

MASTER SERVICES AGREEMENT  
BY AND BETWEEN  
THE TEXAS A&M UNIVERSITY SYSTEM  
AND TERRACON CONSULTANTS, INC.

This Master Services Agreement (“Agreement”) is entered into as of September 1, 2023 (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “A&M System”), an agency of the state of Texas, and Terracon Consultants, Inc. (hereafter referred to as “PROVIDER”). A&M System and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

A&M System and PROVIDER hereby agree as follows:

**1. SCOPE OF WORK**

PROVIDER will work with A&M System to provide construction material testing services on an as needed basis. The services included (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

A&M System universities and agencies (collectively referred to as “Members”) may also utilize the services within this Agreement if needed on their managed construction projects.

**2. PROVIDER OBLIGATIONS**

- A. PROVIDER will perform the Services in accordance with the standards of care, skill, and diligence expected of a qualified, competent and experienced professional in the provision of the type of services required under this Agreement.
- B. PROVIDER will obtain, maintain in effect, and pay the cost for all licenses, permits, or certifications that may be necessary for PROVIDER’s performance of this Agreement.
- C. PROVIDER represents and warrants that there are no obligations, commitments, third party rights, or impediments of any kind that will limit or prevent PROVIDER’s performance of the Services.

**3. TERM OF THE AGREEMENT**

The initial term of this Agreement shall begin September 1, 2023 and will extend through August 31, 2026. This Agreement can be extended for two (2) additional one-year terms upon written agreement of both parties. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by A&M System and negotiated in writing with the PROVIDER.

**4. PAYMENT TERMS**

- A. A&M System shall not pay any costs or fees as a direct result of this Agreement. For the services rendered under this Agreement, A&M System or Member shall pay PROVIDER based on the rate schedule attached as Exhibit B and made a part of this Agreement. The rate schedule may be renegotiated at the discretion of A&M System upon renewal of this Agreement.
- B. PROVIDER will submit invoices to A&M System or Member for the amounts due consistent with the payment schedule as negotiated per project. Each invoice must reference the A&M System purchase order number (which will be provided to PROVIDER within 15 days of the execution of this Agreement) and include a description of services provided to include but not limited to time, deliverables, and activities along with documentation that A&M System or Member may reasonably request to support the

invoice amount. The A&M System or Member will make payment on a properly prepared and submitted invoice in accordance with Chapter 2251, Texas Government Code (the "Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment.

- C. For reasonable business-related travel, lodging and/or meal expenses validly incurred directly and solely in support of the Services and approved by A&M System or Member in advance, PROVIDER will be reimbursed by A&M System or Member according to the State of Texas rates, rules, and regulations (<https://fmx.cpa.texas.gov/fmx/travel/texttravel/rates/current.php>). When requesting such reimbursement, PROVIDER will submit to A&M System or Member receipts, invoices and other documentation as required by A&M System or Member. Under no circumstances will PROVIDER be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (PROVIDER's place of business to job site) using the State of Texas mileage. Should the Agreement be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.

If the PROVIDER's place of business, inclusive of branch offices providing services, are located more than 60 miles from the job site, then a round trip charge of \$120 per trip will be allowed, regardless of the number of people in a vehicle(s) and of the time it takes to reach the site. This is to help offset personnel travel time which is NOT chargeable. If your PROVIDER's place of business is located closer than 60 miles to the job site, a round trip charge will not be allowed. Mileage reimbursement still applies in either case.

Overtime and holidays will be paid at straight time.

- D. All payments will be made by electronic direct deposit. PROVIDER is required to complete and submit to A&M System a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at; <https://www.tamus.edu/business/budgets-and-accounting/accounting/general/> .
- E. Invoices are to be sent to e-Builder with the appropriate link provided in the purchase order for each specific project. The invoices must include a summary of services performed.

## 5. DEFAULT AND TERMINATION

- A. In the event of substantial failure by PROVIDER to perform in accordance with the terms hereof, A&M System may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of A&M System.
- B. A&M System may terminate this Agreement at any time upon thirty (30) days prior notice to PROVIDER.

## 6. OWNERSHIP OF CREATED WORKS

PROVIDER irrevocably assigns, transfers and conveys to A&M System, for no additional consideration, all of PROVIDER's ownership, rights, title and interest in and to all works prepared by PROVIDER under this Agreement ("Deliverables"), including, without limitation, all copyrights, patents, trademarks, trade secrets and other intellectual property rights and all other rights that may hereafter be vested relating to the Deliverables under law. PROVIDER certifies that all Deliverables will be original, or that PROVIDER will have obtained all rights necessary for the

ownership and unrestricted use of the Deliverables by A&M System. PROVIDER shall secure for A&M System all consents, releases, and contracts and perform other reasonable acts as A&M System may deem necessary to secure and evidence A&M System's rights in any Deliverable.

## **7. CONFIDENTIALITY**

- A. The Parties anticipate that under this Agreement it may be necessary for a Party (the "Disclosing Party") to transfer information of a confidential nature ("Confidential Information") to the other Party (the "Receiving Party"). The Disclosing Party shall clearly identify Confidential Information at the time of disclosure by (a) appropriate stamp or markings on the document exchanged, or (b) written notice, with attached listings of all material, copies of all documents, and complete summaries of all oral disclosures (under prior assertion of the confidential nature of the same) to which each notice relates, delivered within thirty (30) days of the disclosure to the other party. "Confidential Information" does not include information that: (a) is or becomes publicly known or available other than as a result of a breach of this Agreement by the Receiving Party; (b) was already in the possession of the Receiving Party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential; (c) the Disclosing Party had disclosed or discloses to an individual or entity without confidentiality restrictions; or (d) the Receiving Party had developed or develops independently before or after the Disclosing Party discloses equivalent information to the Receiving Party.
- B. The Receiving Party shall use the same reasonable efforts to protect the Disclosing Party's Confidential Information as it uses to protect its own confidential information of a similar nature. The Receiving Party may only disclose Confidential Information to its personnel having a need to know the Confidential Information to fulfill the Receiving Party's obligations under this Agreement. The Receiving Party may not reproduce, disclose, or use Confidential Information except in performing its obligations under this Agreement. If the Receiving Party is legally required to disclose Confidential Information, the Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party written notice of the requirement so as to provide the Disclosing Party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure. If the Receiving Party complies with the terms of this Section, disclosure of that portion of the Confidential Information, which the Receiving Party is legally required to disclose, will not constitute a breach of this Agreement.
- C. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense, except that the Receiving Party may securely retain one (1) copy in its files solely for record purposes. The Receiving Party's obligations as to Confidential Information will survive the termination or expiration of this Agreement for a period of three (3) years.

## **8. INSURANCE**

Insurance requirements as stated within Exhibit C, attached hereto.

## **9. INDEMNIFICATION**

PROVIDER shall indemnify and hold harmless A&M System, and their regents, employees and agents (collectively, the "A&M System Indemnitees") from and against any third-party claims, damages, liabilities, expense or loss asserted against A&M System Indemnities arising out of any

negligent acts or omissions of PROVIDER or its employees or agents pertaining to the activities and obligations under this Agreement, except to the extent such liability, loss or damage arises from an A&M System Indemnitee's gross negligence or willful misconduct.

## 10. MISCELLANEOUS

- A. **Authority to Contract, Representations & Warranties.** If PROVIDER is a business entity, PROVIDER warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of PROVIDER has been duly authorized to act for and bind PROVIDER.
- B. **Use of Name.** Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading. The Parties will mutually agree in advance upon any public announcements, or communications to the media regarding this Agreement or the services to be provided pursuant to this Agreement.
- C. **Public Information.** PROVIDER acknowledges that A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon A&M System's written request, PROVIDER will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System to A&M System in a non-proprietary format acceptable to A&M System that is accessible by the public. PROVIDER acknowledges that A&M System may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and PROVIDER agrees that this Agreement can be terminated if PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.
- D. **Dispute Resolution.** To the extent that Chapter 2260, Texas Government Code is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M System and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim. This provision and nothing in this Agreement waives A&M System's sovereign immunity to suit or liability, and A&M System has not waived its right to seek redress in the courts.
- E. **Copyrights & Patents [If Applicable].** PROVIDER shall not knowingly provide to the A&M System any materials or services that infringe any intellectual property, privacy, or other right of any party. If PROVIDER becomes aware of any possible infringement claims, PROVIDER shall immediately notify the A&M System in writing as to any judicial, administrative, or other action, suit, claim, investigation, or proceeding (each a "Proceeding") alleging that any such material or service infringes any intellectual

property, privacy, or other right. PROVIDER shall indemnify and defend The Texas A&M University System, and their regents, officers, employees, representatives, and agents against all: (a) amounts awarded in, or paid in settlement of, that Proceeding, including any interest, and (b) out-of-pocket expenses incurred in defending that Proceeding or in any related investigation or negotiation, including court costs, witness fees, and attorneys' and other professionals' fees and disbursements arising out of that Proceeding. If any such service or material becomes, or in PROVIDER's reasonable opinion is likely to become, the subject of an infringement claim, PROVIDER may, at its option and expense, either (1) procure for the A&M System the right to continue exercising the rights licensed to the A&M System under this Agreement, or (b) replace or modify the service or material so that it becomes non-infringing and remains functionally equivalent. If neither of the foregoing options are, in PROVIDER's reasonable opinion, commercially reasonable, PROVIDER may terminate this Agreement and promptly refund to the A&M System a prorated portion of any applicable prepaid Fees. This paragraph is not subject to Section 7 (Limitation of Liability) of the Agreement. The foregoing states the entire liability of PROVIDER and the sole and exclusive remedy for the A&M System with respect to any third party claim of infringement or misappropriation of intellectual property rights.

- F. **Independent Contractor.** Notwithstanding any provision of this Agreement to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this Agreement or by PROVIDER's service to A&M System. Except as specifically required under the terms of this Agreement, PROVIDER (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of A&M System or A&M System. As an independent contractor, PROVIDER is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers' compensation insurance. PROVIDER and its employees shall observe and abide by all applicable A&M System policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- G. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. Under Section 231.006, *Texas Family Code*, PROVIDER certifies that it is not ineligible to receive the payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- H. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- I. **Prior Employment.** PROVIDER acknowledges that Section 2252.901, *Texas Government Code*, prohibits A&M System from using state appropriated funds to enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with individual who has been previously employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement. If PROVIDER is an individual, by signing this Agreement, PROVIDER represents and warrants that it is not a former or retired employee of A&M

System that was employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement.

- J. **Not Eligible for Rehire.** PROVIDER is responsible for ensuring that its employees involved in any work being performed for A&M System under this Agreement have not been designated as “Not Eligible for Rehire” as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 (“NEFR Employee”). In the event A&M System becomes aware that PROVIDER has a NEFR Employee involved in any work being performed under this Agreement, A&M System will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by A&M System.
- K. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.
- L. **State Auditor’s Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, “Auditor”), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER will include this provision in all contracts with permitted subcontractors.
- M. **Entire Agreement.** This Agreement constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or “side deals” which are not described in this Agreement. This Agreement may be amended only by a subsequent written agreement signed by authorized representatives of both parties.
- N. **Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.
- O. **Survival.** Any provision of this Agreement that may reasonably be interpreted as being intended by the Parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
- P. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- Q. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M System.
- R. **HUB Subcontracting Plan.** It is the policy of the state of Texas and A&M System to encourage the use of Historically Underutilized Businesses (“HUB”) in our contracts, purchasing transactions and through subcontracting opportunities. The goal of the HUB program is to promote equal access and equal opportunity to HUB vendors in

A&M System contracting and purchasing. PROVIDER will use good faith efforts to subcontract work performed under this Agreement in accordance with the HUB subcontracting plan attached hereto as Exhibit D ("HSP"). Except as specifically provided in the HSP, PROVIDER will not subcontract any of its duties or obligations under this Agreement, in whole or in part. Furthermore, PROVIDER will comply with all of its duties and obligations under Section 20.285 of the Texas Administrative Code.

- S. **Force Majeure.** Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected Party's reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics, natural disaster, embargoes, war, insurrection, terrorist acts or any other circumstances of like character; provided, however, that the affected Party has not caused such force majeure event(s), shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).
- T. **Loss of Funding.** Performance by A&M System under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, A&M System will issue written notice to PROVIDER and A&M System may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of A&M System. In the event of a termination or cancellation under this Section, A&M System will not be liable to PROVIDER for any damages that are caused or associated with such termination or cancellation.
- U. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- V. **Venue.** Pursuant to Section 85.18(b), *Texas Education Code*, mandatory venue for all legal proceedings against the A&M System is to be in the county in which the principal office of A&M System's governing officer is located. At the date of this Agreement, such county is Brazos County, Texas.
- W. **Non-Waiver.** A&M System is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. PROVIDER expressly acknowledges that A&M System is an agency of the state of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by A&M System of its right to claim such exemptions, remedies, privileges, and immunities as may be provided by law, including the sovereign immunity of A&M System.
- X. **Conflict of Interest.** PROVIDER certifies, to the best of their knowledge and belief, that no member of the A&M System Board of Regents, nor any employee of A&M System, has a direct or indirect financial interest in PROVIDER or in the transaction that is the subject of the Agreement.

- Y. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Chapter 2271, *Texas Government Code*, is applicable to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel, and (b) it will not boycott Israel during the Term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- Z. **Certification Regarding Business with Certain Countries and Organizations.** PROVIDER represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, *Texas Government Code*. PROVIDER acknowledges this Agreement may be terminated immediately if this certification is inaccurate.
- AA. **Records Retention.** PROVIDER will preserve all contracting information, as defined under *Texas Government Code*, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
- BB. **Verification Regarding Discrimination Against Firearm Entities and Trade Associations.** To the extent that Chapter 2274, *Texas Government Code*, is applicable to this Agreement, PROVIDER verifies that (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.
- CC. **Verification Regarding Boycotting Energy Companies.** To the extent that Chapter 2274, *Texas Government Code*, is applicable to this Agreement, PROVIDER verifies that (1) it does not boycott energy companies, and (2) it will not boycott energy companies during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- DD. **Compliance with Laws.** PROVIDER shall comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this Agreement.
- EE. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed given: (a) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (d) on the date of delivery if delivered personally. A&M System and PROVIDER can change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

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

PROVIDER:                     Terracon Consultants, Inc.  
  5307 Industrial Oaks Blvd., Suite 160  
  Austin, TX 78735  
  Attention: Tony Carrillo  
  Phone: 512-442-1122  
  Email: [james.bierschwale@terracon.com](mailto:james.bierschwale@terracon.com)



IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

**The Texas A&M University System**

DocuSigned by:  
*Jeff Zimmermann*  
By \_\_\_\_\_  
E28E2924E09547F...  
Jeff Zimmermann  
Executive Director, Procurement

9/5/2023  
\_\_\_\_\_  
Date

**Terracon Consultants, Inc.**

DocuSigned by:  
*Joseph D Hill*  
By \_\_\_\_\_  
8C85E742A9AF49D...  
Joseph D Hill  
office Manager

9/5/2023  
\_\_\_\_\_  
Date

## Exhibit A – Scope of Work

1. The following is a minimal list construction materials testing services which the firm may be requested to perform during the course of construction for any given project:
  - Field Density Tests on backfill material.
  - Visual comparisons of footing sub grades to verify design bearing capacities.
  - Visual witnessing of piers and piles, including applicable reports.
  - Molding and breaking of concrete cylinders, beams and determination of air content.
  - Densities, stability and asphalt content on HMAC.
  - Gradations.
  - Non destructive testing or visual observation on structural welds.
  - Review and evaluate all mix designs.
  - Atterberg Limits.
  - Lime Series.
  - Triaxial.
  - Wet Ball Mill.
  - Structural steel welds.
  - Structural Special Inspections.
  - Provide both typed reports and/or test results and in digital PDF form via email.
  - Attend pre-construction conferences as requested.
  - Use the System's document management system e-Builder.
  
2. Construction material testing services will be assigned when required to a project or projects from the pool of vendors established by this RFQ. Note that inclusion in the pool is not a guarantee of work or project assignments. Below are some of the factors considered by FP&C regarding assignment of a project or projects.
  - Location of Respondent in relation to the project
  - Budget considerations
  - HUB participation
  - Work distribution within the pool as practical

## Exhibit B – Rates

<b>Construction Materials Testing Rates</b> <b>September 01, 2023- August 31, 2026</b>			
Descriptions		Units	Cost / Unit
<b>Personnel</b>			
1	Principal	hr.	\$ 224
2	Senior Project/Program Manager	hr.	\$ 180
3	Project Manager	hr.	\$ 136
4	Staff Engineer	hr.	\$ 130
5	Senior Engineering Technician (NICET/NACE/TxDOT Certified)	hr.	\$ 76
6	Engineering Technician	hr.	\$ 60
7	Post-Tensioning Technician	hr.	\$ 80
8	Certified Welding Inspector (CWI)	hr.	\$ 104
9	CAD Operator	hr.	\$ 79
10	Word Processor	hr.	\$ 60
11	Administrative Assistant	hr.	\$ 68
<b>Concrete Testing--Mix Verifications</b>			
12	Regular aggregates	ea.	\$ 550
13	Lightweight aggregates	ea.	\$ 682
14	Additional design, same aggregate sample	ea.	\$ 547
15	Review mix design submitted by others	ea.	\$ 207
16	Batch and confirmation of others mix design	ea.	\$ 528
17	Design confirmation cylinder test (ASTM C-39),	ea.	\$ 25
18	Design confirmation beam test (ASTM C-293 or C-78)	ea.	\$ 44
<b>Concrete Tests</b>			
19	Cylinder compression test (ASTM C-39)	ea.	\$ 21
20	Making concrete specimens (ASTM C-31)	ea.	\$ 5
21	Beam flexural test (ASTM C-293 or C-78)	ea.	\$ 36
22	Splitting tensile strength (ASTM C-496)	ea.	\$ 85
23	Cube/prism compression test (ASTM C-109)	ea.	\$ 25
24	Lightweight insulating concrete compression test, 3" x 6" cylinders (ASTM C-495)	ea.	\$ 26
25	Windsor probes, per set of 3 (ASTM C-305)	set	\$ 107
26	Length change of hardened hydraulic cement mortar of concrete (ASTM C-157)	ea.	\$ 222
27	Equilibrium Density of Structural Lightweight Concrete (ASTM C-567)	ea.	\$ 110
28	Oven Dry Density of Structural Lightweight Concrete (ASTM C-567)	ea.	\$ 82
29	Density of Hardened Concrete (ASTM C-642)	ea.	\$ 99
30	Determining F <sub>F</sub> Floor Flatness and F <sub>L</sub> Floor Levelness Numbers for Random Traffic Floors (ASTM E-1155)	da.	\$ 636
31	Reinforcing Steel Survey using the Hilti Ferroskan	da.	\$ 456
32	Slump test <b>excluding</b> technician's time (ASTM C-143)	ea.	\$ 7
33	Temperature <b>excluding</b> technician's time (ASTM C-1064)	ea.	\$ 5
34	Unit Weight <b>excluding</b> technician's time (ASTM C-138)	ea.	\$ 5
35	Air Content <b>excluding</b> technician's time (ASTM C-138, C-173, or C-231)	ea.	\$ 7

<b>Masonry Tests</b>			
36	Cement mortar mix verification (ASTM C-305)	ea.	\$ 370
37	Compressive strength CMU block (ASTM C-140)	ea.	\$ 84
38	CMU block absorption only (ASTM C-140)	ea.	\$ 69
39	Compressive strength masonry prism (ASTM C-1314)		
39a	CMU prism up to 8 (in.) width, Hollow Cells	ea.	\$ 132
39b	CMU prism up to 8 (in.) width, Grout Filled Cells	ea.	\$ 164
39c	Brick prism up to 4 (in.) width	ea.	\$ 121
40	Compressive strength of grout prism (ASTM C-1019)	ea.	\$ 37
41	Compressive strength of mortar cubes (ASTM C-109)	ea.	\$ 25
42	Compressive strength of brick (ASTM C-67)	ea.	\$ 49
43	Brick Absorption – 5 hour boil test (ASTM C-67)	ea.	\$ 88
44	Brick Absorption – 24 hour boiling (ASTM C-67)	ea.	\$ 114
<b>Aggregate Tests</b>			
42	Sieve analysis, dry (ASTM C-136)	ea.	\$ 64
43	Sieve analysis (ASTM C-117)	ea.	\$ 54
44	Sieve analysis w/ -200 (ASTM C-136 & C-117)	ea.	\$ 73
45	Unit weight (ASTM C-29)	ea.	\$ 46
46	Specific gravity/absorption (ASTM C-127 or C-128)	ea.	\$ 79
47	Organic impurities (ASTM C-40)	ea.	\$ 55
48	Light weight pieces (ASTM C-123)	ea.	\$ 79
49	Clay lumps (ASTM C-142)	ea.	\$ 61
50	L.A. abrasion (ASTM C-131 or C-535)	ea.	\$ 240
51	Sulfate soundness, 5 cycles (ASTM C-88)	ea.	\$ 385
52	Sand Equivalent (ASTM C-2419)	ea.	\$ 77
<b>Soil Tests</b>			
53	Moisture Content and visual classification (ASTM D-2216)	ea.	\$ 15
54	Atterberg limits (ASTM D-4318 Method A)	ea.	\$ 67
55	Sulfate Content Colorimetric Test (Tex-145-E)	ea.	\$ 84
56	Dry Density (ASTM D-7263)	ea.	\$ 45
57	Percent passing the number 200 sieve (ASTM D-1140)	ea.	\$ 54
<b>Compaction Tests</b>			
58	Optimum moisture / maximum density relations (proctors)		
58a	ASTM D-698, method A & B	ea.	\$ 198
58b	ASTM D-698, method C	ea.	\$ 222
58c	ASTM D-1557, method A & B	ea.	\$ 221
58d	ASTM D-1557, method C	ea.	\$ 238
58e	Tex-113-E	ea.	\$ 250
58f	Tex 114-E, Part I	ea.	\$ 224
58g	Tex 114-E, Part II	ea.	\$ 245
58h	Relative density (ASTM D-4254)	ea.	\$ 260
<b>Strength Tests</b>			
59	Wet ball mill value (TEX-116-E)	ea.	\$ 251
60	Triaxial series (TEX 117-E)	ea.	\$ 1,550
61	California Bearing Ratio (CBR) (ASTM D-1883)	ea.	\$ 365
62	Compressive Strength Tests including molding		0
62a	Fine grained soils (ASTM D-1633, Method A)	ea.	\$ 131
62b	Base material (TEX-120-E)	ea.	\$ 214

<b>Stabilization Evaluation</b>			
63	Lime Series		
63a	PI Method (TEX-112-E)	ea.	\$ 284
63b	PH Method (ASTM D-6276)	ea.	\$ 224
64	Cement content (ASTM D-806)	ea.	\$ 265
65	Fresh cement content (ASTM D-2901)	ea.	\$ 178
66	Fresh cement content 3 point curve (ASTM D-2901)	ea.	\$ 392
67	Compressive Strength of Cement Stabilized Sample (ASTM D-1633, Method A)	ea.	\$ 73
<b>Soil Field Services</b>			
68	In-place density/moisture, nuclear method, ASTM D-2922. Cost per day of rental of nuclear density gage, <b>unlimited tests excluding tech time.</b>	da.	\$ 80
69	In-place density/moisture, conventional method using sand cone	ea.	\$ 38
70	Sulfate Concentration Conductivity (Tex-146-E)	ea.	\$ 72
71	Soil stabilization / Crushed Base Depth Check	ea.	\$ 19
<b>Coring Services and Testing</b>			
72	Coring portland cement concrete	ea.	\$ 102
73	Testing concrete cores (includes: length, sawing, capping and compression testing)	ea.	\$ 76
74	Coring hot mix asphaltic concrete	ea.	\$ 76
75	Testing asphaltic concrete cores (includes: length and density)	ea.	54
<b>Hot Mix Asphaltic Concrete Testing</b>			
76	Molding specimens (TEX-206F)	ea.	\$ 65
77	Bulk specific gravity of lab molded specimens	ea.	\$ 73
78	Bulk specific gravity of core specimen (TEX-207F)	ea.	\$ 55
79	Maximum theoretical density (ASTM D-2041 or TEX-227F)	ea.	\$ 92
80	Hveem stability (ASTM D 1560 or TEX-208F)	ea.	\$ 94
81	Marshall stability and flow (ASTM D-1559)	ea.	\$ 122
82	Extraction (ASTM D-2172 or TEX-210F)	ea.	\$ 213
83	Asphalt Content and Gradation (Ignition Oven Method)	ea.	\$ 210
84	HMAC Mix Design (TEX-204-F)	ea.	\$ 2,240
85	HMAC Mix Design review prepared by others	ea.	\$ 254
<b>Structural Steel Testing</b>			
86	Ultrasonic testing ( <b>unlimited tests &amp; excluding tech time</b> )	da.	\$ 342
87	Bolt Torque Testing with the Skidmore Wilhelm ( <b>unlimited tests</b> )	da.	\$ 412
88	Paint thickness gauge		
88a	Dry film thickness	ea.	\$ 56
88b	Wet film thickness	ea.	\$ 57
88c	Surface Preparation	ea.	\$ 47
88d	Adhesion testing	ea.	\$ 67
<b>Fireproof Testing</b>			
89	Thickness of sprayed fire resistive coating (ASTM E-605) <b>unlimited tests</b>	hr.	\$ 63
90	Density of sprayed fire resistive coating (ASTM E-605)	ea.	\$ 55
91	Adhesion/Cohesion of sprayed fire resistive coating (ASTM E-736)	ea.	\$ 65
<b>Travel</b>			
92	Round Trip Charge	ea.	\$ 130
93	Mileage	mi.	State Rate
94	Meals	da.	State Rate
95	Hotel	da.	State Rate

### **Exhibit C – Insurance**

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

#### **Coverage**

#### **Limit**

#### **A. Worker's Compensation**

Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident
	\$1,000,000 Disease/Employee
	\$1,000,000 Disease/Policy Limit

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

#### **B. Automobile Liability**

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

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

#### **C. Commercial General Liability**

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

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

#### **Additional Endorsements**

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

**D. Professional Liability (Errors & Omissions)** Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of Respondent and its subcontractors under any resultant agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of any resultant agreement. If coverage is written on a claims-made basis, Respondent agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least three (3) years after the expiration of cancellation of any resultant agreement.

**E. Respondent will deliver to A&M System:**

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

**All insurance policies**, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by Respondent. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-Contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

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

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

Certificates of Insurance and Additional Insured Endorsements as required by any resultant agreement will be emailed to [soprocurement@tamus.edu](mailto:soprocurement@tamus.edu).

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