



# THE TEXAS A&M UNIVERSITY SYSTEM

Office of HUB & Procurement Programs

**REQUEST FOR PROPOSAL**  
**Gateway Property Ground Lease Opportunity –**  
**Texas A&M University-San Antonio**

**RFP NUMBER RFP01 CBDO-19-056**

**PROPOSAL MUST BE RECEIVED BEFORE:**  
**2:00 P.M. Central Time (CDT) on July 11, 2019**

**EMAIL RFP RESPONSES TO:**  
**[SOPROCUREMENT@TAMUS.EDU](mailto:SOPROCUREMENT@TAMUS.EDU)**  
**SUBJECT LINE: RFP01 CBDO-19-056**  
**Attn: Jeff Zimmermann**

**NOTE:** PROPOSAL must be time stamped at **The Texas A&M University System Office of Procurement & HUB Programs** before the hour and date specified for receipt of proposal.

Pursuant to the Provisions of Texas Government Code Title 10, Chapter 2156.121-2156.127, sealed proposals will be received until the date and time established for receipt. After the due date and time, only the names of Respondents will be made public.

**REFER INQUIRIES TO:**

Jeff Zimmermann, Director  
The Texas A&M University System  
Procurement & HUB Programs  
email: [jzimmermann@tamus.edu](mailto:jzimmermann@tamus.edu)

All proposals shall become the property of the State of Texas upon receipt. Proposals may be subject to public review after contracts have been executed. Refer to Section 4.14 for more information regarding public information.

**TABLE OF CONTENTS**

<b>SECTION 1.</b>	<b>INTRODUCTION</b>	<b>3</b>
<b>SECTION 2.</b>	<b>INSTRUCTION FOR RESPONDENTS</b>	<b>5</b>
<b>SECTION 3.</b>	<b>SCOPE &amp; PROPOSAL</b>	<b>8</b>
<b>SECTION 4.</b>	<b>GENERAL TERMS AND CONDITIONS</b>	<b>12</b>
<b>EXHIBIT A:</b>	<b>EXECUTION OF OFFER</b>	<b>18</b>
<b>EXHIBIT B:</b>	<b>NON-COLLUSION AFFIDAVIT</b>	<b>20</b>
<b>ATTACHMENTS:</b>	<b>SITE MAP SURVEY EASEMENT</b>	

## SECTION 1 – INTRODUCTION

### 1.1 Introduction

The Texas A&M University System (A&M System) is re-soliciting proposals on behalf of Texas A&M University-San Antonio (A&M-SA) for selection of a real estate developer to enter into a property ground lease on two tracts of land located along University Way and Loop 410 (Gateway Property) in San Antonio, in accordance with the terms, conditions, and requirements set forth in this Request for Proposal (RFP).

If RESPONDENT is selected, depending on the method of construction financing proposed by the RESPONDENT and approved by A&M System, A&M System will either (i) enter into a long-term ground lease with RESPONDENT or an affiliated entity for the performance of services on A&M System land, or (ii) enter into a long-term ground lease with a nonprofit entity, which will then contract with the RESPONDENT for performance of the services on A&M System land.

Proposals shall be in accordance with the terms, conditions, and requirements set forth in this Request for Proposal (RFP).

### 1.2 Background

#### **The Texas A&M University System**

The A&M System is one of the largest systems of higher education in the nation, with a budget of \$4.7 billion. Through a statewide network of eleven universities and seven state agencies, the A&M System educates more than 153,000 students and makes more than 22 million additional educational contacts through service and outreach programs each year. System-wide, research and development expenditures exceeded \$996 million in FY 2017 and helped drive the state's economy. More information about the A&M System and all of its members can be found at <https://www.tamug.edu/system/about/>.

#### **Texas A&M University-San Antonio**

Texas A&M University-San Antonio was established as a standalone university in 2009. We are a comprehensive four-year public university that is fast-growing and located on the south side of San Antonio, Texas. A&M-SA has more than 40 undergraduate academic programs and a current enrollment of 6,640 students and is projected to grow to 11,660 over the next five years. The campus consists of 538,740 gross square feet and is situated on nearly 700 acres. We have multiple buildings in the design and/or planning phases. These include a 100,000 square foot College of Business and library building, a new 60,000 square foot classroom and office building as well as a new 90,000 square foot recreation center. For more information, please visit our website at <http://www.tamusa.edu/>.

### 1.3 Development Opportunity

The A&M System is interested in providing commercial/residential property on two tracts of land located along University Way and Loop 410 in San Antonio for development. Types of development opportunities may include but are not limited to residential, hotel, retail, grocer, entertainment, commercial space, parking and/or a mixed-use development. The tracts are numbered one and two on the map (Attachment A). RESPONDENTS may submit proposals for the commercial/residential development of an assemblage or individually. Refer to Section 3 for additional information regarding the scope and Property. The A&M System shall determine the

most appropriate use of the land based upon the proposals submitted.

This opportunity was originally posted in late 2016, however an award was not made. Since this original posting, additional information has been received with regard to the property and surrounding area. By 2040, San Antonio's population is expected to increase by approximately 1 million people. This site is located in one of the 24 certified tracks (Census Tract 1520) designated Opportunity Zones in Bexar County. Opportunity Zones is a program established by The Tax Cuts and Jobs Act of 2017 designed to encourage long-term investment in low-income communities. The program establishes tax incentives to encourage private individuals to invest unrealized capital gains in projects located within high poverty communities.

The intent of this RFP is to allow all interested / prospective developers to provide a sufficient amount of data that will enable the A&M System to determine which developer is in fact best able to meet the criteria which are to be considered in the award of the ground lease. A&M System will consider all proposed ground lease terms that are deemed appropriate by the A&M System.

By submitting responses, each RESPONDENT certifies that it understands this RFP and has full knowledge of the scope and nature of the opportunity described herein. Each RESPONDENT also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the RESPONDENT.

RESPONDENT is to independently investigate and verify, at its own discretion, all information acquired from A&M System, A&M-SA or from any other source which is relied on by RESPONDENT in the preparation of its proposal.

#### **1.4 Pre-Proposal Conference**

A pre-proposal conference will be held at 11:30 a.m. CDT on June 13, 2019 in the Science and Technology Bldg Room-242, A&M-SA campus, located at One University Way, San Antonio, Texas. Visitor parking is available in lot #2, directly to the west of the main campus. Attendance at this conference is not mandatory but highly encouraged.

#### **1.5 Calendar Of Events**

Issue RFP .....	May 24, 2019
Pre-Proposal Conference.....	June 13, 2019 at 11:30 AM
Deadline for Receiving Proposals .....	July 11, 2019 by 2:00 PM CDT
Interview Top Proposal Teams (A&M System's Option) .....	TBD
Anticipated Award Date .....	TBD

The A&M System will make every effort to adhere to the above schedule. The schedule, however, is subject to change. This may be in the event that further clarification of responses or terms of contract are in the best interest of the A&M System and/or in the event the A&M System requires more time to assure that the selection of the RESPONDENT is in accordance with its policies, rules and regulations, as well as actual timing needs.

#### **1.6 Priorities/Expectations**

RESPONDENTS should note the following priorities/expectations with regard to the possibility of

the A&M System establishing a contractual relationship with any RESPONDENT:

- (a) *Ensuring a Quality Level of Service.* This priority encompasses the quality of the level of service that can be provided to the A&M System in a timely, cost effective manner. The A&M System is seeking a RESPONDENT that will ensure the provision of such quality in its delivery of service through proven techniques and established metrics.
- (b) *Level of Experience and Expertise.* RESPONDENT must demonstrate its capabilities in providing the utmost level of experience and expertise to ensure a successful project as determined by the A&M System.
- (c) *Financial Stability.* RESPONDENT must demonstrate its financial stability and capabilities in providing the required services through financial statements or other means of substantiation.

## SECTION 2 - INSTRUCTION FOR RESPONDENTS

### 2.1 General Information

Proposals are to be in accordance with the outline and specifications contained herein, are to remain in effect a minimum of 120 days from the date of submission, and may be subject to further extensions as negotiated. A statement to this effect should be contained in the RESPONDENT's cover letter.

This RFP contains specific requests for information. RESPONDENTS are encouraged to examine all sections of this RFP carefully, in that the degree of interrelationship between sections is critical. In responding to this RFP, RESPONDENTS are encouraged to provide any additional information they believe relevant.

Clause headings appearing in this RFP have been inserted for convenience and ready reference. They do not purport to define, limit or extend the scope or intent of the respective clauses. Whenever the terms "must", "shall", "will", "is required", or "are required" are used in the RFP, the subject being referred to is to be a required feature of this RFP and critical to the resulting submittal.

In those cases where mandatory requirements are stated, material failure to meet those requirements could result in disqualification of the RESPONDENT's response. Any deviation or exception from RFP specifications must be clearly identified by the RESPONDENT in its submittal.

Expenses for developing and presenting proposals shall be the entire responsibility of the RESPONDENT and shall not be chargeable to the A&M System. All supporting documentation submitted with this submittal will become the property of the A&M System.

All questions concerning this RFP are to be directed, in writing via email, to Jeff Zimmermann at [soprocurement@tamus.edu](mailto:soprocurement@tamus.edu). RESPONDENT may not contact other individuals at the A&M System to discuss any aspect of this RFP, unless expressly authorized by the A&M System Procurement & HUB Program office to do so. The A&M System will publish all questions in the form of an addendum with responses at least two (2) days prior to the Deadline for Receiving Proposals as stated in the schedule in Section 1.5.

### 2.2 Examination of the Request for Proposal

Before submitting, each RESPONDENT will be held to have examined the A&M System requirements outlined in Section 3, and satisfied itself as to the existing conditions under which it will be obligated to perform in accordance with specifications of this RFP.

No claim for additional compensation will be allowed due to unfamiliarity with the specifications and/or existing conditions. It shall be understood that the RESPONDENT has full knowledge of all the existing and/or revised conditions and accepts them "as is."

### 2.3 Proposal Submission Instructions and Delivery of RFPs

All proposals must be received by the A&M System no later than **2:00 p.m. CDT, July 11, 2019**, electronically via email to [soprocurement@tamus.edu](mailto:soprocurement@tamus.edu) with the subject line of: **"RFP01 CBDO-19-056"**. The sent time indicated within the A&M System email server shall be used for the receipt and acceptance of the response. Late proposals will not be considered under any circumstances.

Telephone and facsimile (Fax) proposals are not acceptable and will not be considered under any circumstances.

Submittal Format: Electronic file shall be saved, as a single file, in Adobe Portable Document Format (PDF) and named “**company name – RFP01 CBDO-19-056**”.

## 2.4 Proposal Components

The following documents are to be returned as part of your proposal response. Failure to include each of these documents will be basis for response disqualification.

- ✓ Signed Execution of Offer (Exhibit A)
- ✓ Non-Collusion Affidavit (Exhibit B) signed and notarized
- ✓ Technical Proposal (Section 3.5)
- ✓ Company References (Section 3.6)
- ✓ HUB Participation Plan (Section 3.7)
- ✓ Document(s) proving financial capability to complete the project (sent with proposal as a separate file and attachment)

**RESPONDENT shall provide one (1) electronic copy of the complete RFP response as specified above.**

**NOTE:** The signature in the Execution of Offer within the electronic copy shall serve as the official signature of record.

## 2.5 Inquiries and Interpretations

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum/amendment and posted to the Electronic State Business Daily (ESBD).

<http://www.txsmartbuy.com/sp> (Input Agency Number “710” and select “Posted” for the Status)

All such addenda/amendments issued by the A&M System prior to the time that proposals are received shall be considered part of the RFP, and the RESPONDENT shall consider and acknowledge receipt of such in their proposal. Only those A&M System replied to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect.

## 2.6 Selection Process

The evaluation of the proposals shall be based on the development proposed that the A&M System deems to represent the **best value** to the A&M System. The RFP provides the information necessary to prepare and submit proposals for consideration by the A&M System. All properly submitted proposals will be reviewed, evaluated, and ranked by the A&M System. The A&M System will rank the RESPONDENTS in the order that they provide the overall “best value” to the A&M System based on an evaluation of the responses to the RFP. The A&M System may interview one or more of the top ranked RESPONDENTS as part of the evaluation process.

After proposal tabulation and such investigation of RESPONDENTS as the A&M System deems appropriate, an award may be made to the vendor whose proposal it judges to represent the best value to the A&M System. Final determination for award of the contract will be made on the overall best value to the A&M System. The A&M System reserves the right to reject any or all proposals.

No award will be made until the A&M System is fully satisfied that the developer and/or its affiliated entity or non-profit entity is professionally, financially and otherwise competent and capable of entering into a long term ground lease and comply with the conditions specified in the lease.

By submitting its proposal in response to this RFP, RESPONDENT accepts the evaluation process and acknowledges and accepts that determination of the “best value” firm(s) will require subjective judgments by the A&M System.

The selection of the successful proposal may be made by the A&M System on the basis of the proposals initially submitted, without discussion, clarification, or modification. In the alternative, selection of the successful proposal may be made by the A&M System on the basis of negotiation with any of the RESPONDENTS. The A&M System shall not disclose any information derived from the proposals submitted by competing RESPONDENTS in conducting such discussions.

All proposals must be complete and convey all of the information requested to be considered responsive. If a proposal fails to conform to the essential requirements of the RFP, the A&M System alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable, and therefore a candidate for further consideration, or not susceptible and therefore not considered for award.

The A&M System will perform reference checks and seek further information, as needed from all Respondents whose proposals the System, at its discretion, considers viable, based on the initial evaluation and scoring. The Proposer’s response to this requirement officially authorizes the A&M System to contact these organizations to discuss the services and other considerations which the Proposer has provided to such organizations and authorizes the organizations to provide such information to the A&M System and Proposer shall and hereby does release and hold harmless the A&M System, the state of Texas, and the organization of any and all liability whatsoever, in connection with providing and receiving all such information. Any negative responses received from reference checks may be grounds for disqualification of the proposal.

The A&M System reserves the right to reject any or all proposals and re-solicit for new proposals, or to reject any or all proposals and temporarily or permanently abandon the project. The A&M System makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.



## SECTION 3 – SCOPE & PROPOSAL

### 3.1 Scope

The A&M System is interested in providing commercial/residential property for the best use of the property that best complements the A&M-SA campus with building types including, but not limited to, residential, hotel, retail, food, entertainment, and commercial space.

### 3.2 Property Offered For Consideration

The Property is currently undeveloped. The following information is provided for your reference:

- Property location: One University Way, San Antonio Texas 78224 per the attached site map
- Approximate acres for development: 2 tracts of 5-acres each (10 acres total)
- Property Description: See attached site map, survey and easement documentation

### 3.3 Site Development

Subject to review and approval of the A&M System, the selected developer(s) must make all arrangements to secure private financing for all costs of development and construction of any improvements constructed as part of this RFP. The A&M System's interest in the Property cannot be subordinated to any financing arrangements for the project. The A&M System will incur no financial obligation with respect to the construction of any facilities on the Property.

By 2040, San Antonio's population is expected to increase by approximately 1 million people. This site is located in one of the 24 certified tracks (Census Tract 1520) designated Opportunity Zones in Bexar County. Opportunity Zones is a program established by The Tax Cuts and Jobs Act of 2017 designed to encourage long-term investment in low-income communities. The program establishes tax incentives to encourage private individuals to invest unrealized capital gains in projects located within high poverty communities.

The A&M System will lease the land "as is" to, depending on the method of construction financing proposed by the RESPONENT, (i) RESPONENT or an affiliated entity for performance of the development on A&M System land, or (ii) enter into a long-term ground lease with a nonprofit entity, which will then contract with the RESPONENT for performance of the development on A&M System land and for a specified annual amount. A&M System will consider all proposed ground lease terms that are deemed appropriate by the A&M System.

Upon termination of the ground lease, all improvements will revert to the A&M System. The A&M System will retain the option to purchase the improvements at any time during the term of the lease agreement.

### 3.4 Type of Contract

Contracts resulting from this solicitation will be in the form of a long-term ground lease agreement to be negotiated with the A&M System and approved by the A&M System Board of Regents. The ground lease will be a net lease, and will contain, among other terms, (i) the obligation of the RESPONENT, RESPONENT's affiliated entity or non-profit entity to pay all ad valorem property taxes accruing as a result of the development, if applicable, (ii) covenants and restrictions on the use of the property, and (iii) a requirement to submit site plans for approval and construction

plans for compliance with applicable codes, and payment of a fee for the A&M System's review and approval of the plans.

RESPONDENT will be required to ensure that resultant contracts with a construction firm, either by it, its affiliated entity or non-profit entity, includes requirements for publicly advertising all major trade contracts and subcontracts, with review of the proposals and selections being provided to the A&M System in a form acceptable to the A&M System.

### **3.5 Technical Proposal**

RESPONDENTS shall address the following items in the proposal response:

- a. A list of the names and addresses of all the owners, executives, managers, partners, members, shareholders, or principals of the RESPONDENT, and all entities having an ownership interest in the RESPONDENT. Also, include a complete general description of experience in the respective fields for each of the parties listed.
- b. A list of similar properties you have developed or are developing, including locations, and give length of time to develop the property from commencement to end. Explain in detail. If a development listed is from a specific party and not the actual RESPONDENT, please state which party was responsible for that development.
- c. A detailed description of the type of development proposed to operate on the property.
  - Primary field of business and services to be offered
  - Targeted clients
  - Proposed timeline of the development to include phases if applicable
  - Any other information relevant to evaluating the integrity of the development to be associated with The A&M System through a ground lease arrangement
- d. Describe the Method of Finance to fund the project (i.e. Pre-approval letter, etc.).
- e. Provide a preliminary multi-year pro-forma with substantiation on rental rates and expenses. All assumptions used in developing this pro-forma shall be disclosed within your submission.

### **3.6 Company References**

RESPONDENTS shall provide at least four (4) references, preferably two from institutions of higher education with a similar project scope. Each reference shall include at least the following:

- Company name
- Contact person name and title
- Contact phone number and email address
- General description of the completed scope and services provided

Note: References provided may be from experience for a member of the development team and not necessarily from the developer who is responding. For all references make it clear who on your team was responsible for each one provided.

### **3.7 HUB Participation Plan**

It is the policy of the State of Texas and the A&M System to encourage the use of Historically Underutilized Businesses (HUBs) both directly and indirectly in our prime contracts. The goal of

the HUB Program is to promote equal access and equal opportunity in A&M System contracting and purchasing.

Subcontracting opportunities are defined as those opportunities contracted with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity. RESPONDENTS are required to submit a HUB Participation Plan describing in detail how they will commit to a “Good Faith Effort” to attract and use State of Texas certified HUB vendors.

**A HUB Participation Plan is required to be submitted by each RESPONDENT.** Failure to submit a comprehensive, acceptable HUB Participation Plan will be considered a material failure to comply with the requirements of this RFP and may result in rejection of the response. This HUB Participation Plan shall be a detailed plan outlining your methodology of HUB Participation – a blue print that accurately represents your company’s strategy for evaluation of intent.

RESPONDENTS shall address the following items at a minimum within the HUB Participation Plan.

1. The RESPONDENT shall state whether it is a Texas certified HUB vendor.
2. State its commitment to making a good faith effort to include HUB vendors in this development.
3. Discuss general areas of potential subcontracting opportunities as it relates to design, construction and management of the development.
4. Describe how you intend to locate HUB vendors for solicitation and possible inclusion in this development. For example, will you use the CMBL/HUB Directory listings (<https://mycpa.cpa.state.tx.us/tpasscmbsearch/tpasscmbsearch.do>)? Will you advertise in minority or trade organization newsletters or newspapers? Etc.
5. Provide a list of the trade organizations or development centers that you intend to work with in your outreach efforts. Examples of these can be found at the following site; <https://comptroller.texas.gov/purchasing/vendor/hub/resources.php>

Submit the HUB Participation Plan with your proposal response in a separately tabbed section labeled “HUB Participation Plan.”

For more information regarding the HUB Participation Plan requirements, please contact Keith Williams, HUB Coordinator, at [soprocurement@tamus.edu](mailto:soprocurement@tamus.edu) or (979) 458-3265.

Upon execution of an Agreement, additional documentation may be required, including but not limited to, a complete HUB Subcontracting Plan for the design, construction and management of the facilities (if applicable), and Prime Contractor Progress Assessment Report (PAR) forms to document compliance with your HUB Subcontracting Plan. These forms can be found at the following site;

<https://comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>

### **3.8 Payment and Performance Bonds**

RESPONDENT shall be required to ensure that the construction agreement entered into by it, its affiliated entity or non-profit entity contains a requirement for the general contractor to issue payment and performance bonds in a penal sum equal to contract sum of the original construction contract. The performance bond shall guarantee the faithful performance of the work in

accordance with the construction contract documents, and shall include as beneficiaries The Texas A&M University System and Texas A&M University. The payment bond shall be solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the general contractor or a subcontractor. The bonds shall be executed by a corporate surety or sureties authorized to do business in the state of Texas and in compliance with the relevant provisions of the Texas Insurance Code. Sureties shall be listed on the US Department of the Treasury's Listing of approved Sureties stating companies holding Certificates of Authority as acceptable sureties on Federal Bonds and acceptable reinsuring companies (Department Circular 570) and have a rating of A- or better with A.M. Best Company

## SECTION 4 - GENERAL TERMS AND CONDITIONS

### 4.1 TERMS AND CONDITIONS

The A&M System reserves the right to accept, reject, modify, and/or negotiate any and all proposals received in conjunction with this RFP. It reserves the right to waive any defect or informality in the proposals on the basis of what it considers to be in its best interests. Any submittal which the A&M System determines to be incomplete, conditional, obscure, or which has irregularities of any kind, may be rejected. The A&M System reserves the right to award to the firm, or firms, which in our sole judgment, will best serve our long-term interest.

This RFP in no manner obligates the A&M System to the eventual purchase of any products or services described, implied, or which may be proposed, until confirmed by written agreement, and may be terminated by the A&M System without penalty or obligation at any time prior to the signing of a lease agreement.

The RESPONDENT must include a formal copy of any RESPONDENT terms and conditions applicable to this transaction. Evaluation and acceptance and/or modification of these terms and conditions by the A&M System Office of General Counsel are essential prior to the award of the lease. In the event the RESPONDENT does not supply terms and conditions with their submittal, the A&M System terms and conditions will govern this transaction

### 4.2 GOVERNING LAW

The validity of any resultant ground lease and all matters pertaining to any resultant ground lease, 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.

### 4.3 NON-DISCRIMINATION

The parties agree that in the performance of any contract they shall not discriminate in any manner on the basis of race, color, national origin, age, religion, sex, genetic information, veteran status, sexual orientation, gender identity, or disability protected by law. Such action shall include, but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation. By submitting a submittal, RESPONDENTS certify that they will conform to the provisions of the federal Civil Rights Act of 1964, as amended.

### 4.4 IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting a proposal, the RESPONDENT certifies it does not and will not, during the performance of this contract, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as amended.

### 4.5 DEBARMENT STATUS

By submitting a statement of qualification, RESPONDENT certifies it is not currently debarred from submitting proposals on contracts nor is it an agent of any person or entity that is currently debarred from submitting bids on contracts.

#### 4.6 INDEMNIFICATION AND HOLD HARMLESS

The RESPONDENT shall defend, indemnify and hold harmless the A&M System, its officers, employees and agents, against any and all liability of whatever nature which may arise directly or indirectly by reason of the RESPONDENT's performance under the resultant ground lease agreement.

#### 4.7 RESPONDENT LIABILITY

The RESPONDENT will be liable for any associated costs of repairs for damage to buildings or other A&M System property caused by the negligence of the RESPONDENT's employees.

#### 4.8 CIVIL RIGHTS REQUIREMENTS

All RESPONDENTS must comply with applicable civil rights laws.

#### 4.9 NON-COLLUSION CLAUSE

The Non-Collusion Affidavit found in **EXHIBIT B** must be executed as a part of the RESPONDENT's submittal.

#### 4.10 ENTIRE AGREEMENT

A lease agreement, when fully executed, shall supersede any and all prior and existing agreements, either oral or in writing, and will contain all the covenants and agreements between the parties with respect to the subject matter of the lease agreement. Any amendment or modification to the lease agreement must be in writing and signed by the parties hereto.

#### 4.11 SEVERABILITY

It is understood and agreed that if any part, term, or provision of the resultant lease agreement is by the courts held to be illegal or in conflict with any law of the State of Texas, the validity of the remaining portions or provisions shall be construed and enforced as if the lease agreement did not contain the particular part, term, or provision held to be invalid.

#### 4.12 PUBLICITY

RESPONDENTS must refrain from giving any reference to this project, whether in the form of press releases, brochures, photographic coverage, or verbal announcements, without specific written approval from the A&M System.

Information provided to RESPONDENT by the A&M System, including but not limited to information from the members, officers, agents, or employees of the A&M System or any of its members, and information provided to RESPONDENT by members of the public or any other third party shall belong to the A&M System.

#### 4.13 INDEPENDENT CONTRACTOR

The successful RESPONDENT agrees that in all respects its relationship with the A&M System will be that of an independent contractor, and that it will not act or represent that it is acting as an agent of the A&M System or incur any obligation on the part of the A&M System without written authority of the A&M System. As an independent contractor, RESPONDENT will be solely responsible for determining the means and methods for performing the services described.

RESPONDENT shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of the A&M System relative to conduct on its premises.

#### 4.14 PUBLIC INFORMATION ACT

- (a) RESPONDENT acknowledges that the 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 Solicitation, as well as any other disclosure of information required by applicable Texas law.
- (b) Upon an A&M System written request, RESPONDENT will provide specified public information exchanged or created under this Solicitation that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to the A&M System in a non-proprietary format acceptable to the A&M System. As used in this provision, public information has the meaning assigned in Section 552.002, *Texas Government Code*, but only includes information to which the A&M System has a right of access.

#### 4.15 OWNERSHIP OF DOCUMENTS

Upon completion or termination of any resultant lease agreement, all documents prepared by the RESPONDENT for the benefit of the A&M System shall become the property of the A&M System. At the A&M System' option, such documents will be delivered to the System Procurement Office. The A&M System acknowledges that the documents are prepared only for the contracted services specified. Prior to completion of the contracted services, the A&M System shall have a recognized proprietary interest in the work product of the RESPONDENT.

#### 4.16 INSURANCE

The RESPONDENT shall obtain and maintain, for the duration of the lease 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 the A&M System. By requiring such minimum insurance, the A&M System shall not be deemed or construed to have assessed the risk that may be applicable to the RESPONDENT. 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 the lease 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 the A&M System at least ten days before the effective date of the cancellation.

##### Coverage

##### Limit

##### A. Worker's Compensation

Statutory Benefits (Coverage A)  
Employers Liability (Coverage B)

Statutory  
\$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 the 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;

**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 or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of the lease agreement.

**D. Umbrella/Excess Liability Insurance** with limits of not less than \$5,000,000 per occurrence and aggregate and will be excess over and be no less broad than and "following form" of all included coverage described above. Inception and expiration dates will be the same as the underlying policies. Drop-down coverage will be provided for reduction and/or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.

**E. Professional Liability (Errors & Omissions)** Insurance with limits of not less than \$2,000,000 each occurrence, \$4,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of RESPONDENT and its subcontractors under the lease agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of the lease 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 (2) years after the expiration of cancellation of the lease agreement.

**F.** RESPONDENT will deliver to the 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 the lease agreement and prior to the performance of any services by RESPONDENT under the lease 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, The Texas A&M University System and Texas A&M University-San Antonio 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, The Texas A&M University System and Texas A&M San Antonio. No policy will be canceled without unconditional written notice to the 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 the A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by the A&M System prior to the performance of any services by RESPONDENT under the lease 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 the lease agreement will be mailed, faxed, or emailed to the following the A&M System contact:

The Texas A&M University System  
Attn: System Real Estate Office  
301 Tarrow Street, 6<sup>th</sup> Floor  
College Station, TX 77840  
Facsimile Number: (979) 458-6359  
Email Address: [sreo@tamus.edu](mailto:sreo@tamus.edu)

The insurance coverage required by the lease agreement will be kept in force until all services have been fully performed and accepted by the A&M System in writing

#### 4.17 VENUE

Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against the A&M System shall be in the county in which the primary office of the chief executive officer of the A&M System is located. At the date of this RFP, such county is Brazos County, Texas.

#### 4.18 STATE AUDITOR'S OFFICE

RESPONDENT 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*. RESPONDENT agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. RESPONDENT will include this provision in all contracts with permitted subcontractors.

#### 4.19 CONFLICT OF INTEREST

RESPONDENT and each person signing on behalf of RESPONDENT certifies, and in the case of a

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

4.20 PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

By submitting a proposal, the RESPONDENT certifies it does not and will not, during the performance of any resultant lease agreement, boycott Israel. PROVIDER acknowledges any resultant lease agreement may be terminated if this certification is or becomes inaccurate.

4.22 CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, PROVIDER certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. PROVIDER acknowledges any resultant lease agreement may be terminated if this certification is or becomes inaccurate.

4.21 RESPONDENT shall neither assign its rights nor delegate its duties under the resultant lease agreement without the prior written consent of the A&M System.

**EXHIBIT A****EXECUTION OF OFFER****RFP01 CBDO-19-056****DATE:**

**In compliance with this RFP, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services at the prices quoted.**

**A.1 Respondent Affirmation**

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

This execution of offer must be completed, signed, and returned with the respondent's qualifications. Failure to complete, sign and return this execution of offer with the qualifications may result in rejection of the qualifications.

Signing a false statement may void the submitted qualifications or any agreements or other contractual arrangements, which may result from the submission of respondent's qualifications. A false certification shall be deemed a material breach of contract and, at the A&M System's option, may result in termination of any resulting contract or purchase order.

**Addenda Acknowledgment**

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

No. 1 _____	Date _____	No. 3 _____	Date _____
No. 2 _____	Date _____	No. 4 _____	Date _____

**A.2 Signature**

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

- (i) the Response and all statements and information prepared and submitted in response to this RFP are current, complete, true and correct;
- (ii) it is not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount trip, favor or service to a public servant in connection with the submitted response or any subsequent proposal. Failure to sign below, or signing a false statement, may void the response or any resulting contracts at the A&M System' option, and the RESPONDENT may be removed from all future proposal lists at this state agency;
- (iii) the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the RESPONDENT and to bind the Respondent under any contract which may result from the submission of the Response;
- (iv) no relationship, whether as a relative, business associate, by capital funding agreement or by any other such kinship exists between RESPONDENT and an employee of the A&M System;
- (v) Respondent has not been an employee of the A&M System within the immediate twelve (12) months prior to the RFP response;
- (vi) no compensation has been received for participation in the preparation of this RFP (ref. Section 2155.004 Texas Government Code);

- (vii) all services to be provided in response to this RFP will meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health law (Public Law 91-596) and its regulations in effect as of the date of this solicitation;
- (viii) Respondent complies with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action;
- (ix) to the best of its knowledge, no member of the Board of Regents of The Texas A&M University System, or the Executive Officers of the Texas A&M University System or its member institutions or agencies, has a financial interest, directly or indirectly, in the Project;
- (x) each individual or business entity proposed by RESPONDENT as a member of its team that will engage in the practice of engineering or architecture will be selected based on demonstrated competence and qualifications only;
- (xi) if the RESPONDENT is subject to the Texas franchise tax, it is not currently delinquent in the payment of any franchise tax due under Chapter 171, Texas Tax Code, or is exempt from the payment of such taxes. A false certification may result in the Respondent's disqualification;
- (xii) under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate; and,
- (xiii) under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

RESPONDENT shall provide their Federal Employer Identification Number (EIN), full vendor name, address and contact information as requested in the spaces below. Failure to manually sign or with electronic signature (i.e. DocuSign or Adobe Sign) in the Authorized Signature line below will disqualify the proposal response. The person signing shall show title or authority to bind his/her firm into a contractual relationship.

Federal EIN/Taxpayer ID #: \_\_\_\_\_

Vendor/Company Name: \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

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

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

Street: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

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

Fax No.: \_\_\_\_\_

E-mail: \_\_\_\_\_

\* By signing this RFP, RESPONDENT certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Resident Bidder as defined in Texas Government Code, § 2252.001(4).

**EXHIBIT B**  
**NON-COLLUSION AFFIDAVIT**

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing Proposal (such persons, firms and corporations hereinafter being referred to as the "RESPONDENT"), being duly sworn, on his or her oath, states that to the best of his or her belief and knowledge no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing Proposal, has directly or indirectly entered into any agreement or arrangement with any other RESPONDENTS, or with any official of the A&M System or any employee thereof, or any person, firm or corporation under contract with the A&M System whereby the RESPONDENT, in order to induce acceptance of the foregoing Proposal by said the A&M System, has paid or is to pay to any other RESPONDENT or to any of the aforementioned persons anything of value whatever, and that the RESPONDENT has not, directly or indirectly entered into any arrangement or agreement with any other RESPONDENT or RESPONDENTS which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing Proposal.

The RESPONDENT hereby certifies that neither it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other RESPONDENT, potential RESPONDENT, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other RESPONDENTS or potential RESPONDENTS, or to obtain through any unlawful act an advantage over other RESPONDENTS or the A&M System.

The prices submitted herein have been arrived at in an entirely independent and lawful manner by the RESPONDENT without consultation with other RESPONDENTS or potential RESPONDENTS or foreknowledge of the prices to be submitted in response to this solicitation by other RESPONDENTS or potential RESPONDENTS on the part of the RESPONDENT, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

**CONFLICT OF INTEREST**

The undersigned RESPONDENT and each person signing on behalf of the RESPONDENT certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the A&M System, nor any officer, employee, or person, whose salary is payable in whole or in part by the A&M System, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2019.

Notary Public in and for the County of \_\_\_\_\_, State of

\_\_\_\_\_. My commission expires: \_\_\_\_\_

**THE EXECUTION OF OFFER AND NON-COLLUSION AFFIDAVIT MUST BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S SUBMISSION. FAILURE TO SIGN AND RETURN THESE DOCUMENTS WILL RESULT IN THE REJECTION OF YOUR SUBMISSION.**