

TEXAS PARKS AND WILDLIFE

Texas Parks and Wildlife Department
Purchasing and Contracting C-1
4200 Smith School Road
Austin, Texas 78744

REQUEST FOR PROPOSALS

RFP No. 802-24-42801 - R

Living Shoreline / Carbon Sequestration Project at J.D. Murphree Wildlife Management Area

NIGP Class/Items: 909-31; 959-35; 959-26

RFP Issue Date:	February 20, 2024
Proposal Due Date:	March 5, 2024; 2:00 PM CT

Purchaser: Tammy Dunham, CTCD CTCM
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ATTENTION: It is the responsibility of interested parties to periodically check the Electronic State Business Daily (ESBD) website for updates to this solicitation prior to submitting a response. The Respondent's failure to periodically check the ESBD will in no way release the selected contractor from "addenda or additional information" resulting in additional cost to meet the requirements of the RFP.

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SECTION I – GENERAL INFORMATION AND STATEMENT OF WORK

1. INTRODUCTION

- a) **This is a readvertisement of RFP 802-24-42801. The scope of work and recommended design information has not changed; alternative designs that meet the project goals will be considered. This readvertisement is to make the intent of project clear as well as to ensure that Respondents are aware that flexibility in responses is allowed if the proposal meets the intended outcome of the project. TPWD will evaluate responses to determine the project approach and design that would be in the best interest and of best value to the State.**
- b) Texas Parks and Wildlife Department (TPWD) is seeking proposals from public or private entities to provide nature-based carbon sequestration services by constructing approximately 39,463.92 feet of living shoreline located at TPWD J. D. Murphree Wildlife Management Area (WMA), See *Map - Attachment 1*.
- c) HB4018, passed in the 88th Legislative Session and effective Sept. 1, allows TPWD to enter into agreements through an innovative conservation model providing both wetland protection and carbon credit-based revenue without any direct funding from the agency. HB4018 authorizes the development of nature-based structures on land primarily used for game or fish conservation, protection, or management.
- d) TPWD is seeking a partner willing to fund and construct certified nature-based structures that will be maintained and repaired during the life of the Agreement to include repair due to storm-induced structural damage. TPWD expects partner to fund all construction costs, maintain and repair the structures for the life of the agreement, and share in generated revenue as a result of carbon credits.
- e) The purpose of this project is to protect and restore coastal marsh and other coastal lands that provide valuable ecosystem services such as acting as a buffer against tidal storm surges, providing habitat for fish and wildlife, and providing recreational experiences to the public.
- f) Without shoreline protection, the project site will continue to degrade over time. Vegetated coastal marsh will eventually convert to open water and the project site will lose capacity to serve as a natural buffer against storm surge. Further inland of the project site, public conservation, and recreation lands (including infrastructure), private property, livestock, grazing lands, and habitats for fish and wildlife will have an increased risk to severe damage from storm surge and protracted recovery.
- g) Natural restoration of subtidal and intertidal emergent marsh will occur in the area between the constructed structure and the shoreline. The shoreline will be stabilized as waves break against the structure and not the shore; thus, marsh vegetation will naturally recolonize along the

protected shoreline and trap sediments behind the structure to promote marsh accretion. The structure and the naturally restored shoreline will protect valuable habitats for fish and wildlife populations and sustain the capacity of the protected vegetated marsh to act as a buffer against tidal storm surges for the benefit of the community.

2. BACKGROUND

- a) The J. D. Murphree WMA is a 25,852-acre tract of fresh, intermediate, and brackish water coastal marsh on the upper coast of Texas. These wetlands are part of the Texas Chenier Plain, the westernmost geologic delta of the Mississippi River. The WMA represents the coastal marshes of the Texas Chenier Plain and is managed as wetland habitat with a special emphasis on migratory waterfowl habitat.
- b) The WMA is highly diverse in coastal wetland communities including freshwater, intermediate, brackish and to small extent saline wetlands. Plants typically found in freshwater wetlands include cattails, California bulrush, Jamaican sawgrass, lotus, and arrowheads (*Sagittaria* species) with floating nuisance and invasive plants such as giant *Salvinia* and water hyacinth becoming more abundant. Marshes with a little salt influence support plants such as seashore *paspalum*, cordgrass, banana waterlily and spikerushes. Cordgrass, salt grass, widgeongrass and dwarf spike rush are plants indicative of brackish marshes, where the influence of salt water is higher, while oystergrass is the dominant plant of salt marshes near Sabine Lake.
- c) Since the 1930s the marshes in and around what is now the Salt Bayou Unit of the J. D. Murphree WMA have been lost at a rapid rate. In response, a multi-agency stakeholder group formed in 2000 to identify the major causes of loss and find ways to stop or reverse the trend. The group developed the Salt Bayou Watershed Restoration Plan to provide a watershed scale framework for management of these coastal wetlands.

3. PROJECT OBJECTIVES

- a) To utilize the proposed construction of the living shoreline that maximizes nature-based coastal infrastructure systems which provide resilience against wetland and ecosystem service loss due to erosion, and the loss of wetlands due to sea level rise and thus loss of carbon sequestered in the wetlands.
- b) To evaluate the use of Living Shoreline Projects for the conservation of fish and wildlife habitat and other ecosystem services, in coastal wetlands on public lands, specifically those owned and managed by TPWD.
- c) To create strategies and solutions for the long-term stewardship of Living Shoreline Projects.

4. SOLICITATION METHOD AND INTENT

- a) The Request for Proposal (RFP) solicitation method allows qualified respondents to submit a written proposal addressing pricing, qualifications, experience, project schedule, approach and other factors that will be employed to ensure successful accomplishment of the requirements set forth herein. An RFP is used when factors other than price are to be considered, negotiations are desired, and the vendor is expected to provide innovative ideas. TPWD will review, compare, and evaluate responses based on the criteria and weights identified in this RFP.
- b) It is TPWD's intent to identify qualified Respondents and award one contract for services described herein. The awarded Project Developer will be responsible for subcontracting all services, supplies, and incidentals necessary to successfully complete and maintain the project.

5. QUALIFICATIONS AND EXPERIENCE

- a) **Minimum Qualifications and Experience:** Respondent (and awarded Project Develop) shall meet the following minimum qualifications:
 - i) Shall be engaged in the business of working on Carbon Projects and emerging techniques to estimate carbon sequestration in wetlands or services similar in type and quantity to those listed herein. Recent start-up businesses do not meet the requirements of this solicitation. (A start-up business is defined as a new company that has no previous operations history or expertise in the relevant business and is not affiliated with a company that has that history of expertise.)
 - ii) Shall have available the necessary qualified personnel, skills, qualifications, organization, equipment, and supplies required to fulfill all requirements under this RFP and any resulting contract.
 - iii) Shall be in good financial standing. TPWD reserves the right to request a copy of the respondent's audited or un-audited financial statement.
- b) **Minimum Construction Qualifications and Experience:** Respondent or Subcontractor(s) shall meet the following minimum qualifications.
 - i) Experience with engineering design and construction of living shorelines and other coastal restoration projects
 - ii) Engineers must be licensed professional engineers by a Board of Professional Engineers

- iii) Demonstrated experience as the Prime Contractor on marine construction projects and/or aquatic environmental restoration projects within the past 5 years.
- iv) Any changes to subcontractors, if applicable, must be approved by TPWD.
- c) **Supporting Documentation:** Respondent shall complete and submit *Exhibit B – Company Profile, Exhibit C – Key Personnel, Exhibit D – Past Projects with Corresponding References* with proposal to provide documentation to support the above qualifications. (Ref: *Section II, Subsection 3.3.*)

6. AGREEMENT TERM

- a) Subject to all of the terms and conditions of the awarded Agreement the “**Term**” (herein so called) of the awarded Agreement shall consist, collectively, of each of the Development Term, Construction Term, and Crediting Term, as well as the closure and monitoring period following the Crediting Term (as those terms are defined below). Respondents shall provide an estimated Project Schedule and the term of each of the following Agreement periods in the Technical Proposal along with an explanation of tasks to be completed in each period.
 - i) **Development Term.**
 - (1) **Due Diligence.** Subject to earlier expiration because of the commencement of the Construction Term, the Effective Date of the awarded Agreement until completion of designated tasks shall be the “**Development Term**”. During the Development Term, and at no cost or expense to TPWD, Project Developer may conduct its due diligence and take any action that is reasonably necessary to assist in the design and obtain required permitting, without limitation, conducting engineering studies, economic studies, surveying, applying for permits and marketing; provided, however, that Project Developer may not make any material physical changes to the Property during the Development Term without the prior written approval of TPWD, which approval may be given or not in TPWD’s sole discretion.
 - (2) **Permits.** Project Developer is responsible for obtaining all required permits during the Development Term. Mandatory permits include, but may not be limited to, a United States Corps of Engineer (USACE) Section 404 permit and Texas Historic Commission permits related to cultural resources aspects. Prior to submitting the 404 application, Project Developer may be required to conduct threatened and endangered species surveys to expedite permit process.
 - (3) **Progress Report.** Beginning with the first such report due on the six-month anniversary of the Effective Date, and every six months thereafter during the Development Term, Project Developer shall prepare and submit to TPWD a “**Development Term Progress**

Report". Each Development Term Progress Report shall provide TPWD with an update of how development activities are progressing, including with regard to permitting activities, preliminary engineering reports, schematic design, design development, construction documents, and specifications. Additionally, any reporting on carbon credit evaluation and monitoring shall be included.

- (4) The design must be signed and sealed by licensed professional engineers by the Texas Board of Professional Engineers and must be approved by TPWD, and all required permits are obtained during the Development Term and prior to commencing to the Construction Term.
- (5) If the Project Developer is unable to obtain permits, or if both parties cannot agree on an appropriate design within three (3) years, TPWD reserves the right to reassess the project and approve additional time or terminate the Agreement. If the Agreement is terminated under this clause, no expenses incurred by Project Developer will be reimbursed by TPWD.

ii) Construction Term

- (1) **Duration.** Subject to the other provisions of this Agreement, the "**Construction Term**" shall (a) begin on the earlier of (i) the expiration of the Development Term, or (ii) the date on which Project Developer gives written notice to TPWD of its intent to proceed with construction of the Living Shoreline on the Property, and shall (b) end on the date that the Living Shoreline is complete and Verified (the "**Complete Date**").
- (2) **Construction Plans.** Project Developer acknowledges that, as the owner of the Property, TPWD has a reasonable and legitimate interest in remaining informed about the location, design, construction, operation, and maintenance of the Project.

iii) Crediting Period

- (1) **Duration.** The "**Crediting Period**" shall begin immediately upon the expiration of the Construction Term (the "**Crediting Commencement Date**"). Respondents shall include the proposed term for Crediting within their Technical Proposal. The term of the Crediting period may be a factor in determining best value award.
- (2) **Project Developer's General Obligations.** During the Crediting Period, Project Developer shall maintain all permits necessary under applicable law for the initial and continued operation of the Project, obtain, operate, maintain, repair, and replace all safety lighting, signage on the breakwater and other parts and equipment as necessary for the safe and effective operation of the Project.

- b) Terms and/or Contract Extensions: In the event that the term and/or Agreement, if any, resulting from the award of this RFP shall terminate or be likely to terminate prior to completion of the project requirements, TPWD may, with the written consent of the awarded Project Developer, extend the Agreement term for a period of time as may be necessary to permit successful completion of services. Appropriate period of time for such extension will be determined by TPWD. Any extensions shall be at the same terms and conditions, plus any approved changes.

7. SCOPE OF WORK AND SPECIFICATIONS

- a) Respondents shall propose solutions that meet the required outcomes. The specifications and scope of work outlined herein are to give Respondents information on existing breakwater structures and current conditions in this area. These are not intended to limit or define how the living shoreline shall be constructed. All Proposals will be evaluated, and award made best on best value and in the best interest of TPWD.
- b) Project Developer is responsible for developing a suitable solution which is economical and achieves the purpose described in this solicitation.
- c) Project Developer shall provide all labor, materials, tools, supplies, transportation, equipment, insurance, and any other expense necessary to design, construct, and maintain a living shoreline at the J.D. Murphree WMA designated area per Attachment 1 – Map, in accordance with the following Living Shoreline minimum requirements.
- d) Accessibility to the construction site: There is no direct water route from the Gulf Intracoastal Water Way or Sabine Neches Waterway into Keith, Johnson, or Shell lakes. The SH87 bridge over the Keith Lake Fish Pass does not have enough clearance for most boats, including console outboards. The lakes are shallow, ranging from 2.5 ft deep in Shell Lake to 4.0 feet deep in the center of Keith Lake during normal tides. Lake bottoms have a gentle grade with water becoming shallow relatively far from existing shoreline.
- e) The project is for a breakwater only and does not include creation or planting of marsh between the breakwater and existing shoreline. Breakwater is to be constructed of rock rip rap or such materials of sufficient mass or design (e.g., reef balls) to withstand constant wave action of Keith, Johnson and Shell lakes and storm surge from Category 1 hurricane or higher. The breakwater will be constructed with materials and methods of a type that can be easily repaired upon short notice and not be proprietary in nature.

For reference, other breakwaters in the area have used 650# stone gradation standards:

RIPRAP BREAKWATER 650# STONE GRADATION	
Particle Mass (lbs.)	% Lighter
650-280	100

280-130	50
40-130	25
40-0	5 Max

- f) Soils in the proposed project area are soft clays with high organic content. Breakwater shall have geotextile fabric stabilization or other appropriate foundation for proposed materials.
- g) These lakes and marshes are frequently inundated throughout the year with as much as 2 feet of water during extended high tides or when a tropical depression is in the Gulf of Mexico. Height at crown of breakwater is to be high enough to dissipate wave energy from typical southeastern winds throughout the year but no lower than Mean High Water (MHW).
- h) Breakwater will be in six (6) segments as depicted on the Attachment 1 - Map with approximate linear feet for each segment and distance from the existing shoreline as presented in the table. Placement of breakwaters as specified is to prevent encroachment of the breakwater on future beneficial use of dredge material project adjacent to the breakwater site. Therefore, the offset from shoreline distances shall be considered a minimum distance.

Segment	Linear feet (approx.)	Offset from shoreline (ft)
1A	1170	130
1B	5329	225
1C	7183	100
1D	13417	132
1E	7822	210
1F	3204	265

- i) Each segment shall have passages to allow ingress and egress of fish and larval marine organisms behind the breakwater during daily tidal exchange. These passages shall be designed to prevent or minimize erosion behind the breakwater during daily tidal cycles. Each segment will have a minimum of two (2) such passages or one every 1,000 feet whichever is greater.

- j) A gap between each segment located at four boat passages into the marsh and one pipeline crossing will be maintained at a minimum of 150 feet. Gaps will be clearly marked with navigation aids. Warning signs will be placed along each segment of breakwater at a minimum of 500 ft. or to current Coast Guard standards.
- k) Project Developer shall design and construct the Living Shoreline, and operate the Project, so that there is a reasonable expectation that at least 99 percent of the CO2 sequestered in the Site will remain sequestered for at least 100 years. All work done by or on behalf of Project Developer with regard to the Project shall be (i) pursued diligently and timely, and performed in a good and workmanlike manner, and (ii) undertaken in full compliance with all applicable laws and regulations, as well as industry best practices, including as set out in International Standard ISO 27914 (ISO), and successor standards.
- l) Project Developer shall observe the rules and regulations governing Occupational Safety and Health Standards as published by OSHA, for all operations and work that may be performed as requested in this solicitation.
- m) Project Developer is responsible for securing all required permits and for all inspection and license fees required to complete the Work requested in this solicitation. Project Developer is responsible for coordinating with Texas Historical Commission and obtaining clearance before construction can begin. Project Developer is responsible for obtaining all required permits, including USACE Rivers and Harbors Act Section 10 and Clean Waters Act Section 404 permits for the project. Project Developer is responsible for locating buried pipelines and utilities.
- n) Water Based Construction Requirements:
 - i) Construction methods and materials should follow the US Army Corps of Engineers (USCE) guidance and applicable industry standards for water-based construction. The project will meet all governing local, state, and national and/or regulatory agencies' requirements, codes, permits, and agreements.
 - ii) Breakwater must be designed and constructed to consider resource conservation during construction and operation.
 - iii) For wildlife protections, Project Developer must use the best management practices to reduce suspended solids in the water during the Construction Period. Coordination with the United States Fish and Wildlife Service (USFWS) regarding Threatened and Endangered species found in and near the Project area to develop best management practices.
 - iii) Construction sites will be limited to the smallest possible area necessary to build project.. Current and reasonable mitigating and protective measures must be implemented during

construction to preclude inordinate damage to vegetation, soil, water quality, wildlife habitat, and archeological resources. (Protective measures shall include, but not be limited to, temporary fencing, silt fencing, controlled vehicle and equipment parking, and controlled materials storage areas, etc.) The construction Project Developer is accountable for any undue or unnecessary environmental impact during construction. Construction can only begin after resource clearance approval has been granted.

- iv) Storm Water Drainage and Preventative Flood Design: To reduce the amount of flood damage, the structure should not interfere with the flow of floodwater.
 - v) Non-Development Areas: Landscape conditions in areas not associated with structure development will not be modified unless for public safety, species management, or necessitated by construction of dispersed-use facilities such as trails and wildlife viewing platforms. Terrain and plants may be manipulated, where necessary, to restore natural conditions on lands altered by human activity. In localized, specific areas, screen plantings may be established to protect the area from undesirable impacts of adjacent land uses.
 - vi) The planning, design, and development of the project should be expected to go through the TPWD facility design phase approvals of preliminary engineering reports (PER), schematic design (SD), design development (DD), construction documents (CD), and specifications. Estimates of probable project costs will also require review and approval for each phase of the work.
- o) Construction Schedule:
- i) Project Developer shall submit an initial Work Progress Schedule for the Construction Phase not later than 21 days after the effective date of the Notice to Proceed with Construction to TPWD. The Work Progress Schedule shall be computerized Critical Path Method (CPM). The initial schedule shall indicate dates for starting and completing various aspects required to complete the Work including mobilization, procurement, installation, testing, inspection, delivery of close-out documents and acceptance of all the Work.
 - ii) Project Developer shall update the Work Progress Schedule monthly, as a minimum, to reflect progress to date and current plans for completing the Work, while maintaining the original schedule as the baseline schedule.

8. SURFACE USE AGREEMENT AND CONSTRUCTION TERMS FOR J.D. MURPHREE WMA

Access to awarded Project Developer and use of the WMA under the Agreement are subject to the following conditions:

- a) Of paramount importance and concern to TPWD and to other state and federal wildlife officials, natural resource conservation authorities, and the public, is the conservation and management of sensitive wetlands habitats on the WMA. At all times, while on the WMA, Project Developer and its affiliates, agents, associates, staff, and Project Developers shall operate and comply in strict accordance with the awarded Agreement and permits and mitigation plans related to this project. Project Developer will also fully comply with any and all specific instructions provided by state and federal authorities having jurisdiction over this and all other activities on the WMA.
- b) All vehicles and equipment used for the construction and maintenance activities, including but not limited to amphibious excavators, airboats, outboard motorboats, support barges or other floating equipment, dredge pipe, or equipment approved by the designated TPWD Project Manager ("Project Manager") shall remain on designated roads, or in designated areas, in accordance with the approved Work Plan, except for alternative routes or spaces designated by the Project Manager.
- c) All work shall be conducted during hours and days as designated by the Project Manager. Weather and water level conditions may prohibit access to the WMA. In the event of adverse weather conditions, the Project Manager may temporarily halt all operations or approve alternative means of access.
- d) Cutting, clearing, or other vegetation or soil disturbances are prohibited except in accordance with the approved Work Plan or upon prior written approval of the Project Manager. Except as otherwise shown on the engineering plans, Project Developer's engineering, procurement, and construction Project Developer shall protect vegetation adjacent to and within the construction site. If the Project Developer's work requires removal of vegetation, the Project Developer shall obtain written approval from the Project Manager prior to removal. Prior to entering and/or leaving the Land, all equipment shall be power washed and sufficiently cleaned to prevent the introduction of exotic and/or invasive species vegetation into the WMA. No herbicides or biocides are to be used on the WMA without the prior written consent of the Project Manager.
- e) Entrance to and travel within the WMA shall be over existing roads, routes established in the Work Plan or USACE Permit, or as authorized in writing by the Project Manager. Project Developer will create a set of photographs prior to and following construction for all roads and assets used by Project Developer in association with this work. A copy of these photos will be provided to TPWD. All roads used in conjunction with the work shall be regularly maintained by Project Developer throughout operations to ensure accessibility by two-wheel drive vehicles towing a trailer. At a minimum, all roads used in conjunction with the work will be maintained during the Construction Phase and if damage to roads occurs during maintenance and repair services with appropriate features installed as needed to minimize erosion. Damage to roads, gates, culverts, cattle guards, erosion protection features, and other physical features shall be repaired using like materials and shall be restored to preconstruction site conditions upon completion of the work by Project Developer and approved by the Project Manager. All restoration shall be performed to the satisfaction of the Project

Manager. All restoration costs shall be borne by Project Developer.

- f) In the event that Project Developer fails to remedy/repair/replace damages to roads, gates, culverts, cattle guards, erosion protection features, and other physical features, TPWD will provide written notice to Project Developer of the requirement to repair damages. If Project Developer fails to respond within 30 days of notice, TPWD may have damage corrected and will submit an invoice for payment to Project Developer. All damage repairs shall be accomplished at Project Developer's sole cost and expense.
- g) Gates on the Land shall remain closed, unless otherwise authorized by the Project Manager. Where access to the WMA is through a locked gate (route of entry to be determined by Project Manager), Project Developer may use TPWD's combination lock and shall provide gate security during Project Developer operations. Only authorized Project Developer employees or agents shall be allowed access to the WMA. No access to the WMA by Project Developer vehicles and employees is allowed except as necessary for the project operations authorized by this License.
- h) Project Developer shall not damage water-holding facilities, dams, levees, water control structures, creeks, sloughs, tanks, or springs on the WMA.
- i) Project activities will be planned and conducted at times that will not interfere with public hunts or other scheduled activities on the WMA. Hunt dates are established by the Texas Parks and Wildlife Commission at its May meeting each year. Project Manager will provide those dates, along with dates to be designated as "No Contractor Access" on the WMA prior to the dates becoming effective. To avoid disturbance of wildlife, Project Developer shall not conduct any activity on the WMA for at least 24 hours prior to scheduled hunt day(s). Project Developer shall coordinate with the Project Manager regarding likely dates for public hunts and for information about scheduled activities during the projected construction time frame. If operations are necessary during the regular waterfowl hunting season or during other scheduled public or TPWD activity dates, Project Developer shall coordinate with TPWD Project Manager to develop a plan of operations that avoids disturbance to both birds and visitors on the WMA.
- j) Hunting and/or fishing on the WMA by Project Developer during the course of operations is prohibited in all circumstances.
- k) Fires on the WMA are prohibited in all circumstances.
- l) Use of alcohol and illicit drugs or any illegal activity on the WMA is prohibited in all circumstances.
- m) Project Developer shall be directly responsible to TPWD and to any surface lessee and any other holder of a surface right for any damages caused by operations hereunder to wildlife, livestock, houses, fences, gates, roads, bridges, tanks, or other improvements or pasturage or growing crops on the WMA and access under this License is issued subject to the prior

rights of any lessee of the WMA.

- n) Nothing in the awarded Agreement is intended or should be construed (a) as an express or implied waiver of any claims or defenses by TPWD or Project Developer nor (b) as absolving Project Developer of any legal claim for damages TPWD may be entitled to assert resulting from Project Developer's negligence or wrongful conduct.
- o) Project Developer must obtain all clearances and authorizations necessary for this project, including but not limited to 404 Clean Water Act clearance, or Nationwide Permit, endangered/threatened/candidate species clearances and cultural resource clearances, and has provided written documentation of same to TPWD..
- p) An Awarded Agreement will not relieve Project Developer of its responsibility for obtaining permission in compliance with Subchapter E, Section 191.131 (b) of the Texas Antiquities Code, as applicable. Project Developer should phone the office of the State Archeologist at (512) 463-5711 for guidance and applicable instructions. As required by TPWD archeologist or the Texas Historical Commission, three copies of the completed archeological survey must be submitted to the TPWD, Wildlife Division Archeologist or Cultural Resources Coordinator. Additional information or coordination is available from the Wildlife WMA Facilities Coordinator at 512-389-4407.
- q) TPWD retains the right to require reasonable alternatives to disturbance in high resource value areas. All reasonable precautions, including consultation with the Project Manager, shall be taken to avoid disturbance of fish, wildlife, or critical plant resources on the WMA during Project Developer operations. Particular caution shall be taken to avoid and protect sensitive species and sensitive habitats, such as drainage. Activities affecting these species and habitats may require coordination with other state and federal agencies. At all times on the WMA, Project Developer shall operate in strict accordance with the Mitigation Plan in USACE Permit # SWG-2008-00497 and with specific instructions provided by state and federal authorities having jurisdiction over this and all other activities and locations on the WMA.
- r) Project Developer shall post signs at appropriate locations on the WMA, as designated by the Project Manager, to adequately notify the visiting public of Project Developer operations.
- s) Speed limit for vehicular traffic on the WMA shall be 20 miles per hour.
- t) Project Developer shall affirm that Project Developer representatives for the project proposed for the WMA are thoroughly familiar with the components and requirements of the plan as they apply to the planning and performance of activities to be conducted by Project Developer on the WMA, and Project Developer further affirms that such activities are authorized under conditions of the Mitigation Plan in USACE Permit.

- u) The consideration for this License is the short and long-term benefit insured to TPWD of restoration of marsh habitat, increased productivity to fish and wildlife resources, enhanced operations, and management opportunities on the WMA, ultimate increase of public recreational opportunities on the WMA, and the potential to share in revenue from the carbon credits.
- v) Project Developer must advise TPWD at least 48 hours in advance of project activity by telephoning or emailing the Project Manager.
- w) Project Developer shall attend a project kick-off meeting, hosted by TPWD, prior to conducting any operations on the WMA. All Project Developer personnel responsible for activities on the WMA shall attend the meeting to ensure that each person is familiar with the stipulations/restrictions applicable to operations. Project Developer shall conduct daily safety and task instruction meetings each morning. All persons representing Project Developer involved in this project during hunting season will wear orange clothing and will comply with all safety directions provided.
- x) Project Developer shall follow directives of Project Manager or Assistant Project Manager regarding operating times, locations, and conditions on the WMA, in order to avoid disturbance of wildlife and the public. Project Developer will comply with directions of the Project Manager on best ways and times to avoid conflicts. This may include, but is not limited to, prohibiting work at least one day prior to or during visitor use periods.
- y) Project Developer shall notify the Project Manager in writing upon completion of all activities associated with the project, and Project Manager shall inspect all facets of the project for compliance with the terms of this License.
- z) Surface impact monitoring will also be conducted by TPWD field staff to advise and consult with Project Developer crews working in sensitive habitats. The TPWD monitors shall promptly advise the Project Developer in writing, of any corrective measures required to be taken in order to minimize impacts to wildlife and vegetation.

9. CARBON CREDIT/OFFSETS REQUIREMENTS

- a) It is TPWD's intent that the Living Shore Project specified herein shall meet certification protocols necessary for a blue carbon market to develop and for the sale of Carbon Credits.
- b) To ensure that blue carbon credits are verifiable, they must meet established standards for [carbon accounting](#) and verification, such as the Verified Carbon Standard or the Gold Standard. The standards help make sure that the credits are indeed real, measurable, and verifiable carbon reductions and the projects that produce them meet the criteria.

- c) Respondents shall specify in their Technical Proposal their proposed revenue sharing plan for carbon credits. Proposal shall include the anticipated amount and value of carbon credits available at the site prior to construction, the amount of carbon credits that may be obtained immediately upon construction and for the term of the agreement after construction. Proposal shall provide breakdown of amount and value and proposed revenue sharing by carbon credit type as outlined below and how the credits may be shared or updated during the life of the Agreement.

Carbon Credit:

- (1) Certified Carbon Credit
- (2) Construction Credits
- (3) Long Term Generation Credit

10. PROJECT DEVELOPER REQUIREMENTS

- a) Maintain and retain, and provide TPWD with access to, an online repository for the documents prepared and submitted for the approval and maintenance of the Permit(s) for the Project.
- b) As requested by TPWD, provide copies of all relevant permits, plans, schematics, as-builts, and all other materials reasonably requested by TPWD that pertain to the design, construction, location, and operation of the Project (collectively, the “**Plans**”). Notwithstanding the foregoing, however, Project Developer shall be solely responsible and liable for the permitting, design, and construction of the Project, and the receipt by TPWD of the Plans and any commentary by TPWD, or its employees, regarding the Plans shall not be construed in any way as the undertaking by TPWD of any professional or legal responsibility whatsoever for either the completeness or adequacy of the Plans or the Project as it is actually constructed and operated by or on behalf of the Project Developer. Project Developer shall be solely responsible for all performing and/or obtaining all testing, inspections, and approvals necessary to achieve the Complete Date and to begin operating the Living Shoreline as intended by this Agreement.
- c) Project Developer agrees to conduct all its services under the awarded Agreement by and through appropriate communications with TPWD. No work, installation or other services shall be undertaken by Project Developer except with the prior written authorization by TPWD. Project Developer understands and agrees that work, installation, or other services performed without prior written authorization of the TPWD is work outside the scope of this Agreement and shall be performed exclusively at Project Developer’s risk.
- d) Designate a Project Manager. TPWD will be informed in writing of any changes to who is designated Project Manager.
- e) Provide project management and perform construction of new living shoreline structures proposed herein.

- f) The breakwater construction will follow the design as submitted herein and as approved by TPWD prior to any construction services being performed.
- g) Monitor activities of the subcontractor throughout the construction period and periodically inspect the completed segments of the structure for adherence to the approved design and specifications.
- h) Complete pre-construction field survey work as needed to collect topographic and bathymetric data for the potential refinement of project construction plans.
- i) Provide periodic project status updates, including proposed subcontractors, to TPWD as requested. This may take the form of informal emails and phone calls or brief quarterly reports.
- j) Comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §3145 and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§3141; 3702 to 3708).
- k) Provide and maintain, as necessary, all labor, materials, tools, equipment, technology, permits, supplies, insurance, incidentals, and services necessary for the construction, operation, and maintenance of this Living Shoreline structure throughout the term of the awarded agreement.
- l) Provide service in accordance with requirements specified herein and the resulting Agreement(s) and adhere to the TPWD Terms and Conditions.
- m) Project Developer is responsible for all costs incurred in the performance of the Agreement.
- n) Comply with all laws, ordinances, statutes, and regulations pertaining to the services requested herein, and shall obtain such permits, licenses or other authorizations as may be required.
- o) Follow relevant safety rules and conduct the work in a safe manner.

11. TPWD RESPONSIBILITIES

- a) TPWD will designate a Project Manager.
- b) TPWD will furnish no material, labor, equipment, or facilities unless otherwise provided for in this contract.
- c) Provide routine coordination necessary to maintain the continuing viability and functionality of the Project throughout the term of this Agreement.
- d) To periodically review the Project's development and operation pursuant to this Agreement.

- e) Notify Project Developer if any damage is observed or if maintenance is necessary to the Project. However, it is not the responsibility of the TPWD Project Manager to perform routine inspections of the structure.

12. PERFORMANCE MEASURES

- a) Project Developer will be responsible for the performance of any contractual obligations that may result from an award based on this RFP and shall not be relieved due to non-performance of any or all subcontractor(s). By submitting a proposal, the Respondent commits to providing the goods and services required in the RFP. The successful Respondent(s) will be required to abide by TPWD policies, procedures, standards, and guidelines relevant to the execution of this Agreement.
- b) TPWD will measure and evaluate the Project Developer's and/or subcontractor's performance under the contract. If the Project Developer or subcontractor does not meet any standards for deliverables and/or performance incentives (if applicable), TPWD may impose remedies if the Project Developer or subcontractor(s) fails to meet their responsibilities as outlined in the RFP and the terms and conditions of the Agreement. All services and deliverables under the Agreement shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standards, customs, and practices. In the event TPWD deems that the Project Developer's performance does not meet an acceptable quality level of service and deliverables, TPWD may seek or negotiate remedies with the Project Developer.

13. TPWD RESERVED RIGHTS

Reserved Rights: TPWD expressly reserves the following from the rights in the Property and in the Easement Tracts described herein.

- a) Mineral Leases. The right to retain existing leases or execute and enter into new leases for the exploration, development, production, treatment, marketing, sale and transportation of oil, gas, and other minerals to third persons, and to grant to such mineral lessees the right to use the surface and subsurface of the Property for ancillary purposes in a manner that does not materially and unreasonably interfere with the rights granted to Awarded Project Developer.
- b) That the Site will remain under the jurisdiction of TPWD and that TPWD will be solely responsible for the Site's administration and management.
- c) Other Uses of the Property. The right to enter into, or to grant easements or other access rights to third parties to enter into, the Property and/or the Easement Tracts for any use, to conduct any activity, or to construct, maintain, and operate any facility or infrastructure that does not materially and unreasonably interfere with the rights granted to Project Developer in the awarded Agreement.

14. MODIFICATIONS OF AGREEMENT TERMS AND/OR AMENDMENTS

- a) The terms and conditions of the Agreement shall govern all transactions under the Agreement.
- b) The Agreement may only be modified or amended upon mutual written agreement of TPWD and the Project Developer.
- c) Terms and conditions that do not conflict with the Agreement and are acceptable to the Project Developer(s) may be to the awarded Agreement and given effect. No additional term or condition added in Agreement can conflict with or diminish a term or condition of the Agreement.

15. INSURANCE

- a) Project Developer shall procure and maintain during the entire period of their performance under this Agreement the following minimum insurance.

Type of Insurance	Each Occurrence/Aggregate
Workers Compensation	STATUTORY LIMITS
Employer's Liability Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease	\$1,000,000 Ea. Accident \$1,000,000 Ea. Employee \$1,000,000 Policy Limit
Commercial General Liability General Aggregate Applies Per Project	\$2,000,000 Aggregate \$5,000 Medical Expense each person \$50,000 Damage to Premises Rented to You \$2,000,000 Products Completed Operations \$1,000,000 Personal & Advertising Liability \$1,000,000 Each Occurrence
Automobile Liability All Owned, Hired and Non-Owned Vehicles	\$1,000,000 Combined Single Limit
Excess Liability Insurance	\$5,000,000 Minimum

- b) Policy must contain an additional insured endorsement: *The State of Texas, acting through Texas Parks and Wildlife Department and its officers and employees, is listed as an additional insured and loss payee.*
- c) The required coverage is to be with companies licensed in the state of Texas, with an “A” rating from A.M. Best, and authorized to provide the corresponding coverage.
- d) Prior to the commencement of the job and not later than ten (10) days following award, the Project Developer shall furnish to TPWD, for approval, a certificate of insurance as proof that the required insurance is in full force and effect. The certificate of insurance shall be sent to: Tammy Dunham / Purchasing & Contracting, Texas Parks & Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; or may be emailed to purchasing.bidbox@tpwd.texas.gov.

16. PAYMENT AND PERFORMANCE BONDS

The Project Developer is required to tender to TPWD, prior to commencing the construction services, performance, and payment bonds, as required by Texas Government Code, chapter 2253, as follows:

- a) Payment Bond: A Payment Bond is required in the amount of the construction portion of the Living Shoreline and must be furnished by the successful Project Developer at least 90 days prior to the date of construction. Payment Bond is payable to TPWD solely for the protection and use of payment bond beneficiaries who have a direct relationship with the Project Developer or Subcontractor. All bonds submitted shall be in the original form bearing original signatures and seal and shall be furnished to TPWD within ten (10) business days of Notice of Award. See *Attachment 2 – Payment Bond*.
- b) Performance Bond:
 - i) Successful Project Developer will be required to furnish a Performance Bond in the amount of the construction portion of the Living Shoreline, or other form of security approved by TPWD for the full amount of the construction of the Project. Such performance security must be furnished upon notification by TPWD within ten (10) business days of Notice of Award. See *Attachment 3 – Performance Bond*.
 - ii) The Performance bond shall be for the entire contract period. The Performance Bond shall provide that in the event of non-renewal, TPWD, and the Project Developer be notified in writing by the issuer a minimum of sixty (60) days prior to non-renewal.
 - iii) In the event of non-renewal, the Contractor shall provide TPWD evidence of the new source of surety within twenty-one (21) calendar days after the Project Developer's receipt of the non-renewal notice. Failure to maintain the required surety in force may be cause for contract termination.
 - iv) Failure to provide the bond at least ninety (90) days prior to construction may result in cancellation of the contract.

17. SUBCONTRACTING

Refer to Section III – General Terms and Conditions, Paragraph 56 – Subcontracting.

18. CONTRACT ADMINISTRATION

- a) TPWD will maintain on-going review and status of Project Developer's progress toward completion of services.
- b) Administration of the Agreement is a joint responsibility of TPWD Wildlife Division and the TPWD Purchasing & Contracting Branch. TPWD purchasing staff will be responsible for administering the contractual business relationship with the Project Developer. Upon issuance of Agreement, TPWD will designate an individual who will serve as the contract manager and point-of-contact

between the agency and the Project Developer. The contract manager does not have any express or implied authority to vary the terms of the Agreement, amend the Agreement in any way or waive strict performance of the terms or conditions of the Agreement. This individual's contract management and contract administration responsibilities include, but are not limited to:

- i) Monitoring the Project Developer's progress and performance and ensuring services conform to established specification requirements.
- ii) Managing the financial aspects of the Agreement including approval of payments.
- iii) Meeting with the Project Developer to schedule service, and as needed to review progress, discuss problems, and consider necessary action.
- iv) Identifying a breach of Agreement by assessing the difference between Agreement performance and non-performance.
- v) Other areas as identified by the State of Texas Procurement and Contract Management Guide, latest edition.

SECTION II – PROPOSAL REQUIREMENTS

1. SCHEDULE OF EVENTS

TPWD intends to proceed according to the following schedule. These dates represent a tentative schedule of events. TPWD reserves the right to change the dates in the schedule of events above upon written notification to prospective Respondents through a posting on the Electronic State Business Daily as an Addendum.

Event	Date/Time
RFP Issue Date:	February 20, 2024
Proposal Due Date:	March 5, 2024; 2:00 PM CT

2. INQUIRIES

- a) **CONTACT:** All requests, questions, or other communications about this Solicitation shall be made in writing to TPWD’s Purchasing Department, addressed to the following person:

Tammy Dunham, Procurement Director
 Texas Parks & Wildlife Department
 4200 Smith School Road
 Austin, Texas 78744

Contact Info:
 Phone 512-389-4752
 Fax 512-389-4677
 Email: tammy.dunham@tpwd.texas.gov

- b) **CLARIFICATIONS:** TPWD will allow written requests for clarification of this Solicitation. Questions may be faxed or e-mailed to the point-of-contact listed in [Section II, Subsection 3 a\)](#). Questions should be submitted in the following format: a) Reference the Solicitation number; b) Reference the Section number, Page number, Paragraph number, and Text of passage being questioned; and c) Question.
- c) **DEADLINE FOR SUBMISSION OF QUESTIONS:** To provide TPWD with sufficient time to adequately prepare responses to vendor inquiries, all questions must be submitted by the deadline specified in [Section II, Subsection 1](#).
- d) **ANSWERS TO QUESTIONS:** The target date for answering questions is within three business days after deadline for questions. Official answers will be posted as an addendum to this solicitation, on the Electronic State Business Daily at <http://www.txsmartbuy.com/esbd>. Respondent names will be removed from questions in the responses released. TPWD reserves the right to amend answers prior to the proposal submission deadline. If respondents do not have Internet access, copies may be obtained through the point of contact listed above. **Note:** *It is the responsibility of interested parties to periodically check the ESBd for updates to the procurement prior to submitting a proposal. Respondent’s failure to periodically check the*

Electronic State Business Daily (ESBD) will in no way release the selected vendor from “addenda or additional information” resulting in additional costs to meet the solicitation requirements.

- e) **PROHIBITED COMMUNICATIONS:** Upon issuance of this solicitation, TPWD, its representative(s), or partners will not answer questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s), except for the written inquires described in [Section II, Subsection 2 b\)](#) above. Attempts to ask questions by phone or in person will not be allowed or recognized as valid. **Failure to observe this restriction may disqualify Respondent.** Respondent shall rely only on written statements issued through or by TPWD’s purchasing staff. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this solicitation.

3. PROPOSAL CONTENT

Below is a summary of required and requested information. Proposals submitted without this information will be evaluated accordingly. TPWD reserves the right, in its sole judgment and discretion, to waive minor technicalities and errors in the best interest of the state.

a) **GENERAL RESPONSE FORMAT:**

Respondents shall submit **one (1) original** proposal signed (marked Original). In addition, Respondents should submit **one (1) copy** of the proposal. *Pricing should not be included in the submitted Submissions* should be on 8 ½ x 11-inch paper and tab-indexed corresponding to the sections/exhibits listed below. (Plastic spine-bound or wire-bound submittals are highly discouraged.)

b) **REQUIRED RESPONSE CONTENT:**

- i) Respondent **MUST** include the following documentation in their response submission. ***Failure to submit with response will result in disqualification of the proposal.***
- ii) **Exhibit A – Execution of Proposal:** Respondent must submit original signed, dated, and completed [Exhibit A - Execution of Proposal](#).

c) **ADDITIONAL RESPONSE CONTENT:**

- i) Respondent shall include the following additional documentation in their response submission, or within one business day of TPWD request. ***Failure to submit this additional documentation by TPWD designated deadline may result in disqualification of the proposal.***
- ii) **Exhibit B – Company Profile:** Include completed [Exhibit B](#) (or reasonable facsimile).
- iii) **Exhibit C – Key Personnel:** Include completed [Exhibit C](#) (or a reasonable facsimile, or resumes)

- iv) **Exhibit D – Past Projects with Corresponding References**: Include completed *Exhibit D* (or reasonable facsimile).
- v) **Exhibit E – Technical Proposal**: Include *Technical Proposal – tabbed Exhibit E*, including numbered responses corresponding to each of the items listed in *Exhibit E*.
- vi) **Addenda**: Respondent shall acknowledge receipt of any addendums generated as part of this solicitation. The respondents should include the signed and dated addendum(s) with their response submission.

4. PROPOSAL SUBMISSION

- a) All proposals shall be received, and time stamped by TPWD prior to 2:00 PM Central Time on the date specified in *Section II, Subsection 1* and the place specified in *Section II, Subsection 6*. Late proposals will not be considered under any circumstance and will be returned unopened.
- b) Proposals should be placed in a sealed envelope/package and correctly identified with RFP number, submittal deadline/opening date and time. It is the Respondent's responsibility to appropriately mark and deliver the proposal to TPWD by the specified date.
- c) Receipt of all addenda to this RFP should be acknowledged by returning a signed copy of each addendum to the response.
- d) Respondents to this RFP are responsible for all costs of proposal preparation.
- e) Proposals shall be submitted to TPWD Headquarters, Purchasing & Contracting, as noted in *Section II, Subsection 6* below.
- f) **Telephone proposals are NOT an acceptable response to an RFP.** All submitted proposals become the property of TPWD after the RFP submittal due date/ deadline. Responses submitted shall constitute an offer for a period of ninety (90) days or until selection is made by TPWD, whichever is earlier.
- g) When Proposals are opened, only the names of the Respondents who submitted proposals will be read. Prices and terms will not be divulged until after Agreement award.

5. DELIVERY OF PROPOSALS

- a) **E-MAIL submittals are preferred and highly encouraged for this solicitation.** Responses may be returned via E-mail to Purchasing.Bidbox@tpwd.texas.gov. However, if a Respondent is unable to submit electronically, please notify Tammy Dunham of the intent for a hard copy delivery. Late responses will not be considered under any circumstance.

- b) E-mailed responses should include the following information in the E-mail “Subject” line: RFP number, submittal deadline date and time. It is the Respondent’s responsibility to E-mail the response to TPWD by the specified date and time.
- c) Receipt of all Addenda to this RFP should be acknowledged by returning a signed copy of each Addendum to the response.
- d) Respondents are responsible for all costs of response preparation.
- e) Telephone responses are NOT acceptable. All submitted responses become the property of TPWD after the RFP submittal due date/ deadline. Responses submitted shall constitute an offer for a period of ninety (90) days or until selection is made by TPWD, whichever is earlier.
- f) Hard Copy Proposals shall be submitted to TPWD by one of the following methods:

U.S. Postal Service	Overnight/Express Mail
Texas Parks and Wildlife Dept. Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744	TPWD – Mail Room Attn: Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744 Hours – 8:00 AM to 5:00 PM
NOTE: Proposals must be date stamped in Purchasing & Contracting prior to the due date and time.	

6. EVALUATION AND AWARD

- a) An Agreement will be awarded to the responsible Respondent who submits the proposal determined to be the best value to the State and who meet requirements included in this solicitation.
- b) Proposals may be withdrawn by written notice at any time prior to award. An e-mail to the purchaser’s name identified in [Section II, Subsection 3](#) above will be acceptable as a written notice for withdrawn. No proposals will be returned after award.
- c) Step 1 – Administrative Review by Purchasing: Only a complete response with the listed required submittal documents will be considered. Failure to meet the minimum qualifications and submit the required documents will result in a response being declared non-responsive. Proposals that do not conform to the instructions included in this RFP may be rejected by TPWD. TPWD reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received. No proposal received in TPWD Purchasing and Contracting Section after the exact date and time specified as the deadline for responses will be considered.
- d) Step 2 – Initial Evaluation: A TPWD evaluation committee will evaluate and score each response based on established criteria. Respondents shall not contact members of the evaluation team. Responses will be evaluated according to the respondent’s ability to best satisfy TPWD requirements. Respondent’s submission is evaluated and scored on a weighted system to determine the best value as follows:

Evaluation Criteria	Weight
Design and Proposed Construction Plan for Living Shoreline	50%

Proposed Revenue Sharing Plan for Carbon Credits	20%
Qualifications, Experience, and Capability	30%
Total	100%

e) Step 3 – Short List:

- i) At TPWD’s sole discretion, a short-list may be developed. Then, TPWD may check references.
- ii) References may include past performance evaluations. References will be scored on a pass/fail basis. Any negative responses received may be grounds for disqualification of the proposal.

f) Step 4 – Best and Final Offer (BAFO): The evaluation committee will determine if discussions and/or Best and Final Offers are necessary. Award of an Agreement may be made without discussions or Best and Final Offers, if in the best interest of the state.

- i) Discussions: The evaluation committee may determine that discussions are necessary to clarify or verify a written proposal.
- ii) Oral Presentations: TPWD may, at its discretion, elect to have respondents provide oral presentations of their proposals to allow Respondents the opportunity to highlight the strengths and unique aspects of their proposals and provide answers to clarification questions TPWD may have regarding the proposals and subsequent follow-up questions. The Respondent’s Project Manager designated in their proposal as being the primary “lead” individual coordinating the day-to-day project management during design and construction of the Project will facilitate and conduct the presentation made by the firm during the interview. Scoring from the evaluation criteria, Interviews and reference results will be the final determining factors in TPWD’s ranking of Proposals in order to determine the best value award. If TPWD is unable to negotiate a satisfactory contract with the selected Respondent, TPWD shall, formally and in writing, end negotiations with and proceed to the next Respondent in the order of the selection ranking until a contract is reached or all proposals are rejected.
- i) BAFO: A request for a Best and Final Offer is at the sole discretion of TPWD and will be requested in writing. If requested, respondent(s) shall submit a final price and any added value. If more than one respondent reaches this level, the negotiated terms, references, BAFO and added values will be considered in the award. TPWD will make the final determination on the best value.

- ii) The evaluation committee will evaluate the finalists and make a recommendation for award.

g) AWARD: TPWD will determine award based on the best value to TPWD in performance of this service. TPWD will be the sole judge of best value. (Refer to *Section III, Item 3.3* for Best Value criteria.)

SECTION III – GENERAL TERMS AND CONDITIONS

MARCH 2022

(ITEMS BELOW APPLY TO AND BECOME A PART OF THE CONTRACT)

Any Contract awarded as a result of this solicitation will contain the General Terms and Conditions listed below in this Section. Subcontractors are also obliged to comply with these provisions.

1. **DEFINITIONS:** As used throughout this solicitation, the following terms have the meaning set forth below. All other terms have the meaning set forth in Webster's II New College Dictionary.
 - 1.1. **Bidder:** An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or entity that submits a bid, such as an agent, employee and representative. See Respondent.
 - 1.2. **Contractor:** The individual, corporation, company, partnership, firm, or organization that has to furnish the materials and has to perform the work as stated in the solicitation.
 - 1.3. **ESBD:** The Electronic State Business Daily, which is available online at <http://www.txsmartbuy.com/esbd>.
 - 1.4. **Gov't Code:** The Texas Government Code.
 - 1.5. **Owner:** Texas Parks and Wildlife Department, an agency of the State of Texas.
 - 1.6. **Party/Parties:** Either the TPWD and Respondent separately or collectively.
 - 1.7. **Respondent:** Any person or Vendor who submits a Bid/Proposal/Offer in response to this solicitation.
 - 1.8. **Services:** Includes the use of labor, materials, facilities, equipment, and any other need that is necessary or incidental to the successful completion of the Contract.
 - 1.9. **Subcontractor:** Any supplier, distributor, Contractor, person, or firm furnishing to the Contractor, materials or services necessary or incidental to the performance of the Contract between TPWD and Contractor.
 - 1.10. **TAC:** The Texas Administrative Code, which is the publication for administrative rules.
 - 1.11. **Texas Identification Number:** A unique 11-digit number assigned by the Texas Comptroller of Public Accounts. When a Payee first contracts with a state agency, that Payee must provide either a federal Employer Identification Number (EIN) or a Social Security number (SSN). The Texas Identification Number (TIN) is based on this number. (Note: If Respondent does not have a TIN, or does not know their TIN, they may list their EIN or SSN on the "Texas Identification Number" line of the Vendor Information Block of their RFP, RFO, IFB or RFQ response.)
 - 1.12. **TPWD:** Texas Parks and Wildlife Department acting on behalf of the State of Texas.
2. **SPECIFICATIONS:**
 - 2.1. The goods/services provided shall be in accordance with the purchase specifications herein. TPWD will decide the answers to all questions that may arise as to the interpretation of the specifications and the quality, or acceptability of goods/services provided. TPWD will decide the rate of progress of the work and the acceptable fulfillment of the goods/service on the part of the Contractor.
 - 2.2. Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids/Proposals on brands of like nature and quality will be considered unless advertised under Texas Gov't Code §2155.067. If the Respondent is offering brands other than the references, response should show manufacturer, brand or trade name, and other description of

product offered. If Respondent is offering brand(s) other than brand(s) specified, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require Respondent to furnish specified brand names, numbers, etc.

- 2.3. Unless otherwise specified, items shall be new and unused and of current production.
- 2.4. Samples, when requested, must be furnished free of expense to the State. If not destroyed in examination, they will be returned to the Respondent, on request, at Respondent's expense. Each sample should be marked with Respondent's name and address, and requisition number. Do not enclose in or attach response submission to sample.
- 2.5. The State will not be bound by any oral statement or representation contrary to the written specifications of this Solicitation.
- 2.6. Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

3. AWARD OF A PURCHASE ORDER: Standard Purchase Order Terms and Conditions apply. If a conflict exists between the standard Purchase Order Terms and Conditions and specific language in this solicitation, the language in the solicitation shall prevail.

- 3.1. A response to a solicitation is an offer to Contract with TPWD based on the terms, conditions and specifications contained in the solicitation. Responses do not become Contracts unless and until they are accepted through an authorized TPWD designee by issuance of a Purchase Order.
- 3.2. This procurement will be conducted in accordance with the State Purchasing Act, Title 10, Subtitle D, Chapters 2151 through 2177, of the Texas Gov't Code (TGC) and TPWD rules. Any Contract resulting from this procurement shall consist of one (1) document. This document will contain all of the rights and duties of the parties extracted from the relevant terms and conditions of this solicitation (including its attachments, exhibits, supplements, and addenda); the successful Contractor's response; any TPWD request for a Best and Final Offer; and any successful Contractor's Best and Final Offer, if applicable.
- 3.3. Best Value – TPWD will be the sole judge of best value. Award will be based on Best Value criteria and may include, but is not limited to:
 - 3.3.1. Best meets the goals and objectives of the solicitation as stated above.
 - 3.3.2. Best meets the quality and reliability of the proposed services.
 - 3.3.3. Effect of the proposed solution on agency productivity.
 - 3.3.4. Provides the most customer focused solution that will best meet the needs of the public.
 - 3.3.5. Experience in successfully providing services in this solicitation.
 - 3.3.6. Past Performance: A Respondent's past performance will be measured based upon pass/fail criteria in compliance with applicable provisions of Gov't Code §§2155.074, 2155.075, 2156.007, 2157.003, and 2157.125. Respondents may fail this selection criterion for any of the following conditions:
 - a) The Vendor has a score less than C or Legacy Unsatisfactory in the Vendor Performance System,
 - b) Currently under a Corrective Action Plan through the Texas Comptroller of Public Accounts (CPA),
 - c) Having repeated negative Vendor Performance Reports for the same reason,
 - d) Having Purchase Orders that have been cancelled in the previous 12 months for non-performance (i.e., late delivery, etc.).
 - 3.3.7. Contractor performance information is located on the CPA web site at: www.txsmartbuy.com/vpts. CPA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.115),

CPA may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of Contracts. Any such investigations shall be at the sole discretion of CPA, and any negative findings, as determined by CPA, may result in non-award to the Respondent.

4. **UNIT PRICES:** Respondents must price per unit shown. Unit prices shall govern in the event of extension errors.
5. **FREIGHT:** Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
6. **DELIVERY:**
 - 6.1. Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates Respondent to deliver in 14 calendar days. Unrealistic delivery promises may cause solicitation to be disregarded.
 - 6.2. If delay is foreseen, Contractor shall give written notice to the TPWD. Contractor must keep the TPWD advised at all times of status of order.
 - 6.3. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TPWD to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting Contractor.
 - 6.4. **Substitutions:** No substitutions permitted without written approval of TPWD.
 - 6.5. Delivery shall be made during normal working hours only unless prior approval has been obtained from ordering agency. Normal working hours are 8:00 AM until 5:00 PM Monday through Friday except State and National holidays.
7. **TESTING AND INSPECTION:**
 - 7.1. TPWD may test and inspect goods and services purchased under the Contract to ensure compliance with the specifications of this solicitation and the Contract. TPWD may also test and inspect goods and services before they are purchased under the Contract. Authorized TPWD personnel shall have access to the Respondent's place of business for the purpose of inspecting the goods. To the extent practical, TPWD inspections will not disrupt the Respondent's daily operations. Tests shall be performed on samples submitted with the Bid/Proposal or on samples taken from regular shipments. All costs of testing and inspection shall be borne by the Respondent. In the event the goods tested fail to meet or exceed all conditions and requirements of the solicitation and Contract, the goods will be rejected in whole or in part, at the State's option, and returned to the Respondent or held for disposition at the Respondent's expense. Latent defects may result in cancellation of the Contract at no expense to the state.
 - 7.2. If material fails to meet specifications, the Respondent will be notified by fax, mail, or e-mail. The Respondent will have ten (10) working days after receipt of the notification to remove the rejected material from state property. Material will be removed at the Respondent's expense. Material not removed in the allotted time period will be disposed by TPWD. The Respondent will be charged for all disposable expenses conducted by TPWD.
8. **CHANGES:** TPWD may at any time, by a written order, make changes within the general scope of this Contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the services under this Contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the Contract price or time of

performance or both and the Contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change, provided, however, that TPWD, if it decides that the facts justify such action, may receive and act upon such claims asserted at any time prior to final payment under this Contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Dispute Resolution."

9. INVOICING AND PAYMENT:

- 9.1 Invoices: In order to receive payment under the Contract, the Contractor must submit an original invoice to TPWD, which will be designated in the Purchase Order as the "Bill To" address. To be a proper invoice that may be accepted and paid, the invoice must include the following information and/or attachments: (1) Name and address of the Contractor. (2) The Contractor's Texas Identification Number (TIN). (3) The Contractor's invoice remittance address. (4) The Purchase Order number authorizing the delivery of products or services. (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).
- 9.2 Disputed Invoices: As stated above, the Contractor will receive notice of an error in an invoice submitted for payment by not later than the 21st day after the date the invoice was received by the TPWD. If an invoice dispute is resolved in favor of the Contractor, the Contractor is entitled to receive interest on the unpaid balance of the invoice, beginning on the date the invoice became overdue, pursuant to Gov't Code §2251. 021. If a dispute is resolved in favor of the TPWD, the Contractor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest if the corrected invoice is not paid by the appropriate date.
- 9.3 Time and Manner of Payment: Pursuant to Texas Gov't Code Chapter 2251, payment by TPWD is overdue on the 31st day after the later of: (1) the date the TPWD receives the goods under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the TPWD receives the invoice for the goods or service. Payment by a political subdivision Customer whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event of: (1) the date TPWD receives the goods under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date TPWD receives the invoice for the goods or service.

10. **PATENTS, TRADEMARKS, OR COPYRIGHTS:** Respondent agrees to defend and indemnify the TPWD and State from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of the TPWD's or the State's use of any good or service provided by the Respondent as a result of this solicitation.
11. **PROHIBITION ON LOBBYING:** The Respondent shall comply with the provisions of a federal law known generally as the Lobbying Disclosure Act, 2 U.S.C. §1601 et seq. By submitting a Bid/Proposal, the Respondent certifies that it shall not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence any officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal Contract, grant, or any other award covered by 31 U.S.C. §1352. It also certifies that the Respondent shall disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award by completing and submitting Standard Form LLL.
12. **ANTI-TRUST AND ASSIGNMENT OF CLAIMS:** The undersigned affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Response, neither I nor any representative of the Respondent have violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm Code Chapter 15; (2) in connection with this Response, neither I nor any representative of the Respondent have violated any federal antitrust law; and (3) neither I nor any representative of the Respondent have directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent

or any other company, firm, partnership or individual engaged in the same line of business as the Respondent. The successful Contractor hereby assigns to TPWD, any and all claims for overcharges associated with any contract resulting from this solicitation which arise under the antitrust laws of the United States 15 U.S.C.A., Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

13. **DEBTS AND DELINQUENCIES:** As required by Gov't Code §2252.903, the Respondent agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or delinquency is has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.
14. **DISPUTE RESOLUTION:**
 - 14.1. The dispute resolution process provided for in Chapter 2260 of Texas Gov't Code and TPWD regulations shall be used by TPWD and the Respondent to resolve all disputes arising under this Contract. The Contractor shall comply with such rules, as revised from time to time.
 - 14.2. If the Contractor's claim for breach of Contract cannot be resolved informally with TPWD, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260. The notice shall also be given to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirement or toll the timing of the formal written notice of a claim for breach of Contract required under § 2260.051 of Texas Gov't Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
 - 14.3. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of Contract by TPWD if the Parties are unable to resolve their disputes as described above.
 - 14.4. Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Contract by TPWD nor any other conduct of any representative of TPWD relating to the Contract shall be considered a waiver of sovereign immunity to suit.
 - 14.5. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by TPWD, the Contractor shall continue performance and shall not be excused from performance during the period any breach of Contract claim or dispute is pending under either of the above processes; however, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Gov't Code §2251.051, and such suspension of performance is expressly applicable and authorized under that law.
15. **FRAUD, WASTE, AND ABUSE:** By submitting a Response to this Solicitation, the Respondent represents and warrants that it has read and understood and shall comply with CPA's Anti-Fraud Policy, found at: <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of the Contract.
16. **NAME CHANGES AND SALES:**
 - 16.1. If the Contractor changes its name or is sold to another entity, it must provide written notification to TPWD. The Contractor, in its notice, shall describe the circumstances of the name change or sale, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform the Contract. If the change entails personnel changes for personnel performing the responsibilities of the Contract for the Contractor, the Contractor shall identify the new personnel and provide resumes to TPWD, if resumes were originally required by the Solicitation. TPWD may request other information about the change and its impact on the Contract

and the Contractor shall supply the requested information within five (5) working days of receipt of the request.

- 16.2. TPWD may terminate the Contract due to a sale of or change to the Contractor that materially alters the Contractor's ability to perform under the Contract. The TPWD has the sole discretion to determine if termination is appropriate.

17. CONTRACTOR RESPONSIBILITIES:

- 17.1. Contractor agrees to comply with all terms and conditions contained in this solicitation and resulting Contract.
- 17.2. Contractor guarantees services offered will meet or exceed the written specifications identified in this solicitation.
- 17.3. Permits: Contractor shall be responsible, at the Contractor's expense, for obtaining any and all permits or licenses required by city, county, state, or federal rules, regulations, law, or codes that pertain to the Contract.
- 17.4. Electrical Items: All electrical items provided by the Contractor to TPWD under the Contract must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.
- 17.5. Executive Head: Pursuant to Gov't Code §669.003, the TPWD may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Proposal, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years. If Section 669.003 applies, Respondent shall complete the following information in order for the response submission to be evaluated:

Name of former executive: _____

Name of state agency: _____

Date of separation from state agency: _____

Position with Respondent: _____

Date of employment with Respondent: _____

- 17.6. Contractor agrees to take precautions necessary to protect person or property against injury or damage and be responsible for such injury or damage.
- 17.7. Contractor agrees to comply with Federal law or State Worker's Compensation laws which are applicable to the work required or performed under this Contract and to pay or cause to be paid all compensation, medical or hospital bills which may become due or payable thereunder, and to protect and indemnify TPWD from and against any and all liability by reason of injury to employees of Contractor or subcontractor.
- 17.8. Contractor shall provide all labor, equipment, and materials (unless otherwise stated herein) necessary to furnish the goods or perform the service. All employees of the Contractor shall be a minimum of 17 years of age and experienced in the type of work to be performed. Only the Contractor and its employees will be allowed on state property during working hours.

- 18. **TERMINATED CONTRACTS:** By submitting a Response, the Respondent certifies that it has not had a Contract terminated or been denied the renewal of any Contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited

from contracting with a governmental agency. If the Respondent does have such a terminated Contract, the Respondent shall identify each and provide an explanation for the termination.

19. **INDEPENDENT CONTRACTOR:** The Contract shall not render the Contractor an employee, officer, or agent of the TPWD for any purpose. The Contractor is and shall remain an independent Contractor in relationship to the TPWD. The TPWD shall not be responsible for withholding taxes from payments made under the Contract. The Contractor shall have no claim against the TPWD for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
20. **RIGHT TO AUDIT / RECORDS RETENTION:** Under Section 2262.154 of the Texas Gov't Code, the State Auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any Contract or indirectly through a subcontract under the Contract. The acceptance of funds by the Contractor or other entity or person directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office, TPWD or any successor agency, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Contractor or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under these Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the work of this Contract. Contractor and the subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TPWD and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor. Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. Contractor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize TPWD and the State of Texas to immediately assess appropriate damages for such failure.
21. **FORCE MAJEURE:** Neither Respondent nor TPWD shall be liable to the other party for any delaying, or failure of performance, of any requirement in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, fire, explosions, hurricanes, floods, epidemics, or pandemics, national or regional emergency, failures of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. The burden of proof for the need of such relief shall rest upon the Contractor. To obtain release based on force majeure, the Contractor shall file a written request with TPWD reasonably promptly from the time the force majeure event occurs.
22. **PROPRIETARY OR CONFIDENTIAL INFORMATION; TEXAS PUBLIC INFORMATION ACT:**
 - 22.1. Any proprietary, trade secret or otherwise confidential information Respondent includes in its Proposal must be clearly labeled as proprietary or confidential information, and Respondent must identify the specific exception to disclosure in the Public Information Act (PIA). Merely making a blanket claim the entire Proposal is protected from disclosure because it contains some proprietary

information is not acceptable and shall make the entire Proposal subject to release under the PIA. In order for TPWD to initiate the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described herein. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA.

- 22.2. Information, documentation, and other material in connection with this Response or any resulting Contract may be subject to public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Gov't Code.
- 22.3. Contractor is required to make any information created or exchanged with the state pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.

23. **RIGHT TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP):** Any software, research, reports studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this Contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the Contractor upon completion, termination, or cancellation of this Contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this Contract without the prior written consent of the State; provided, however, that Contractor shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.
24. **PUBLIC DISCLOSURE / NEWS RELEASES:** No public disclosures or news releases pertaining to this solicitation shall be made without prior written approval of TPWD.
25. **CONFIDENTIALITY AND SECURITY:** The Contractor should not receive any sensitive or confidential information under the Contract. Any information the Contractor compiles or creates as a result of the Contract must be maintained and protected in accordance with any federal, state, or local laws and regulations that apply. The Contractor shall establish a method to secure the confidentiality of records and other information relating to clients in accordance with applicable federal and state laws, rules, and regulations. The obligations of the Contractor under this Confidentiality and Security Article shall survive this Contract and shall be included in all subcontracts.
26. **TERMINATION:** This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract Terms and Conditions.
 - 26.1. **Termination for Convenience:** TPWD reserves the right to terminate the Contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days' advance written notice if TPWD determines that such termination is in the best interest of the state. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TPWD will be liable for payments limited only to the portion of work authorized by TPWD in writing and completed prior to the effective date of cancellation, provided that TPWD shall not be liable for any work performed that is not acceptable to TPWD and/or does not meet Contract requirements. All work products produced by the Contractor and paid for by TPWD shall become the property of TPWD and shall be tendered upon request. Termination under this paragraph shall not relieve the Vendor of any obligation or liability that has occurred prior to cancellation.
 - 26.2. **Termination for Cause/Default:** If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract or fails to comply with any of the terms or conditions

of the Contract, the TPWD may, upon written notice of default to the Contractor, terminate all or any part of the Contract after providing an opportunity to cure the default.

- a) Contractor will be responsible for paying damages to TPWD including but not limited to re-procurement costs, and any consequential damages to the State of Texas or TPWD resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work unless the specification or scope of work is significantly changed.

26.3. The rights and remedies of TPWD provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

26.4. TPWD may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TPWD notifies the Contractor in writing prior to the exercise of such remedy. The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TPWD with respect to the enforcement of any of the remedies listed herein.

27. **SURVIVAL OF TERMS:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
28. **RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT:** In the event that the Contract is terminated for any reason, or upon its expiration, TPWD shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract, unless otherwise specified.
29. **CHANGE IN FEDERAL OR STATE REQUIREMENTS:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either TPWD or the Contractor cannot reasonably fulfill the Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under the Contract.
30. **TAXES:** Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to TPWD.
31. **BUY TEXAS:** In accordance with §2155.4441, Gov't Code, the Contractor agrees that during the performance of a Contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.
32. **NOTE TO RESPONDENT:** Any terms and conditions attached to a solicitation will not be considered unless specifically referred to on this solicitation form and may result in disqualification of the response submission. If any Respondent takes a 'blanket exception' to the entire solicitation or does not provide proposed alternative language, the Respondent's response may be disqualified from further consideration.
33. **ACCESSIBILITY STANDARDS:** Under Texas Government Code, Chapter 2054, Subchapter M, TPWD must procure products that comply with the Accessibility Standards defined in the Texas Administrative Code, 1 TAC 206 and 1 TAC 213, when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. Accordingly, Contractor must provide electronic and information resources and associated product documentation and technical support that comply with these Accessibility Standards (in the form of a Voluntary Product Accessibility Template,

or "VPAT") in its response to this solicitation. Vendors who do not already have accessibility documentation should complete the form located here: <http://www.itic.org/policy/accessibility/>. Contractors that claim their products are exempt from accessibility requirements must present that position to TPWD as a question during the question-and-answer period of the solicitation.

34. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:** Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
35. **SYSTEM FOR AWARD MANAGEMENT (SAM):** Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration. Prior to awarding state funds for goods and/or services rendered, the State of Texas will conduct a required search of your firm using SAM. This is a Federal government-maintained database that records and tracks organizations, either known to or suspected of contributing to terrorist organizations. No state funds may be paid to an individual or firm whose name appears on this list. TPWD reserves the right, in its sole discretion, to deny and/or exclude any individual or firm from an award whose name appears on this list.
36. **FEDERAL DISASTER RELIEF FRAUD:** Sections and 2261.053 of the Gov't Code, prohibit state agencies from accepting a response or awarding a Contract that includes proposed financial participation by a person who, in the past five years has been convicted of violating a federal law or assessed a penalty in connection with a Contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Gov't Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Gov't Code, Respondent certifies that the individual or business entity named in this response 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.
37. **APPLICABLE LAWS AND VENUE:** The Contract shall be governed by and construed in accordance with the laws of the State of Texas, with regards to the conflicts of law provisions. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction in Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TPWD.
38. **APPLICABLE LAWS AND CONFORMING AMENDMENTS:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TPWD reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TPWD or Contractor's compliance with all applicable State and federal laws, and regulations.

39. COMPLIANCE WITH LAWS; DEALING WITH PUBLIC SERVANTS:

- 39.1. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) Texas Penal Code §36.02, which prohibits bribery; (ii) Texas Penal Code §36.09, which prohibits the offering or conferring of benefits to public servants; (iii) Gov't Code §2155.003, which prohibits the chief clerk or any other employee of the TPWD from having an interest in, or in any manner be connected with, a Contract or bid for a purchase of goods or services by an agency of the state or accept from any person to whom a Contract has been awarded anything of value or a promise, obligation, or Contract for future reward or compensation.
- 39.2. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract. Except where otherwise expressly required by applicable laws and regulations, TPWD shall not be responsible for monitoring Respondent's compliance with any laws or regulations. If Respondent performs any work knowing or having reason to know that it is contrary to laws or regulations, Respondent shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.
40. **NO WAIVER:** Nothing in this Contract shall be construed as a waiver of the state's or TPWD's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TPWD does not waive any privileges, rights, defenses, or immunities available to TPWD by entering into this Contract or by the conduct of any representative of TPWD, prior to or subsequent to entering into this Contract.
41. **NO LIABILITY UPON TERMINATION:** If this Contract is terminated for any reason, TPWD and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Gov't Code, Chapter 2260.
42. **DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES:** Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that Respondent has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of Deceptive Trade Practice violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.
43. **FALSE STATEMENTS; BREACH OF REPRESENTATIONS:** If Respondent signed its Bid/Proposal with a false statement or signs the Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in the Contract, Contractor shall be in default under this Contract and TPWD may terminate or void the Contract for cause and pursue other remedies available to TPWD under this Contract and applicable law.
44. **ACTUAL AND PERCEIVED CONFLICTS:** By submitting a Bid/Proposal, the Respondent represents and warrants that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. In its Bid/Proposal, the Respondent shall disclose any existing or potential conflict of interest that it might have in contracting with TPWD. The TPWD will decide, in its sole discretion, whether an actual or perceived conflict should result in Bid/Proposal disqualification or Contract termination.

45. CURRENT AND FORMER TPWD EMPLOYEES:

- 45.1. In addition to the disclosures required above, the Respondent shall also disclose any of its personnel who are current or former officers or employees of the TPWD or who are related, within the third degree by consanguinity (as defined by Gov't Code §573.023) or within the second degree by affinity (as defined by Gov't Code §573.025), to any current or former officers or employees of the TPWD.
- 45.2. Respondents must comply with all applicable Texas and federal laws and regulations relating to the hiring of former state employees (see e.g., Gov't Code Chapters 572 and 573). Such "revolving door" provisions generally restrict former agency heads from communicating with or appearing before the agency on certain matters for two years after leaving the agency. The revolving door provisions also restrict some former employees from representing clients on matters that the employee participated in during state service or matters that were in the employees' official responsibility or from working for certain entities after their state employment. Respondent, by signing this solicitation, certifies that it has complied with all applicable laws and regulations regarding former state employees.

46. INSURANCE AND OTHER SECURITY:

- 46.1. Respondent represents and warrants that it will, within ten (10) business days of executing this agreement, provide TPWD with current certificates of insurance or other proof acceptable to TPWD of the required insurance coverage.
- 46.2. The Respondent represents and warrants that it will obtain and maintain for the term of the Contract all insurance coverage required under this solicitation. Contractor's failure to obtain or maintain the specified coverage during the term of the agreement will be considered a breach of the Contract.
- 46.3. The Respondent represents and warrants that all of the above coverage will be obtained from companies that are licensed in the state of Texas, have an "A" rating from Best, and are authorized to provide the coverage. The Respondent shall furnish proof of insurance upon request of TPWD.

47. SEVERABILITY: If any provision of the Contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the Contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.

48. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB): Respondent represents and warrants that it shall comply with the Historically Underutilized Business requirements pursuant to Gov't Code, Chapter 2161.

49. AMENDMENTS: Except as provided in *Section III, Paragraph 8* of this Contract, this Contract may be amended only upon written agreement between TPWD and Contractor; however, any Amendment of this Contract that conflicts with the laws of the State of Texas shall be void. The Contractor shall not be entitled to payment for any additional services, work, or products that are not authorized by a properly executed Contract amendment.

50. CHANGE MANAGEMENT: The Respondent agrees that the key personnel assigned to the Contract shall remain available for the entirety of the project throughout the term of the Contract as long as that individual is employed by the Respondent or unless TPWD agrees to a change in the key personnel.

51. FEDERAL, STATE AND LOCAL REQUIREMENTS: Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation insurance coverage. Respondent shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. **Contractor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from its omission or breach of this Section.**

52. INDEMNIFICATION AND LIABILITY:

- 52.1 **Acts or Omissions:** CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, TPWD, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- 52.2 **Infringements:**
- 52.2.1 CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, TPWD, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD-PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.
- 52.2.2 Contractor shall have no liability under this Section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by the Contractor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- 52.2.3 If Contractor becomes aware of an actual or potential claim, or Customer provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against Customer, shall), at Contractor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.
- 52.3 **Compensation/Unemployment Insurance – Including Indemnity:**
- 52.3.1 CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TPWD AND/OR THE STATE SHALL NOT BE LIABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY

BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

52.3.2 **CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TPWD, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

53. **CONTRACTOR LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY:** The Contractor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Contractor shall notify the TPWD Contract Manager in writing of any such damage within one (1) calendar day.
54. **FELONY CRIMINAL CONVICTIONS:** Respondent represents and warrants that Contractor has not and Respondent's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Respondent has fully advised TPWD as to the facts and circumstances surrounding the conviction.
55. **IMMIGRATION:** The Respondent represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract. The Respondent also represents and warrants that it shall comply with the requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA).
56. **SUBCONTRACTORS:** Subcontractors providing service under the Contract shall meet the same requirements and level of experience as required of the Contractor. No subcontract under the Purchase Order shall relieve the primary Contractor of responsibility for the service. If the Contractor uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:
- 56.1. Respondents planning to subcontract all, or a portion of the work shall identify the proposed subcontractors.
 - 56.2. Subcontracting shall be at the Contractor's expense.
 - 56.3. TPWD retains the right to check subcontractor's background and make determination to approve or reject the use of submitted subcontractors.
 - 56.4. The Contractor shall be the only Contact for TPWD and subcontractors. Respondent shall list a designated point of contact for all TPWD and subcontractor inquiries.
 - 56.5. The Contractor, in subcontracting for any performances specified herein, expressly understands and acknowledges that in entering into such subcontract(s), TPWD is in no manner liable to any subcontractor(s) of the Contractor. In no event shall this provision relieve the Contractor of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all terms of this solicitation and Contract. The Contractor shall manage all quality and performance, project management, and schedules for subcontractors. The Contractor shall be held solely responsible and accountable for the completion of all work for which the Contractor has subcontracted.

57. **PROTEST PROCEDURES:** Any actual or prospective Respondent who is aggrieved in connection with this solicitation, evaluation, or award of any Contract resulting from this solicitation may formally protest as provided in TPWD's rules at TAC, Title 31, Part 2, Chapter 51, Subchapter L, Rule 51.350.
58. **NON-APPROPRIATION OF FUNDS:** Any Contract resulting from this solicitation is subject to termination or cancellation, without penalty to TPWD, either in whole or in part, subject to the availability of state funds. TPWD is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TPWD becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TPWD's or Contractor's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TPWD will not be liable to Contractor for any damages, which are caused or associated with such termination, or cancellation and TPWD will not be required to give prior notice.
59. **NON-DISCRIMINATION/CIVIL RIGHTS:** The Respondent agrees that no person shall, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from the participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or in part with funds available under this Contract. The Respondent shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60. The prime Contractor shall ensure that this clause is included in all subcontracts.
60. **CONFLICT OF INTEREST:** Under Gov't Code §2155.003, Respondent represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract. A TPWD employee may not have an interest in, or in any manner be connected with a Contract or response for a purchase of goods or services by an agency of the state. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and Respondents who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TPWD or purchasers of other state agencies.
61. **HB1295 CERTIFICATE OF INTERESTED PARTIES:** If value of Contract will exceed one million dollars, in accordance with 2252.908 of the Government Code, A business entity must use the [Form 1295 filing application](#) to enter the required information on Form 1295 and print a copy of the completed form. Once entered into the filing application, the completed form will include a unique certification number, called a "certification of filing." An authorized agent of the business entity must sign the printed copy of the form affirming under the penalty of perjury that the completed form is true and correct. The completed, printed, and signed Form 1295 bearing the unique certification of filing number must be filed with TPWD at the time of execution. Additional information can be found at: <https://www.ethics.state.tx.us/filinginfo/1295/> .
62. **LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS:** Contractor shall have no authority to act for or on behalf of TPWD or the State of Texas except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TPWD.
63. **DRUG-FREE WORKPLACE:** The Contractor shall comply with the applicable provisions of the Drug-Free Workplace Act of 1988.
64. **NOTICES:** Any written notices required under this Contract will be by either hand delivery to Contractor's office address specified in the *Execution of Proposal, Exhibit A* of this Contract or by U.S. Mail, certified, return receipt requested, to TPWD, Attn: Purchasing, 4200 Smith School Road, Austin, TX 78744. Notice will be effective on receipt by the affected party. Either party may change the designated notice address in this Section by written notification to the other party.

- 65. ORDER OF PRECEDENCE:** In the case of conflicts between the Contract documents, the following shall control in this order of priority:
- 65.1. Signed Contract/Purchase Order (or Notice of Award)
 - 65.2. Attachments to the Contract/Purchase Order (or Notice of Award)
 - 65.3. The Solicitation (e.g., RFP, IFB)
 - 65.4. Contractor's Response to the Solicitation and Contractor's Best and Final Offer, if applicable
- 66. CHILD SUPPORT OBLIGATION AFFIRMATION:** Under Section 231.006 of the 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.
- 67. NO ASSIGNMENT BY CONTRACTOR:** The awarded Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the TPWD. Any attempted assignment in violation of this provision is void and without effect.
- 68. COMPLIANCE WITH OTHER LAW:** In the execution of this Contract, Contractor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal opportunity, safety, and environmental protection. Contractor shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect performance under this Contract.
- 69. ENVIRONMENTAL PROTECTION:** The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 et seq.).
- 70. U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM:**
- 70.1. By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:
 - a) All persons employed to perform duties within Texas, during the term of the Contract; and
 - b) All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America
 - 70.2. The Contractor shall provide, upon request of TPWD, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.
 - 70.3. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.
- 71.** Pursuant to Texas Government Code, Title 10, Subchapter F, §§ 2270.001-2270.002, TPWD may not enter into a Contract that has a value of \$100,000 or more with a company and that employs 10 or more full-time employees (as defined by Texas Government Code, Title 8, Subchapter A, § 808.001, (except that the term does not include a sole proprietorship) that boycotts Israel. By signing this bid, Bidder verifies that in accordance with Texas Government Code, Title 10, Subchapter F, §§ 2270.001-2270.002, Bidder:
- 71.1. Does not boycott Israel; and
 - 71.2. Will not boycott Israel during the term of the Contract.

72. Pursuant to *Texas Government Code*, Title 10, Subchapter F, §§ 2252.151-2252.154, TPWD may not enter into a Contract with a company (as defined by *Texas Government Code*, Title 8, Subchapter A, § 806.051) that is identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under *Texas Government Code*, §§ 806.001, 807.051 or 2252.153. By signing this bid, Bidder certifies that it is not a company identified on a list as prepared and maintained by the Texas Comptroller of Public Accounts pursuant to *Texas Government Code*, §§ 806.001, 807.051 or 2252.153.
73. By signature hereon, the bidder acknowledges that *Texas Government Code*, Title 10, Subchapter F, §§ 2252.201-2252.205 requires that all iron or steel products produced through a manufacturing process used in this project must be produced in the United States. By signing this bid, Bidder certifies that its bid price represents full compensation for compliance with the requirements of *Texas Government Code*, Title 10, Subchapter F, §§ 2252.201-2252.205.
74. **TEXAS BIDDER AFFIRMATION:** Respondent certifies that if a Texas address is shown as the address of the Respondent on this response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
75. **CONTRACTING INFORMATION RESPONSIBILITIES:** In accordance with Section 552.372 of the Texas Government Code, Contractor agrees to (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to TPWD for the duration of the Contract, (2) promptly provide TPWD any contracting information related to the Contract that is in the custody or possession of the Contractor on request of TPWD, and (3) on termination or expiration of the Contract, either provide at no cost to TPWD all contracting information related to the Contract that is in the custody or possession of the Contractor or preserve the contracting information related to the Contract as provided by the records retention requirements applicable to TPWD. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
76. **CYBERSECURITY TRAINING:** If Respondent has access to any state computer system or database, Respondent shall complete cybersecurity training and verify completion of the training program to TPWD pursuant to and in accordance with Gov't Code § 2054.5192.
77. **CLOUD COMPUTING STATE RISK AND AUTHORIZATION MANAGEMENT PROGRAM:** Pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Respondent represents and warrants that it complies with the requirements of the state risk and authorization management program and Respondent agrees that throughout the term of the contract it shall maintain its certifications and comply with the program requirements in the performance of the contract.
78. **FINANCIAL PARTICIPATION PROHIBITED AFFIRMATION:** Pursuant to Section 2155.004(a) of the Texas Government Code, Respondent certifies that neither Respondent nor any person or entity represented by Respondent has received compensation from TPWD to participate in the preparation of the specifications or solicitation on which this Response or Contract is based. Under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated, and payment withheld if this certification is inaccurate.
79. **ABORTION PROVIDER AND AFFILIATE TRANSACTIONS PROHIBITED:** Respondent represents and warrants that the Contract is not a taxpayer resource transaction prohibited by Section 2272.003 of the Texas Government Code and that payments made by TPWD to Contractor and Contractor's receipt of appropriated funds under the Contract are not prohibited by Article IX, Section 6.25 of the General Appropriations Act.
80. **FOREIGN TERRORIST ORGANIZATIONS:** Section 2252.152 of the Texas Government Code prohibits TPWD from awarding a Contract to any person who does business with Iran, Sudan, or a foreign terrorist organization as defined in Section 2252.151 of the Texas Government Code. Respondent certifies that it is not ineligible to receive the Contract.

81. **HUMAN TRAFFICKING PROHIBITION:** Under Section 2155.0061 of the Texas Government Code, the Respondent certifies that the individual or business entity named in this Response 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.
82. **COMPANIES THAT BOYCOTT CERTAIN ENERGY COMPANIES:** Under Section 2274.002 of the Texas Government Code, by submitting the Response, Respondent certifies and warrants that it does not boycott energy companies; and will not boycott energy companies during the term of the Contract.
83. **DISCRIMINATION AGAINST FIREARM OR AMMUNITION INDUSTRIES:** Under Section 2274.002 of the Texas Government Code, by submitting the Response, Respondent certifies and warrants that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the Contract against said industries.
84. **AGREEMENTS RELATED TO CRITICAL INFRASTRUCTURE:** Pursuant to Texas Government Code Section 2274.0102, TPWD may not enter into a Contract with a company (as defined by Texas Government Code Section 2274.0101(1)) that meets the criteria provided under Texas Government Code Sections 2274.0102 and 2274.0103. By signing this bid, Bidder certifies that it is not a company that meets the criteria provided under Texas Government Code Sections 2274.0102 and 2274.0103.
85. **COVID-19 VACCINE PASSPORT PROHIBITION:** Under Section 161.0085 of the Texas Health and Safety Code, Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract.
86. **DATA MANAGEMENT AND SECURITY CONTROLS:** In accordance with Section 2054.138 of the Texas Government Code, Respondent certifies that it will comply with the security controls required under this contract and will maintain records and make them available to Agency as evidence of Respondent's compliance with the required controls.
87. **SIGNATURE AUTHORITY:** By submitting the Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any Contract that may result from the submission of this response.

EXHIBIT A – EXECUTION OF PROPOSAL

NOTE: RESPONDENTS SHALL COMPLETE AND RETURN THIS EXHIBIT WITH THEIR PROPOSAL. Failure to do so will result in disqualification of the proposal.

1. By signature hereon, the Respondent certifies that:

- 1.1. All statements and information prepared and submitted in the response to this RFP are current, complete, and accurate.
- 1.2. **Certification Concerning Dealings with Public Servants:** The Respondent has not given, offered to give, nor intends to give at anytime 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. Failure to sign the Execution of Proposal or signing it with a false statement shall void the submitted offer or any resulting contracts.
- 1.3. Neither the Respondent or the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. 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 Respondent as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20.
- 1.4. Pursuant to Section 2155.004 (a), Government Code, the Respondent has not received compensation for participation in the preparation of the specifications for this RFP.
- 1.5. Under Section 2155.004 (b), Government Code, the Contractor 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.
- 1.6. Child Support Obligations: Pursuant to Section 231.006 (d), Family Code, re: child support, the respondent certifies that the individual or business entity named in this RFP is not ineligible to receive the specified payment and acknowledges that this contract may be terminated, and payment may be withheld if this certification is inaccurate.
- 1.7. **Contractor shall defend, indemnify, and hold harmless the State of Texas, its officers, and employees, and Texas Parks and Wildlife Department (TPWD), its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys’ fees and court costs, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract. Contractor shall coordinate its defense with the Texas Attorney General as requested by TPWD.**

This paragraph is not intended to and shall not be construed to require contractor to indemnify or hold harmless the State or TPWD for any claims or liabilities resulting from the negligent acts or omission of TPWD or its employees.

- 1.8. Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 1.9. Respondent certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, respondent will complete the following information in order for the RFP to be evaluated:
 - 1.9.1 Name of former executive: _____
 - 1.9.2 Name of state agency: _____
 - 1.9.3 Date of separation from state agency: _____
 - 1.9.4 Position with respondent: _____
 - 1.9.5 Date of employment with respondent: _____

- 1.10. Respondent agrees to comply with Government Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.
- 1.11. Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor’s Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor’s Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

- 1.12. Pursuant to Section 231.006 ©, Family Code, RFP must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the RFP. Attach name & social security numbers for each person. This information must be provided prior to contract award.
 - 1.13. Suspension, Debarment, and Terrorism: Respondent certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government’s terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/SAM/#1>.
 - 1.14. Respondent represents and warrants that the individual signing this Execution of Proposal is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this proposal.
2. In the case of a tie between two (2) or more Respondents, the award will be made in accordance with preferences as outlined in TAC, Title 34, Part 1, Chapter 20, Subchapter C, Section 20.306. If a tie still exists after review of preferences claimed by Respondents, TPWD will draw lots to break the tie.

PREFERENCES
See Appendix 21 of the <i>State of Texas Procurement and Contract Management Guide</i> regarding preferences.
Check below if preference claimed under TAC, Title 34, Part 1, Chapter 20, Subchapter C, Section 20.306
<ul style="list-style-type: none"> <input type="checkbox"/> Goods produced or offered by a Texas respondent that is owned by a Texas resident service-disabled veteran <input type="checkbox"/> Goods produced in Texas or offered by a Texas respondent that is <u>not</u> owned by a Texas resident service-disabled veteran <input type="checkbox"/> Agricultural products grown in Texas <input type="checkbox"/> Agricultural products offered by a Texas respondent <input type="checkbox"/> Services offered by a Texas respondent that is owned by a Texas resident service-disabled veteran <input type="checkbox"/> Services offered by a Texas respondent that is <u>not</u> owned by a Texas resident service-disabled veteran <input type="checkbox"/> Texas Vegetation Native to the Region <input type="checkbox"/> USA produced supplies, materials or equipment <input type="checkbox"/> Products of persons with mental or physical disabilities <input type="checkbox"/> Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel <input type="checkbox"/> Energy Efficient Products <input type="checkbox"/> Rubberized asphalt paving material <input type="checkbox"/> Recycled motor oil and lubricants <input type="checkbox"/> Products produced at facilities located on formerly contaminated property <input type="checkbox"/> Products and services from economically depressed or blighted areas <input type="checkbox"/> Contractors that meet or exceed air quality standards <input type="checkbox"/> Recycled or Reused Computer Equipment of Other Manufacturers <input type="checkbox"/> Foods of Higher Nutritional Value

RESPONDENT (COMPANY/FIRM): _____

SIGNATURE: _____

NAME (TYPED/PRINTED): _____

TITLE: _____ DATE: _____

STREET: _____

CITY/STATE/ZIP: _____

TELEPHONE AND FAXSCMILE NO.: _____

E-MAIL ADDRESS: _____

TEXAS IDENTIFICATION NUMBER (TIN): _____

See definition / instructions for Texas ID Number in General Terms & Conditions, Paragraph 1.10.

EXHIBIT B – COMPANY PROFILE

Respondent shall use this exhibit (or a reasonable facsimile) to clearly demonstrate how they meet the requirements set forth in this solicitation. This form may be modified as needed to comply with the requirement to document company information. **Failure to return this exhibit (or a reasonable facsimile) may result in the response submission being considered non-responsive.**

Company Name:			
Principal place of business (Corporate Headquarters):			
Address:			
City, State, Zip:			
Facility responsible for servicing the contract:			
Address:			
City, State, Zip:			
Contact Person regarding company’s submission to the solicitation:			
Name & Title:			
Phone & Email Address:			
Personnel who will be responsible for management and day-to-day operation of services described in this solicitation.			
Name & Title:			
Phone & Email Address:			
Indicate if your company or any of its subsidiaries filed or met criteria for bankruptcy within the last five years.			
__ Yes __ No If yes, explain.			
Indicate if your company or any of its subsidiaries has been involved in litigation within the last five years.			
__ Yes __ No If yes, explain.			
Number years in business:		Number of employees:	
Number years actively participating in offering the goods/services described herein:			

Provide company background, experience, qualifications & capabilities in areas of goods/services described herein. Attach page if needed.			
Provide present commitments for related or similar services.			
Provide description of industry certifications, if applicable.			

EXHIBIT C – KEY PERSONNEL

Respondent Name: _____

Respondents shall provide a Key Personnel profile – tabbed Exhibit E, for each key personnel to be assigned under the resulting contract. *Include all requested information for each key personnel.* Submit one Exhibit C (or reasonable facsimile) or resume for each key personnel. ***Failure to return this exhibit (or reasonable facsimile) may result in proposal being considered non-responsive.***

Key Personnel:

Full Name: _____

Job Title: _____

Total Years Employed by Respondent: _____ Total Years Experience (in required service): _____

Qualifications and Experience: _____

Specific Education, Training, Certifications: _____

Personnel - Reference 1:

Company Name: _____

Contact/Title: _____

Phone: _____ Service Period: _____

Roles and Responsibilities: _____

Personnel - Reference 2:

Company Name: _____

Contact/Title: _____

Phone: _____ Service Period: _____

Roles and Responsibilities: _____

EXHIBIT D – PAST PROJECTS WITH CORRESPONDING REFERENCES

Respondent Name: _____

Respondents shall use this exhibit (*or reasonable facsimile*) to provide a minimum of three (3) past projects with corresponding references for projects completed within the past five (5) years that illustrate experience in successfully completing work of a similar nature and scope as the work described in this solicitation. Include all requested information. *Please do not use TPWD staff or past work performed for TPWD as a “reference” in this Exhibit. Failure to return this exhibit (or reasonable facsimile) may result in proposal being considered non-responsive.*

REFERENCE 1:

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

REFERENCE 2:

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

REFERENCE 3:

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

REFERENCE 4:

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

EXHIBIT E – TECHNICAL PROPOSAL

Respondent shall submit a Technical Proposal – tabbed Exhibit E, including numbered responses corresponding to each of the following items. ***Failure to provide this information may result in proposal disqualification.***

- 1) **Project Approach/Methodology** – Include a complete description of the firm’s proposed approach and methodology for the project. This section should convey the firm’s understanding of the proposed project.
- 2) **Proposed Design of Living Shoreline:**
 - a) Plan shall include a list of requirements and proposed design elements. Architectural and/or engineering data consisting of site plans, elevations, and any other information to describe the use and intent of the proposed structure.
 - b) Construction methods and materials will comply with TPWD approved building codes and building industry standards for commercial grade construction suitable for public use. Projects will meet all governing local, state, and national and/or regulatory agencies’ requirements, codes, permits, and agreements.
 - c) Structure must be designed and constructed to consider resource conversation during construction and operation.
 - d) Construction sites will be limited to the smallest possible area necessary to build or upgrade site facilities. Current and reasonable mitigating and protective measures must be implemented during construction to preclude inordinate damage to vegetation, soil, water quality, wildlife habitat, and archeological resources. (Protective measures shall include, but not be limited to, temporary fencing, silt fencing, controlled vehicle and equipment parking, and controlled materials storage areas, etc.) The construction contractor is accountable for any undue or unnecessary environmental impact during construction. Construction can only begin after resource clearance approval has been granted.
- 3) **Work Plan** – Include a description of how you propose to accomplish the required service, including:
 - a) Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the firm’s knowledge of the subjects and skills necessary to successfully complete the project.
 - b) Include any required involvement of TPWD staff, including but not limited to, any staff resources needed in terms of content, graphics, etc. for both start-up and maintenance.
- 4) **Project Schedule** – Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.
- 5) **Long term maintenance and repair plan:**
 - a) Plan for annual inspection and maintenance/repairs to the living shoreline.

- b) Include any plans to minimize risk to include, but not limited to, insuring the structure and/or establishing a risk reserve of carbon credits?

6) Project Funding:

- a) How will project be financed?
- b) Succinctly describe the current market for Blue Carbon credits in the US. What other models are there for this type of project?
- c) Is there a commitment to find a buyer for a certain number of credits before project begins?

7) Carbon Sales/Revenue Sharing:

- a) Carbon Credit Revenue Sharing Proposal
- b) What exchange will carbon credits be sold on?
- c) What crediting periods will be offered?
- d) Anticipated value of carbon credits.
- e) What are the biggest known risks to the Blue Carbon market currently?

EXHIBIT F – RESPONSE SUBMISSION CHECKLIST

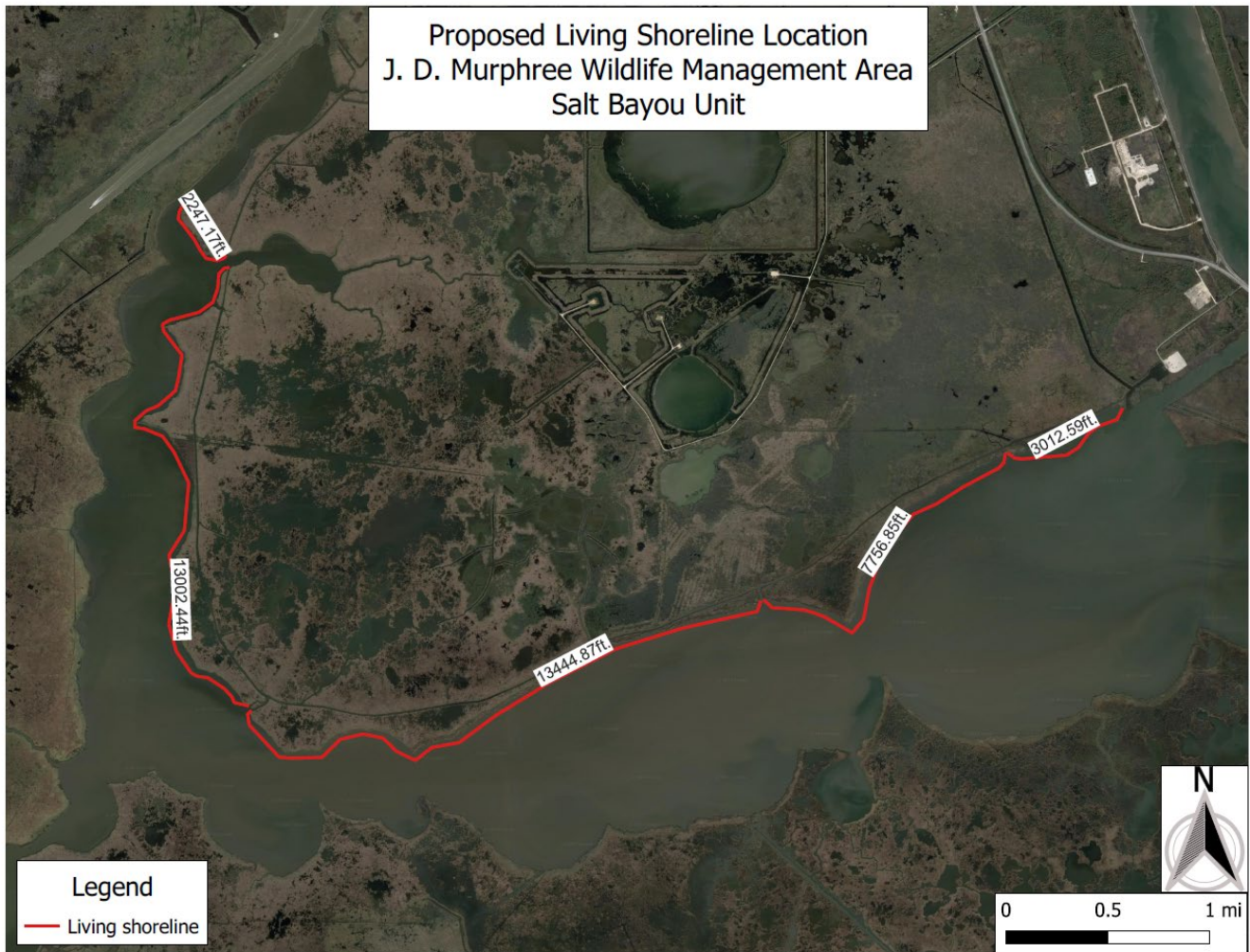
The following checklist is provided for the convenience of Vendors in their response preparation process. It is not intended to represent an exhaustive list of the mandatory requirements for this RFP. Vendors must ensure that all mandatory requirements for this RFP are met, even if they are not included in this checklist. The mandatory documentation must be submitted with the original and each copy of the response.

A completed checklist shall not be binding on TPWD’s administrative review for compliance with the mandatory response contents specified in this RFP. As step one of the evaluation process, TPWD will review all responses to ensure compliance with the mandatory response contents as specified in [Section II, Subsection 3.2](#) of the RFP and reject any response that does not comply.

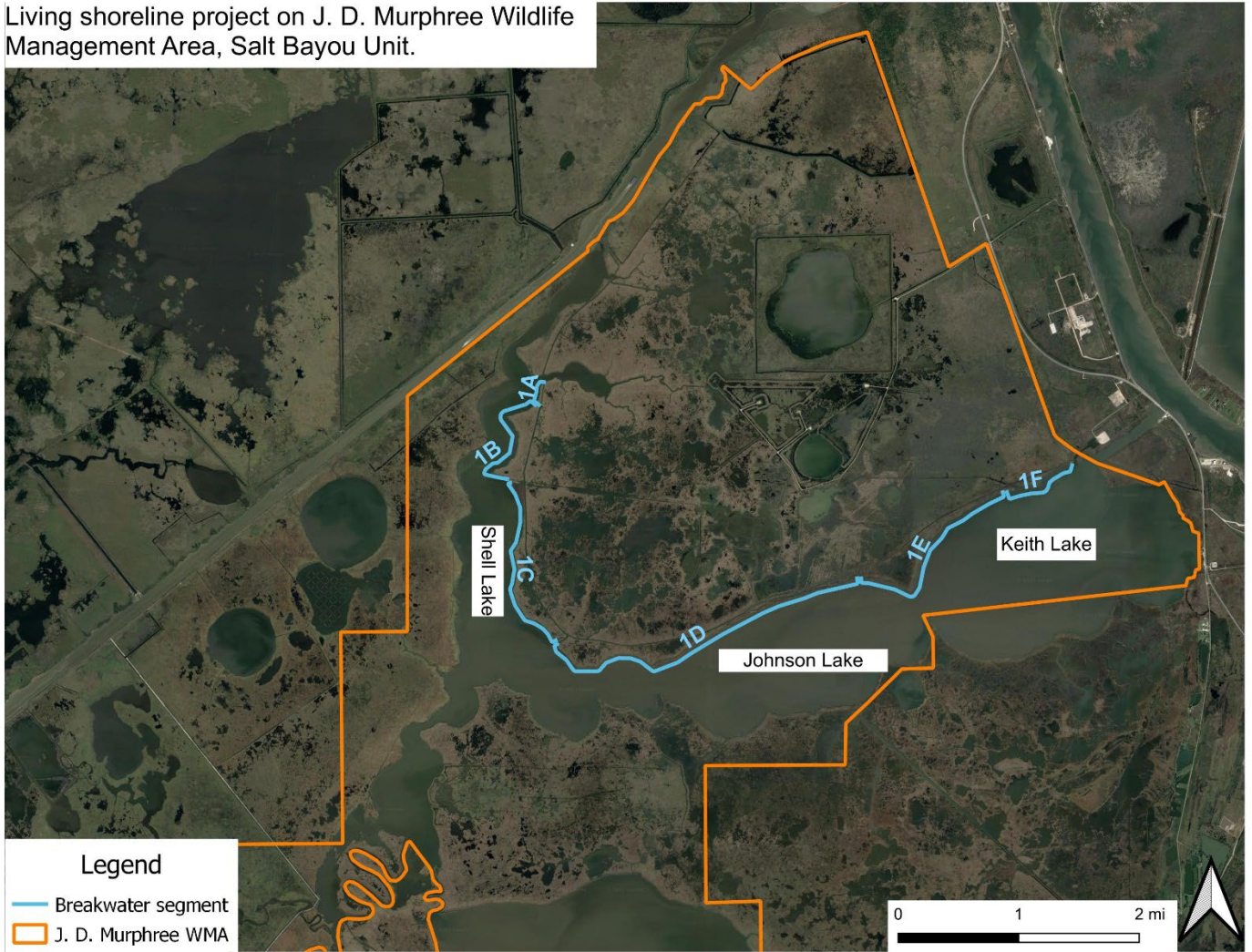
All responses must be received by TPWD on or before 2:00 p.m. (CT) on the date specified in Section II, Subsection 1 of the solicitation. No late responses will be considered.

Item	Check
Response addressed to: Attn: Tammy Dunham Purchasing & Contracting C-1 Texas Parks & Wildlife Department 4200 Smith School Road Austin, Texas 78744	
External packaging references “RFP 802-24-42801 - R”	
Package contains one (1) signed original (clearly marked) of the complete response	
Package contains one (1) additional paper copies of the complete response	
Response cover references “RFP 802-24-42801 - R” and includes the name and address of the responding Vendor	
Mandatory Response Contents	Check
Exhibit A – Execution of Proposal	
Additional Response Contents	
Exhibit B – Company Profile	
Exhibit C – Key Personnel	
Exhibit D – Past Projects with Corresponding References	
Exhibit E – Technical Proposal	
Addenda - Acknowledge receipt of all addenda issued to this solicitation by returning a signed copy of each addendum (per Section II, Subsection 4)	

ATTACHMENT 1 – J.D. MURPHREE MAP OF PROPOSED AREA



Living shoreline project on J. D. Murphree Wildlife Management Area, Salt Bayou Unit.



ATTACHMENT 2 – PAYMENT BOND

TPWD PAYMENT BOND FOLLOWS THIS COVER PAGE

TEXAS PARKS AND WILDLIFE

PAYMENT BOND

STATE OF TEXAS

COUNTY OF _____

Project Number _____
Contract Number _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as
PRINCIPAL,

and _____, as
SURETY(IES),

Surety Address: _____
Surety Phone: _____ Surety Fax: _____

are hereby held and firmly bound unto the State of Texas in the penal sum of: _____ Dollars
(\$ _____)

for the payment, whereof, the said **PRINCIPAL** and **SURETY(IES)** bind themselves, their heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the **PRINCIPAL** entered into a certain contract dated _____, 20__, hereto attached, and made a part hereof, with the State of Texas, acting by and through the Texas Parks and Wildlife Department, to commence and complete certain public works described as:

Design and Manufacture of Inboard Deisel Powered Research Vessel

NOW THEREFORE, the conditions of this obligation are such that, if the **PRINCIPAL** shall promptly make payment to all claimants as defined in TITLE 10, *TEXAS GOVERNMENT CODE*, CHAPTER 2253, as amended, supplying labor and materials in the prosecution of the work provided for in said contract and any and all duly authorized changes to said contract that may hereafter be made, notice of such changes to the **SURETY(IES)** being hereby waived, then, this obligation shall be null and void, otherwise it shall remain in full force and effect.

This bond is made and entered into solely for the protection of all claimants supplying labor and materials in the prosecution of the work provided for in said contract, and all such claimants shall have a direct right to action under the bond as provided in TITLE 10, *TEXAS GOVERNMENT CODE*, CHAPTER 2253, as amended.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this ____ day of _____, 20__, the name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

PRINCIPAL

BY _____

SURETY

BY _____

ATTACHMENT 3 – PERFORMANCE BOND

TPWD PERFORMANCE BOND FOLLOWS THIS COVER PAGE

TEXAS PARKS AND WILDLIFE

PERFORMANCE BOND

STATE OF TEXAS

Project Number _____

COUNTY OF _____

Contract Number _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as **PRINCIPAL**,
and _____, as **SURETY(IES)**,

Surety Address: _____		
Surety Phone: _____	Surety Fax: _____	

are hereby held and firmly bound unto the State of Texas in the penal sum of:

_____ Dollars
(\$_____)

for the payment, whereof, the said **PRINCIPAL** and **SURETY(IES)** bind themselves, their heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the **PRINCIPAL** entered into a certain contract dated _____, 20____, hereto attached, and made a part hereof, with the State of Texas, acting by and through the Texas Parks and Wildlife Department, to commence and complete certain public works described as: _____.

NOW THEREFORE, the conditions of this obligation are such that, if the **PRINCIPAL** shall faithfully perform the contract in accordance with the plans, specifications, and contract documents, and as provided in TITLE 10, TEXAS GOVERNMENT CODE, CHAPTER 2253 shall fully indemnify and save harmless the State of Texas from all cost and damage which the State of Texas may suffer by reason of the **PRINCIPAL'S** default or failure to do so and shall fully reimburse and repay the State of Texas all outlay and expense which the State of Texas may incur in making good any such default, then obligation shall be null and void, otherwise it shall remain in full force and effect.

Provided further, that if any legal action be filed upon this bond, venue shall lie in Travis County, Texas and that the said surety(ies) for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alternation or addition, to the items of the Contract or to the work or to the Specifications.

In the event **PRINCIPAL** is in default under the contract as defined herein, **SURETY(IES)** will within fifteen (15) days of determination of such default take over and assume completion of said contract and become entitled to the payment of the balance of the contract price.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

PRINCIPAL

SURETY

BY _____

BY _____