code* (enacted by [SB 19, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)](#)), Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.

**33. CONTRACTOR VERIFICATION REGARDING BOYCOTTING ENERGY COMPANIES.** Pursuant to Chapter 2274, *Texas Government Code* (enacted by [SB 13, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)](#)), Contractor verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.

**34. CONTRACTOR CERTIFICATION REGARDING COVID-19 VACCINATION.** Pursuant to Section 161.0085, *Texas Health and Safety Code* (enacted by [SB 968, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)](#)), Contractor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor's business. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**35. FEDERAL REQUIREMENTS FOR TELECOMMUNICATIONS EQUIPMENT OR SERVICES.**

(a) Contractor represents that it will not provide covered telecommunications equipment or services, as defined in 2 CFR § 200.216, to University in the performance of this Agreement or any contract, subcontract, or other contractual instrument resulting from this Agreement.

(b) In the event Contractor identifies covered telecommunications equipment or services, as defined in 2 CFR § 200.216, used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of this Agreement, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report information about the contract, equipment item, and mitigation measures to University within one business day, and provide University with an update within ten business days that includes measures to prevent recurrence.

**36. Contractor Certification Relating to Critical Infrastructure.** This Section 36 applies if Contractor will be granted direct or remote access to or control of critical infrastructure in the State of Texas, excluding access specifically allowed by the University for product warranty and support purposes. Pursuant to Chapter 2274, *Texas Government Code* (enacted by [SB 2116, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)](#)), Contractor certifies (A) it is neither owned by nor is the majority of stock or other ownership interest of the Contractor held or controlled by (i) individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor of Texas as a threat to critical infrastructure under Section 2274.0103 of the *Texas Government Code* (a "designated country") or (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; and (B) it is not headquartered in China, Iran, North Korea, Russia, or a designated country. Contractor understands that the prohibitions set forth in the preceding sentence apply regardless of whether (1) Contractor's or its parent company's securities are publicly traded or (2) Contractor or its parent company is listed on a public stock exchange as either (a) a Chinese, Iranian, North Korean, or Russian company or (b) a company of a designated country.

THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, TX 79762

ATTACHMENT E

**PROJECT MANUAL**



Project Manual.pdf

THE UNIVERSITY OF TEXAS PERMIAN BASIN  
Odessa, TX 79762

ATTACHMENT F

**DRAWINGS**



Drawings.pdf