

SOLICITATION, OFFER AND AWARD

1. CONTRACT NO. 696-AG-17-17-C034	2. SOLICITATION NO. 696-AG-16-B019	3. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFO) <input type="checkbox"/> NEGOTIATED (RFP)	4. DATE ISSUED May 3, 2016
--------------------------------------	---------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------

SOLICITATION

5. Sealed bids will be received by the Department until 3:00 p.m. local time on Tuesday, May 24, 2016 , and submitted to: Attention: 696-AG-16-B019 Texas Department of Criminal Justice Contracts and Procurement Department Client Services and Governmental Contracts Branch Two Financial Plaza, Suite 525 Huntsville, Texas 77340	6. FOR INFORMATION CONTACT: Jason Andrews, CTPM, CTCM Contract Specialist II PHONE: (936) 437-7129 FAX: (325) 223-0310 E-MAIL: jason.andrews@tdcj.texas.gov
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

BID (Must be fully completed by Bidder)

7. DISCOUNT FOR PROMPT PAYMENT: →	10 CALENDAR DAYS 0 %	20 CALENDAR DAYS 0 %	30 CALENDAR DAYS 0 %	____ CALENDAR DAYS 0 %
8. ACKNOWLEDGMENT OF AMENDMENTS: <i>(The bidder acknowledges receipt of amendments to the SOLICITATION for Bidders and related documents numbered and dated:</i>	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
9. NAME AND ADDRESS OF BIDDER: →	<i>Whitten Flying Service P.O. Box 40 Snook TX 77878</i>		10. NAME AND TITLE OF AUTHORIZED TO SIGN BID (Type or Print) <i>Mary Cabrera Whitten owner</i>	
11. TELEPHONE NO. (Include area code) <i>979-272-8457</i>	12. SIGNATURE <i>Mary Cabrera Whitten</i>		13. BID DATE <i>May 24, 2016</i>	

TO BE COMPLETED AT TIME OF AWARD

Document Type: 2S

This award consummates the contract which consists of the following documents: (a) the State's solicitation and solicitation amendments and (b) this award.

The total funding for the Base Period of this Contract (September 1, 2016 through August 31, 2017) shall not exceed \$50,000.00

Texas Department of Criminal Justice

By: *Jerry McGinty*
 Title: Chief Financial Officer
 Date: *1/25/16*

TABLE OF CONTENTS

TABLE OF CONTENTS 2

SECTION A - DEFINITIONS 6

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS 7

 B.1 SERVICES AND PRICES/COSTS 7

 B.1.1 Services Being Acquired 7

 B.2 PRICING SCHEDULE 7

 B.2.1 Application to Southern Area Farms 7

 B.2.2 Applications to Pack/Luther Unit, Grimes County, Navasota, Texas and Buffalo Ranch, Burleson County, Snook, Texas 8

 B.2.3 Application to Central Area Farms 9

 B.2.4 Application to Northern Area Farms 9

 B.2.5 Application to Northern & Central Area Farms 10

 B.2.6 Application to All Units 11

 B.3 PRICE INCREASES/DECREASES 13

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT 14

 C.1 BACKGROUND 14

 C.2 GENERAL DUTIES AND OBLIGATIONS 14

 C.3 SPECIFIC DUTIES, OBLIGATIONS, AND EQUIPMENT 14

 C.3.1 Aircraft, Equipment and Pilots 14

 C.3.2 Application 15

 C.3.3 Employee's General Rules of Conduct 15

 C.3.4 Work Schedule 16

 C.3.5 Contractor's Employment Requirements 16

SECTION D – REQUIRED REPORTS 17

 D.1 REPORTS REQUIRED FROM CONTRACTOR 17

SECTION E - INSPECTION AND ACCEPTANCE 18

 E.1 INSPECTION AND ACCEPTANCE OF SERVICES 18

 E.2 INSPECTION BY STATE EMPLOYEES 18

 E.3 AUTHORITY TO AUDIT 19

 E.4 FRAUD, WASTE OR ABUSE 19

 E.5 AUDITS BY OTHER AGENCIES 19

SECTION F - DELIVERIES OR PERFORMANCE 20

 F.1 PERIOD OF PERFORMANCE 20

SECTION G - CONTRACT ADMINISTRATION DATA 21

 G.1 CLAUSES INCORPORATED BY REFERENCE 21

 G.2 AUTHORITY – AUTHORIZED REPRESENTATIVE, CONTRACT ADMINISTRATOR, CONTRACT MONITOR AND CONTRACT MANAGER 21

 G.2.1 Authorized Representative 21

 G.2.2 Contract Administrator 22

 G.2.3 Contract Monitor 22

 G.2.4 Contract Manager 22

 G.3 INVOICE REQUIREMENTS 23

 G.4 PAYMENTS 23

G.4.1	Late Payment	24
G.4.2	Withholding of Payment	24
G.5	PAYMENT OF DEBT OWED TO THE STATE OF TEXAS	25
G.6	RIGHT TO OFFSET	25
SECTION H - SPECIAL CONTRACT REQUIREMENTS		26
H.1	INSURANCE REQUIREMENTS	26
H.1.1	Required Provisions	27
H.2	SUBCONTRACTORS	28
H.2.1	Insurance	29
H.2.2	Historically Underutilized Business (HUB)	29
H.3	UTILIZATION OF SERVICES	29
H.4	UTILIZATION OF PRODUCTS AND MATERIALS PRODUCED IN TEXAS	29
H.5	BOOKS AND RECORDS	30
H.6	FELONY CRIMINAL CONVICTIONS	30
H.7	SECURITY	30
H.8	ORGANIZATIONAL AND NAME CHANGE	30
H.9	FREE EXERCISE OF RELIGION	30
H.10	DELAY OF SERVICES	30
SECTION I - CONTRACT CLAUSES		32
I.1	AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR	32
I.2	ADVERTISING OF AWARD	32
I.3	DEFAULT AND TERMINATION	32
I.3.1	Default by the Contractor	32
I.3.2	Further Opportunity to Cure	33
I.3.3	Remedy of the Department	33
I.3.4	Termination for Unavailability of Funds	34
I.3.5	Non-Appropriation Effect and Remedy	35
I.3.6	Termination for Convenience	35
I.3.7	Termination by Mutual Agreement	35
I.3.8	Termination Procedures	35
I.3.9	Default by the Department	36
I.3.10	Remedy of the Contractor	36
I.3.11	Dispute Resolution	36
I.4	NO WAIVER OF RIGHTS	37
I.5	INDEMNIFICATION OF THE DEPARTMENT	37
I.5.1	Acts or Omissions	37
I.5.2	Infringements	38
I.5.3	Taxes/Workers' Compensation/Unemployment Insurance - Including Indemnity	38
I.6	NO WAIVER OF DEFENSES	39
I.7	INDEPENDENT CONTRACTOR	39
I.8	LAWS OF TEXAS	40
I.9	ASSIGNMENT	40
I.10	MAINTENANCE OF CORPORATE EXISTENCE AND BUSINESS	40
I.11	APPROVAL OF CONTRACT	40
I.12	NON-DISCRIMINATION	40
I.13	CONFIDENTIALITY AND OPEN RECORDS	41
I.13.1	Confidentiality	41
I.13.2	Open Records	41
I.14	CONTRACT CHANGES	41

I.15 OPTION TO EXTEND THE TERM OF THE CONTRACT.....42

I.16 OPTION TO EXTEND SERVICES.....42

I.17 SEVERABILITY42

I.18 IMMIGRATION.....42

I.19 NO LIABILITY UPON TERMINATION.....42

I.20 LIMITATION ON AUTHORITY43

I.21 INTELLECTUAL PROPERTY INDEMNIFICATION43

I.22 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS, AS
REQUIRED BY TEXAS ADMINISTRATIVE CODE, TITLE 1, PART 10, CHAPTER 213 ...43

I.23 RIGHTS TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP)
.....43

I.24 FORCE MAJEURE44

I.25 NOTICES.....44

I.26 SUBSTITUTIONS44

I.27 U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM.....44

SECTION J - LIST OF EXHIBITS46

**SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
BIDDERS47**

K.1 HISTORICALLY UNDERUTILIZED BUSINESS (HUB) REPRESENTATION.....47

 K.1.1 Definition.....47

 K.1.2 Representation.....47

K.2 CHILD SUPPORT REPRESENTATION.....47

K.3 FRANCHISE TAX REPRESENTATION48

K.4 TYPE OF BUSINESS ORGANIZATION48

K.5 PREFERENCE CLAIM.....48

 K.5.1 Source and Specification Preferences.....49

 K.5.2 Tie-Bid Preferences49

 K.5.3 Additional Preferences49

K.6 REPRESENTATIONS OF BIDDER.....49

 K.6.1 Organization and Qualification49

 K.6.2 Authorization50

 K.6.3 No Violation of Agreements, Articles of Incorporation or Bylaws50

 K.6.4 No Defaults Under Agreements.....50

 K.6.5 Compliance With Laws.....50

 K.6.6 No Litigation50

 K.6.7 Taxes51

 K.6.8 Disclosure51

 K.6.9 No Collusion.....51

 K.6.10 Ethics52

 K.6.10.1 Conflict of Interest.....52

 K.6.10.2 Disclosure of Interested Parties52

 K.6.10.3 No Gratuities52

 K.6.11 No Compensation52

 K.6.12 Contracting with Executive Head of State Agency53

 K.6.13 Limitation on Employment of Former State Officers53

 K.6.14 Notification53

 K.6.15 Suspension, Debarment and Terrorism.....53

 K.6.16 Violation of Federal Law Relating To Reconstruction Efforts As A Result Of Hurricanes
Rita, Katrina or Any Other Disaster After September 24, 2005.....53

K.6.17 Deceptive Trade Practices; Unfair Business Practices 54

K.7 REPRESENTATIONS OF THE DEPARTMENT 54

 K.7.1 Authorization 54

 K.7.2 No Violation of Agreements..... 54

 K.7.3 Disclosure 54

K.8 PAYEE IDENTIFICATION NUMBER..... 55

K.9 POINT OF CONTACT 55

K.10 CERTIFICATION 55

SECTION A - DEFINITIONS

The following terms used in this Contract will, unless the context indicates otherwise, have the meanings set forth below:

Authorized Representative means the person designated in writing to act for and on behalf of a party of this Contract, which designation has been furnished to the other party hereto as described in Section G.2.1.

Biennium means any of the two-year periods beginning on September 1 and ending on August 31 of odd numbered years, which periods are used for budgetary purposes by the State of Texas.

Commencement Date means the date on which the Contractor shall begin providing services. For the purpose of this Contract, that date is September 1, 2016.

Contract Monitor means the Department employee that is responsible for technical administration of this Contract. See Section G.2.3 for full explanation.

Contract Term means the duration of this Contract as specified in Section F.1.

Contractor means the individual, partnership or corporation who performs services under this Contract.

Department means The Texas Department of Criminal Justice (TDCJ).

Department Policies means all written policies, procedures, standards, guidelines, directives and manuals of the Department and as may be amended from time to time, which the Department has made available to the Contractor and with which the Contractor has an affirmative obligation to be and remain familiar.

Event of Default means any of the events or circumstances described in Section I.3.

Fiscal Year means any of the one (1) year periods beginning September 1 and ending August 31, which periods are used for annual budgetary purposes by the State of Texas.

Non-Appropriation means the failure by the Legislature of the State, as part of its budgetary process, to appropriate money to be used for the payments due hereunder.

Offender means a person under the supervision of the Texas Department of Criminal Justice.

Payment or Payments means the amount(s) agreed to be paid by the Department to the Contractor or Services under this Contract.

PD means the Texas Department of Criminal Justice's Personnel Directives.

Services means performance by the Contractor providing aerial spraying services in accordance with the terms and conditions listed hereunder.

TBCJ means the Texas Board of Criminal Justice.

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 SERVICES AND PRICES/COSTS

B.1.1 Services Being Acquired

The Contractor shall, in accordance with the terms of this Contract, provide all necessary personnel and Services and otherwise do all things necessary for, or incidental to, providing the aerial spraying Service(s) listed hereunder.

B.2 PRICING SCHEDULE

Award Designation:

P = Primary
 S1 = Secondary Contractor #1
 S2 = Secondary Contractor #2
 N = Neither

B.2.1 Application to Southern Area Farms

Contract Line Item Number (CLIN) 001, Sub-Categories A-F and CLIN 002, Sub-Categories A-C

The Department contemplates the use of aircraft service during the 2017 cropping season for approximately (1) zero to 3,500 acres of cotton; (2) zero to 14,000 acres of corn and grain sorghum; and (3) zero to 3,700 acres of vegetables. The number of applications will be determined by weed and/or insect infestations. The Contractor shall be aware that the Department uses state-owned ground rigs to the fullest extent possible. The Department's Southern Area Farms are:

Clemens Farm, Brazoria County, Brazoria, Texas
 Darrington Farm, Brazoria County, Rosharon, Texas
 Ramsey Farm, Brazoria County, Rosharon, Texas
 Scott Farm, Brazoria County, Angleton Texas

001 - Category I – Liquid Application of Insecticides, Herbicides, Fungicides, Fertilizers, and/or Defoliant

001A	1 Gallon Total Liquid	\$_____ Per Acre Application (N)
001B	2 Gallons Total Liquid	\$_____ Per Acre Application (N)
001C	3 Gallons Total Liquid	\$_____ Per Acre Application (N)
001D	5 Gallons Total Liquid	\$_____ Per Acre Application (N)
001E	10 Gallons Total Liquid	\$_____ Per Acre Application (N)
001F	Ultra Low Volume (ULV)	\$_____ Per Acre Application (N)

002 – Category II – Application of Granular Fertilizer

The Department contemplates the use of aerial application of granular fertilizer at various rates per acre to approximately zero to 6,700 acres of various croplands.

002A	100 – 150 pounds per acre	\$_____ Per Acre Application (N)
002B	151 – 200 pounds per acre	\$_____ Per Acre Application (N)
002C	201 – 250 pounds per acre	\$_____ Per Acre Application (N)

B.2.2 Applications to Pack/Luther Unit, Grimes County, Navasota, Texas and Buffalo Ranch, Burleson County, Snook, Texas**CLIN 003, Sub-Categories A-E and CLIN 004 A-C**

The Department contemplates the use of aircraft service during the cropping season of 2017 for approximately (1) zero to 2,500 acres of grain sorghum; (2) zero to 5,500 acres of corn; (3) zero to 650 acres of vegetables; and (4) zero to 2,700 acres of cotton. The number of applications will be determined by weed and insect infestation.

003 - Category III - Liquid Pesticide Application

003A	1 gallon total liquid	\$ <u>4.95</u> Per Acre Application (P)
003B	2 gallons total liquid	\$ <u>5.35</u> Per Acre Application (P)
003C	3 gallons total liquid	\$ <u>5.75</u> Per Acre Application (P)
003D	5 gallons total liquid	\$ <u>6.55</u> Per Acre Application (P)
003E	Ultra Low Volume (ULV)	\$ <u>4.95</u> Per Acre Application (P)

The Department contemplates the use of aerial applications of granular fertilizer at various rates per acre to approximately zero to 1,800 acres of various croplands.

004 - Category IV - Granular Fertilizer Application

004A	100 - 150 pounds per acre	\$_____ Per Acre Application (N)
004B	151 - 200 pounds per acre	\$_____ Per Acre Application (N)
004C	201 - 250 pounds per acre	\$_____ Per Acre Application (N)

B.2.3 Application to Central Area Farms

CLIN 005, Sub-Categories A-E and CLIN 006 Sub-Categories A-C

The Department contemplates the use of aircraft service during the cropping season of 2017 for approximately (1) zero to 1,400 acres of cotton; (2) zero to 2,600 acres of corn and grain sorghum; and (3) zero to 7,500 acres of pastureland. The number of applications will be determined by weed and insect infestations. The Department's central area farms are:

Eastham Farm, Houston County, Lovelady, Texas
 Ellis/Estelle Farm, Walker County, Huntsville, Texas
 Ferguson Farm, Madison County, Midway, Texas

005 - Category V - Liquid Application of Insecticides, Herbicides, Fungicides, Fertilizers, and Defoliant

005A	1 gallon total liquid	\$ <u>5.55</u> Per Acre Application (P)
005B	2 gallons total liquid	\$ <u>5.95</u> Per Acre Application (P)
005C	3 gallons total liquid	\$ <u>6.35</u> Per Acre Application (P)
005D	5 gallons total liquid	\$ <u>7.15</u> Per Acre Application (P)
005E	Ultra Low Volume (ULV)	\$ <u>5.55</u> Per Acre Application (P)

The Department contemplates the use of aerial application of granular fertilizer at various rates per acre to approximately zero to 6,000 acres of various croplands.

006 - Category VI - Granular Fertilizer Application

006A	100 - 150 pounds per acre	\$_____ Per Acre Application (N)
006B	151 - 200 pounds per acre	\$_____ Per Acre Application (N)
006C	201 - 250 pounds per acre	\$_____ Per Acre Application (N)

B.2.4 Application to Northern Area Farms

CLIN 007, Sub-Categories A-E; CLIN 008, Sub-Categories A-C; and CLIN 009

The Department contemplates the use of aircraft service during the cropping season of 2017 for approximately zero to 1,550 acres of grain sorghum and corn. The units are adjacent and use a common landing strip located on the Coffield Farm.

Beto Farm, Anderson County, Tennessee Colony, Texas
 Coffield Farm, Anderson County, Tennessee Colony, Texas

007 - Category VII - Liquid Application of Insecticides, Herbicides, Fungicides, and Fertilizers to Coffield and Beto Farms

007A	1 gallon total liquid	\$ <u>5.55</u> Per Acre Application (P)
007B	2 gallons total liquid	\$ <u>5.95</u> Per Acre Application (P)
007C	3 gallons total liquid	\$ <u>6.35</u> Per Acre Application (P)
007D	5 gallons total liquid	\$ <u>7.15</u> Per Acre Application (P)
007E	Ultra Low Volume (ULV)	\$ <u>5.55</u> Per Acre Application (P)

CLIN 008, Sub-Categories A-C and 010

The Department contemplates the use of aerial application of granular fertilizer at various rates per acre to approximately zero to 3,000 acres on the Coffield and Beto Farms.

008 - Category VIII - Granular Fertilizer Application for Coffield and Beto Farms (Northern Farms)

008A	100 - 150 pounds per acre	\$_____ Per Acre Application (N)
008B	151 - 200 pounds per acre	\$_____ Per Acre Application (N)
008C	201 - 250 pounds per acre	\$_____ Per Acre Application (N)

The Department contemplates the use of aerial service for seeding a sorghum-sudan hybrid to approximately zero to 1,400 acres at a seeding rate of 15 pounds per acre on the Northern Area Farms. This seeding should take place during mid to late April.

009 - Category IX - Seeding Forage Sorghum on Northern Area Farms

009	Seeding forage sorghum	\$ <u>6.55</u> Per Acre Application (P)
-----	------------------------	-----------------------------------------

B.2.5 Application to Northern & Central Area Farms

The Department contemplates the use of aircraft service for applications of regulated herbicides and picloram to approximately (1) zero to 8,500 acres on the Coffield and Beto Farm; and (2) zero to 5,000 acres on the Eastham Farm. Aerial applicators bidding on this Contract must be bonded and registered for topical application of hormone type herbicides or plant regulators with the Texas Department of Agriculture (TDA). The TDA does not deduct acres treated from the Contractor's permits, but does require a report of acres flown. Therefore, do not include the cost of the permit acres because state-owned land is being treated.

Coffield and Beto Farms are located in Anderson County, Tennessee Colony, Texas. This county is non-regulated. The Eastham Unit is in the regulated portion of Houston County. There will be cotton planted on the Department land directly across the river from the Eastham Unit.

010 - Category X - Liquid Application of Regulated Herbicides and Picloram to Coffield, Beto, and Eastham Units (Application is at 5 gallons total liquid per acre)

010A Coffield and Beto \$7.15 5 Gallons per Acre Application (P)

010B Eastham \$7.15 5 Gallons per Acre Application (P)

Height of application will be below treetop level while spraying forest right-of-way where possible. All decisions concerning height of flight, rates, and cancellation of spraying due to environmental conditions will be final. All applications will be made under direct supervision of either the Department's Farm Manager or the Manager of Livestock for the specified unit.

B.2.6 Application to All Units

The following four (4) categories contain application requirements which are common to all units:

CLIN 011, Sub-Categories A-D, CLIN 012, Sub-Categories A-D, CLIN 013, Sub-Categories A-D and CLIN 014, Sub-Categories A-D

The Department contemplates the use of aerial service for seeding rye grass to approximately (1) zero to 2,000 acres on Coffield - Beto (Northern); (2) zero to 3,000 acres on Ellis/Estelle, Ferguson, Eastham (Central); (3) zero to 1,200 acres on Darrington, Ramsey, Scott and Clemens (Southern); and (4) zero to 400 acres on Pack/Luther. This is a total of 6,600 acres throughout the system. Seeding rate will be 10, 15, 20 or 25 pounds per acre. In most cases the acreage on these farms will not be one large block; there may be several smaller fields. Swath will be a maximum of 45 feet. The Contractor must supply ground-loading equipment.

011 - Category XI - Seeding Rye Grass

011A Northern Area Farms - 10 pounds per acre \$5.55 Per Acre (P)

Northern Area Farms - 15 pounds per acre \$6.05 Per Acre (P)

Northern Area Farms - 20 pounds per acre \$6.55 Per Acre (P)

Northern Area Farms - 25 pounds per acre \$7.05 Per Acre (P)

011B Central Area Farms - 10 pounds per acre \$5.55 Per Acre (P)

Central Area Farms - 15 pounds per acre \$6.05 Per Acre (P)

Central Area Farms - 20 pounds per acre \$6.55 Per Acre (P)

Central Area Farms - 25 pounds per acre \$7.05 Per Acre (P)

011C Southern Area Farms - 10 pounds per acre \$_____ Per Acre (N)

Southern Area Farms - 15 pounds per acre \$_____ Per Acre (N)

Southern Area Farms - 20 pounds per acre \$_____ Per Acre (N)

	Southern Area Farms - 25 pounds per acre	\$_____ Per Acre (N)
011D	Pack/Luther Unit and Buffalo Ranch 10 pounds per acre	\$ <u>5.55</u> Per Acre (P)
	Pack/Luther Unit and Buffalo Ranch 15 pounds per acre	\$ <u>6.05</u> Per Acre (P)
	Pack/Luther Unit and Buffalo Ranch 20 pounds per acre	\$ <u>6.55</u> Per Acre (P)
	Pack/Luther Unit and Buffalo Ranch 25 pounds per acre	\$ <u>7.15</u> Per Acre (P)

The Department contemplates the use of aerial application of liquid fertilizer, at a rate of 13-1/2 gallons per acre to the following areas (1) zero to 100 acres on Northern Area Farms; (2) zero to 506 acres on Central Area Farms; (3) zero to 1,389 acres on Southern Area Farms; and (4) zero to 305 acres on Pack/Luther Unit.

This work will be primarily directed at small grains but could be needed on additional cropland.

012 - Category XII - Application of Liquid Fertilizer

012A	Northern Area Farms	\$_____ Per Acre Application (N)
012B	Central Area Farms	\$_____ Per Acre Application (N)
012C	Southern Area Farms	\$_____ Per Acre Application (N)
012D	Pack/Luther Unit and Buffalo Ranch	\$_____ Per Acre Application (N)

The Department contemplates the use of aerial service for seeding clover to approximately (1) zero to 600 acres on Coffield - Beto (Northern); (2) zero to 1,000 acres on Ellis/Estelle, Eastham, and Ferguson (Central); (3) zero to 1,000 acres on Darrington, Ramsey, Scott and Clemens (Southern); and (4) zero to 600 acres on Pack/Luther Unit.

013 - Category XIII - Seeding Clover

013A	Northern Area Farms	\$ <u>6.75</u> Per Acre Application (P)
013B	Central Area Farms	\$ <u>6.75</u> Per Acre Application (P)
013C	Southern Area Farms	\$_____ Per Acre Application (N)
013D	Pack/Luther Unit and Buffalo Ranch	\$ <u>6.75</u> Per Acre Application (P)

The Department contemplates the use of aerial service for seeding common Bermuda grass to approximately (1) zero to 600 acres on Coffield - Beto (Northern); (2) zero to 600 acres on Ellis/Estelle, Eastham, Ferguson (central); (3) zero to 600 acres on Darrington, Ramsey, Scott and Clemens (Southern); and (4) zero to 600 acres on Pack/Luther Unit.

014 - Category XIV - Seeding Common Bermuda Grass (seeding rate is seven (7) pounds per acre)

014A	Northern Area Farms	\$ <u>6.75</u> Per Acre Application (P)
014B	Central Area Farms	\$ <u>6.75</u> Per Acre Application (P)
014C	Southern Area Farms	\$_____ Per Acre Application (N)
014D	Pack/Luther Unit and Buffalo Ranch	\$ <u>6.75</u> Per Acre Application (P)

B.3 PRICE INCREASES/DECREASES

The Contractor may submit a written request for a price increase to the Department no later than June 1 of each year. The Department will review the request and any change, both increase or decrease in price, will be based on the specified index as published by the Bureau of Labor Statistics, Washington, D.C. 20212, Region VI, 214-767-6970, Index Number WPU0571 - Fuels and related products and power, Gasoline. Baselines shall be the index announced for the month in which the bid was opened. The Department will permit unit price adjustments upward or downward when correlated with the price index specified herein, unless otherwise indicated. Upon review of the Department, if index has decreased, the Department may adjust unit price downward. Any price increase or decrease shall be made via unilateral modification signed by the Department's Chief Financial Officer with notification made to the Contractor.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 BACKGROUND

The Department requires a Contractor to perform aerial crop dusting, seeding and fertilizing applications to various units within the Department, as specified in Section B.2.

C.2 GENERAL DUTIES AND OBLIGATIONS

The Contractor shall provide the Services in accordance with applicable federal and state law, including all constitutional, legal and court ordered requirements, whether now in effect or hereafter effected or implemented. The Contractor shall comply with the Department's policies, procedures, personnel directives and regulations during the Contract Term. The Contractor shall comply with the Department's safety requirements and reporting procedures.

C.3 SPECIFIC DUTIES, OBLIGATIONS, AND EQUIPMENT

C.3.1 Aircraft, Equipment and Pilots

A. The Contractor shall use the following aircraft types and minimum horsepower to provide Services under this Contract.

<u>Aircraft</u>	<u>Horsepower</u>
Cessna Ag Waggon	230
Gruman Ag Cats	230
Piper Pawnee	235
Snows	450
Stearmans	450
Air Tractor	600

The Contractor shall provide a listing of the make, model, and boom length of the planes that will be utilized to perform Services under this Contract. The Contractor shall provide the Department a listing of the number of planes that will be available during the peak spraying period.

B. The Contractor, if providing Ultra Low Volume (ULV) work, shall have a boom equipped to do such work. Rotary atomizers, forced air atomizers and standard boom arrangements, which are capable of being adjusted for ULV work, shall be accepted.

C. The Contractor shall furnish a loader and loading vehicle with equipment capable of mixing chemicals before being loaded in the aircraft, unless otherwise approved from the Contract Monitor. On ULV work, it may be necessary to draw vegetable oil out of the Department's holding tanks. Offender labor will not be used to open pesticide containers or load pesticides into mixing equipment or aircraft. The Contractor shall provide loading equipment for the loading of dry fertilizer into the plane.

D. All pesticide containers shall be triple rinsed by the Contractor in order to wash out settled residue.

- E. The Department will supply flaggers for seeding and granular fertilize applications only. All fields shall be hand-flagged, flagged with automatic flagger equipment, or Global Positioning System (GPS). The Contractor shall provide a description of the flagging system that the Contractor will be furnishing for all other applications.
- F. Landing strips on each unit will be designated at locations mutually agreeable between the Contractor and the Warden of the unit concerned.
- G. Commercial pilots shall have at least two (2) seasons of pest control flying totaling one hundred (100) or more hours.
- H. The Contractor shall provide the name, number of years of agriculture flying experience, and the Texas Department of Agriculture Commercial Applicator License number of each pilot assigned to provide Services under this Contract. The Contractor shall submit in writing to the Contract Monitor any additions to the pilots being utilized before the new pilot can provide Services on the Department's agriculture land. In the event of an emergency situation, the Contractor may contact the Contract Monitor in person or by telephone to use a new pilot and submit the written documentation within five (5) business days. The Department reserves the right to refuse the Contractor's use of a pilot who has not passed the required criminal background check and whose work has been documented to be inferior to the Department's requirements.

C.3.2 Application

- A. The Department will furnish materials (to include: seed, chemicals, fertilizer and water) to be applied.
- B. The Department's Entomologists and Farm Managers reserve the right to stop or delay spraying by the Contractor due to adverse weather conditions or faulty equipment.
- C. Conventional and ULV sprays are hereby designated as follows:
 - 1. Conventional - one (1) gallon total liquid or more per acre.
 - 2. ULV - one-half (1/2) to six (6) pints total liquid per acre.
- D. When a product label requires that a closed system be used when mixing and loading that product, the Contractor shall be required to furnish a closed system apparatus. Every effort will be made by the Department to notify the Contractor in advance when this system is required for an application.
- E. Swath width may vary with the type of aircraft or boom used. However, at all times, swath width shall be sufficiently tight as to give complete coverage of field being treated. The Department's Entomologists reserve the right to periodically check this coverage.

C.3.3 Employee's General Rules of Conduct

The Contractor shall comply with the Department's listing of PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees, which is located on the TDCJ website at <https://www.tdcj.texas.gov/divisions/hr/hr-policy/pd-22excerpt.pdf> and PD-29, Sexual

Misconduct with Offenders, which is located on the TDCJ website at <http://www.tdcj.texas.gov/divisions/hr/hr-policy/pd-29.pdf>.

C.3.4 Work Schedule

The Department's Entomologists and Farm Managers will coordinate the date and time of Services.

C.3.5 Contractor's Employment Requirements

- A. For any Services performed under this Contract, the Contractor shall not employ any persons with a felony or misdemeanor (A, B or C) conviction without prior written approval of the Department. This includes any employee with a criminal history who is employed by the Contractor at the time of award. The Contractor shall comply with the Texas Department of Criminal Justice PD-75, which is located on the TDCJ website at <https://www.tdcj.texas.gov/divisions/hr/hr-policy/pd-75.pdf> in determining eligibility for employment.
- B. Prior to award, a criminal background check shall be completed by the Department for each employee performing Services under this Contract. The results of the criminal background checks must be acceptable to the Department. Applicants with criminal convictions and or pending charges must meet PD-75, requirements. A nominal fee will be charged to the Contractor for these criminal background checks. An additional fee will be charged for any resubmission requests. The Contractor is responsible for conduct and behavior of all persons working on the Department's property and will ensure the Department's Policies are followed, should a violation occur, the Contractor shall take corrective action acceptable to the Department. The Contractor shall notify the Department of employees who resign while under investigation for inappropriate conduct and/or for violations of policies related to the Department security. The Contractor shall immediately notify the Department of any employee who has been arrested, indicted or charged with a criminal offense. Such employee shall not be permitted to return to duty until authorized to do so by the Department.
- C. The Contractor shall submit an annual criminal background check request to the Department for each employee performing Services under the terms of this Contract no later than August 1 of each year. A nominal fee will be charged to the Contractor for the annual criminal background checks. A copy of the annual background check shall be maintained in the employee's personnel file.

SECTION D – REQUIRED REPORTS

D.1 REPORTS REQUIRED FROM CONTRACTOR

DUE DATE	REPORT ITEM	AUTHORITY
Monthly		
Monthly by the 5 th of the following month.	HUB Subcontracting Plan (HSP), Prime Contractor Progress Assessment Report	Contract, Section H.2.2, Exhibit J.1, Attachment A
OTHER		
Prior to Service Commencement and upon renewal or replacement.	Insurance Certificates and Policies.	Contract, Section H.1
Each Instance	Copy of each subcontract	Contract, Section H.2
Upon delivery of Services to appropriate farm office.	Invoices	Contract, Section G.4.A

Additional Reports as may be required from the Contractor during the course of the Contract.

SECTION E - INSPECTION AND ACCEPTANCE**E.1 INSPECTION AND ACCEPTANCE OF SERVICES**

- A. The Department and other Government regulatory agencies have the right to inspect and test all Services called for by this Contract, to the extent practicable at all times and places during the Contract Term. The Department shall perform inspections in a manner that will not unduly interfere with the Contractor's performance of Services. The Contractor shall furnish, and shall require subcontractors to furnish, at no increase in the Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- B. The designated Department representative that oversees the programmatic area will inspect and accept the work performed and Services delivered to ensure compliance with the Contract requirements insofar as the work is concerned. The Contract Monitor will determine the adequacy of performance by the Contractor in accordance with the terms and conditions of this Contract.
- C. If subject to the outcome of an audit or inspection, it is determined that the Contractor is in non-compliance with any provisions of this Contract and/or that money is owed to the Department by the Contractor, then the Department may exercise its rights of recovery of money owed as authorized in Section G.4.2 of this Contract.
1. If any of the Services are non-compliant with the Contract requirements, as identified by the Department, the Contractor shall be notified describing specific areas of non-compliance. The Contractor shall have a twenty (20) day period to file a written response detailing corrective action taken to all such items of non-compliance. The response must include supporting documentation which verifies execution of corrective action(s) taken. Unless otherwise specified, or previously agreed to by the Department, the submission of a corrective action plan shall not be accepted as corrective action. For all items of non-compliance satisfactorily resolved by agreement between the Contractor and the Department, no further action regarding such items shall be taken.
 2. If any of the Services are non-compliant with the Contract requirements, as identified by a Government regulatory agency, the Contractor must resolve all items identified as non-compliant by the deadline established by the agency.
- D. Each load is subject to inspection by the Department. The amount of total liquid applied will be tabulated. If the amount of total liquid applied does not approximately equal the correct amount to be applied and the Contractor is determined to be at fault, the Department may terminate this Contract as an Event of Default (Section I.3.1). In addition, if the Contractor refuses to allow inspection of any loads, the Contractor will be asked to leave the unit immediately and a formal complaint and incident report will be put on file at Agribusiness, Land and Minerals headquarters. Such refusal of inspection may subject this Contract to termination as an Event of Default and may have an adverse effect on the Contractor's ability to obtain any future Department aerial spraying contracts.

E.2 INSPECTION BY STATE EMPLOYEES

The Contractor shall provide entry at all times by the Texas Board of Criminal Justice (TBCJ) and the Department's authorized employees/agents for inspections and other official purposes. The

Governor, members of the Legislature and all other members of the Executive and Judicial Departments of the State, as well as any other persons designated by the Department including Office of the Inspector General, shall be admitted to monitor the delivery of Services.

E.3 AUTHORITY TO AUDIT

- A. The 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. The 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.
- B. The Contractor shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.
- C. The Contractor shall reimburse the State of Texas for all costs associated with enforcing this provision.
- D. See Section H.5, Books and Records, concerning record retention.

E.4 FRAUD, WASTE OR ABUSE

- A. In accordance with Texas Government Code, Chapter 321, the State Auditor's Office (SAO) is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds.
- B. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website at www.sao.state.tx.us. It can also be reported to the TDCJ Office of the Inspector General at 1-866-372-8329, the TDCJ Internal Audit Division at 512-406-5935, or Crime Stoppers at 1-800-832-8477.

E.5 AUDITS BY OTHER AGENCIES

Upon receipt of audit or monitoring reports pertaining to the provision of services under this Contract that are conducted by agencies or organizations other than the Department, the Contractor shall provide copies thereof to the Department within thirty (30) days. The Contractor shall provide to the Department copies of responses to audit or monitoring reports within seven (7) days of issuance.

SECTION F - DELIVERIES OR PERFORMANCE**F.1 PERIOD OF PERFORMANCE**

The Contract will consist of a Base Period of one (1) year (September 1, 2016 through August 31, 2017) and four (4) one (1) year Option Periods (September 1, 2017 through August 31, 2018; September 1, 2018 through August 31, 2019; September 1, 2019 through August 31, 2020 and September 1, 2020 through August 31, 2021). The Contract may be extended for an additional six (6) month period at the Department's option, per Section I.16. The terms, conditions and rates for all extensions shall remain as stated in the Contract.

SECTION G - CONTRACT ADMINISTRATION DATA**G.1 CLAUSES INCORPORATED BY REFERENCE**

This Contract incorporates one (1) or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contract Administrator will make their full text available. Texas Government Code, Chapter 2251, Payment for Goods and Services.

G.2 AUTHORITY – AUTHORIZED REPRESENTATIVE, CONTRACT ADMINISTRATOR, CONTRACT MONITOR AND CONTRACT MANAGER**G.2.1 Authorized Representative**

- A. In the case of the Contractor, its President or any Vice President shall designate the Authorized Representative in writing. The designation of the Contractor's initial Authorized Representative shall be delivered to the Department no later than the effective date of this Contract. The Contractor's Authorized Representative may designate other persons to assist such Authorized Representative in the performance of certain obligations required by this Contract.
- B. In the case of the Department, the Executive Director is hereby designated as its Authorized Representative. The Executive Director has designated the Chief Financial Officer to act in his/her behalf on matters requiring signature approval of the Authorized Representative. The Director of Agribusiness, Land and Minerals has been designated as the Authorized Representative to act on behalf of the Chief Financial Officer on all matters pertaining to the daily operations of these Services as outlined in this Contract. The Department's Authorized Representatives may designate other persons to assist such Authorized Representatives in the performance of certain obligations of this Contract.
- C. At any time, any party may designate any person as its Authorized Representative by delivering to the other party a written designation signed, if on behalf of the Contractor by its President or any Vice President, or if on behalf of the Department by the Executive Director. Such designations shall remain effective until new written instruments are filed with or such notice is given to the other party that such designations have been revoked.
- D. The Department's Authorized Representative (the Executive Director) or his/her designated representative (Chief Financial Officer) is the only person authorized to make or approve changes in any of the requirements of this Contract, and notwithstanding any clauses contained elsewhere in this Contract, the said authority remains solely with the Executive Director or his/her designated representative. In the event the Contractor makes any change at the direction of any person other than the Executive Director or his/her designated representative, the change will be considered to have been made without authority and no adjustment will be made in the Contract price to cover any increase in cost incurred as a result thereof.

G.2.2 Contract Administrator

- A. The Contract Administrator for administration of this Contract is Jason Andrews.
- B. The telephone number for the Contract Administrator is (936) 437-7129.
- C. The facsimile number of the Contract Administrator is (325) 223-0310.
- D. The e-mail address is jason.andrews@tdcj.texas.gov.
- E. The Contract Administrator is responsible for general administration of this Contract, negotiation of any changes and final issuance of written changes/modifications to this Contract. The Department, without prior notice to the Contractor, may at its discretion replace/reassign the Contract Administrator. The Contractor will be notified of the change.

G.2.3 Contract Monitor

- A. The Contract Monitor for this Contract is Todd Swick.
- B. The telephone number for the Contract Monitor is (936) 437-5425.
- C. The facsimile number of the Contract Monitor is (936) 291-3092.
- D. The e-mail address is todd.swick@tdcj.texas.gov.
- E. The Contract Monitor represents the Executive Director in the administration of technical details within the scope of this Contract. The Contract Monitor is also responsible for the final inspection and acceptance of all reports and such other responsibilities as may be specified in the Contract.
- F. The Contract Monitor is not authorized to make any representations or commitments of any kind on behalf of the Executive Director of the Department or the State of Texas. The Contract Monitor does not have the authority to alter the Contractor's obligations or to change the Contract specifications, price, terms or conditions.
- G. The Contract Monitor assignment for this Contract may be changed at any time by the Department without prior notice to the Contractor.

G.2.4 Contract Manager

- A. The Contractor's designated Contract Manager for this Contract is:

Mary C. Whitten
10800 C.R. 270
Snook, Texas 77878

- B. The telephone number for the Contract Manager is (979) 272-8457.
- C. The facsimile number for the Contract Manager is not available at this time.

- D. The e-mail address for the Contract Manager is Marycwhitten@yahoo.com.
- E. The Contractor shall provide a Contract Manager for this Contract who shall be responsible for the overall management and coordination of this Contract and shall act as the central point of contact with the State. The Contract Manager shall have full authority to act for the Contractor in the performance of the required Services. The Contract Manager or a designated representative shall meet with the Contract Monitor to discuss problems as they occur.

G.3 INVOICE REQUIREMENTS

- A. The Contractor's invoice shall include the following:
 - 1. Contract Number;
 - 2. Name of business and remittance address;
 - 3. Invoice date;
 - 4. Descriptions, price and quantity of services rendered, including the Contract Line Item Number;
 - 5. Prompt payment discount; and
 - 6. Name, title, phone number and complete mailing address of responsible official to whom payment is to be sent.
- B. Original invoices with appropriate documentation shall be submitted to the appropriate farm office at the time of Service.

G.4 PAYMENTS

- A. Payment is to be made by the Department to the Contractor after Services are rendered and invoices have been submitted accurately and completely.
- B. The Contractor may offer the Department a prompt payment discount, such as, of one percent (1%), ten (10) days (see Page 1, Block 7), if the Contractor requests an expedited Payment. Prompt payment discounts must also be stated on each invoice.
- C. Before the expiration date of this Contract, the Department may make, or have made, an inspection to determine full compliance in every respect with this Contract. Failure of the Contractor to fully and faithfully perform under this Contract shall subject the Contractor to satisfactorily complete Services prior to the expiration date. The Department may withhold any monies due to the Contractor or claimed to be due to the Contractor until the terms of this Contract have been fulfilled and the work of the Contractor accepted.
- D. It is recommended that the Contractor receive Payments via Electronic Funds Transfer (EFT), also known as direct deposit.

E. Regardless as to whether Direct Deposit is chosen, upon Contract award the Contractor shall submit a completed Vendor Maintenance Direct Deposit and Substitute W-9 Form to the following address:

Texas Department of Criminal Justice
Accounts Payable
P.O. Box 4018
Huntsville, Texas 77342-4018

F. If the Contractor has previously submitted a completed Vendor Maintenance Direct Deposit and Substitute W-9 Form to the Department for another separate contract, another form is not required to be submitted.

G. The form and instructions can be found at the following link on the TDCJ website: www.tdcj.texas.gov/divisions/finance/finance_acct_accts_pay.html.

H. In the event the Contractor elects to decline Direct Deposit on the Vendor Maintenance Direct Deposit and Substitute W-9 Form, the Payment will be mailed to the following remittance address:

_____ n/a _____

G.4.1 Late Payment

Any amount owed to the Contractor more than one (1) day beyond the date such amount is due as described in Section G.4 hereof shall accrue interest each day that such amount is not paid at the rate specified by Texas Government Code, §2251.025, provided, however, that this provision shall not excuse failure by the Department to make Payment in strict accordance with this Contract.

G.4.2 Withholding of Payment

A. The Department shall have the right to withhold the Payment to the Contractor until the following failures have been corrected.

1. Failure to respond to audit reports as set forth in Section E.1.C; and
2. Failure to correct identified areas of non-compliance to the satisfaction of the Department within twenty (20) days upon receipt of notification.

B. The Contractor agrees that the Department shall not pay interest to the Contractor for monies so withheld.

C. The Payment withheld shall be released upon the Department's satisfaction that compliance has been achieved for thirty (30) consecutive days.

D. With the exception of disputed issues, such withholding of final Payment by the Department shall not exceed one hundred twenty (120) days from date of the Contract termination.

G.5 PAYMENT OF DEBT OWED TO THE STATE OF TEXAS

As required by Texas Government Code, §2252.903, the Contractor agrees that any payments due under a contract resulting from this Solicitation shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until debt is paid in full. The Contractor shall comply with rules adopted by the Department under Texas Government Code, §§403.055, 403.0551, 2252.903 and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

G.6 RIGHT TO OFFSET

In the event the Department determines that the Contractor owes money to the Department under any contract or purchase order, the Department, upon providing the Contractor with written notice of its intent to offset, shall have the right to withhold monies due to the Contractor with respect to this Contract or purchase order or with respect to any contract or purchase order with the Department and apply such monies to the money due to the Department.

SECTION H - SPECIAL CONTRACT REQUIREMENTS**H.1 INSURANCE REQUIREMENTS**

- A. Prior to the approval of this Contract by the Department, the Contractor shall procure, pay for and maintain the following insurance written by companies approved by the State of Texas and acceptable to the Department.
- B. The insurance shall be evidenced by delivery to the Department of certificates of insurance executed by the insurer or its authorized agent stating coverage, limits, expiration dates and compliance with all applicable required provisions.
- C. Upon request, the Department shall be entitled to receive without expense, copies of the policies and all endorsements. Copies and changes to the initial insurance policies, including extensions, renewals, cancellations and revisions shall be submitted to the Contract Administrator within thirty (30) days of the effective date.
- D. Subject to the Contractor's right to maintain reasonable deductibles, the Contractor shall obtain and maintain in full force and effect for the duration of this Contract and any extension hereof, at the Contractor's sole expense, insurance coverage in the following type(s) and amounts:
 1. Workers' Compensation with statutory limits; Employers Liability with minimum limits for bodily injury:
 - a. By accident, \$500,000 per each accident; and
 - b. By disease, \$500,000 per employee with a per policy aggregate of \$1,000,000.
 2. Commercial Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of \$500,000 per occurrence.
 3. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000 per occurrence, \$2,000,000 products/completed operations aggregate and \$2,000,000 general aggregate.
 - a. If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than twenty-four (24) months following completion of the Contract and acceptance by the Department.
 - b. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this Contract. Civil Rights Liability must be provided with the same liability limits. It may be included within the General Liability policy or written on a separate policy.
 - c. Liability coverage shall include coverage for damage to property and injury to persons caused by boiler and other equipment malfunction. The policy shall contain an endorsement to include coverage for the property of third parties.

- d. The Department shall be named as an additional insured by using endorsement CG2026 or broader.

H.1.1 Required Provisions

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:

- A. Name the Department and its officers, employees and elected representatives as additional insured to all applicable policies.
- B. Waive subrogation against the Department, its officers, employees and elected representatives, for bodily injury (including death), property damage or any other loss, to all applicable policies.
- C. Provide that the Contractor's insurance is the primary insurance in regards to the Department, its officers, employees and elected representatives.
- D. Provide that all provisions of this Contract concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- E. Ensure that all certificates of insurance identify the Service or product being provided and the name of the responsible party.
- F. The Contractor through an insurance agent licensed by the State of Texas shall obtain all insurance coverage and an insurance company licensed to issue such coverage in this State shall provide such coverage. No "self-insurance" coverage shall be acceptable. All policies shall include a provision requiring at least thirty (30) days prior written notice of cancellation to the Department.
- G. All insurance coverage obtained by the Contractor shall continue in full force and effect during the Contract Term. No Contract shall be entered into between the Contractor and the Department unless insurance coverage binders are received by the date scheduled for the execution of the Contract. Proof of insurance policies must be delivered prior to the Service Commencement Date.
- H. All insurance coverage is to be provided by insurance carriers permitted to conduct business in Texas. All insurance carriers shall be, at a minimum, rated "A VII" by A.M. Best or equivalent rating by a similar insurance rating service.
- I. The Contractor may choose the amount of deductible for any other insurance coverage required (above) to be obtained by the Contractor, but in no event shall such deductible for each occurrence exceed five percent (5%) of the required yearly aggregate limit of coverage.
- J. The Contractor is responsible for the first dollar defense coverage. All general liability and professional liability policies shall provide defense in addition to the policy limits.
- K. The limits required herein are minimum acceptable. However, these limits are not to be construed as being the maximum any prospective contractor may wish to purchase for their own benefit.

- L. As respect to the total limits of liability required, any combination of primary and/or umbrella coverage may satisfy those totals. However, if an umbrella is used, coverage must be at least as broad as the primary coverage.

H.2 SUBCONTRACTORS

- A. The Contractor may subcontract for the performance of any of its responsibilities to provide Services pursuant to this Contract.
- B. No subcontract may be entered into unless the Department provides prior written approval, which approval may not be unreasonably withheld.
- C. If a subcontractor is deemed to be needed for an event of an emergency nature, verbal approval may be obtained through an authorized Department representative. The Contractor shall submit a written request with supporting documentation for approval by the Department, as soon as possible.
- D. The Contractor shall furnish to the Department copies of all subcontracts, without regard to the amount of annual payments.
- E. Any arrangement by the Contractor with an affiliate or member company to provide Services shall be subject to the subcontractor provisions of this Section.
- F. No contractual relationship shall exist between the Department and any subcontractor and the Department shall accept no responsibility whatsoever for the conduct, actions or omission of any subcontractor selected by the Contractor.
- G. The Contractor shall be responsible for the management of the subcontractors in the performance of their work.
- H. A subcontractor may not work directly with the Department in any manner and shall not be included in the Contract award, renewals, or any other discussions except at the request of the Department audits.
- I. Unless waived in writing by the Department, the subcontract shall contain the following:
 - 1. An acknowledgement that the subcontract is subject to the Contract between the Department and the Contractor (the "Master Contract").
 - 2. The subcontractor shall agree to comply with the terms of the Master Contract to the extent applicable with respect to goods and Service being provided under the subcontract. It is the intention of the parties of the subcontract that the subcontractor shall "stand in the shoes" of the Contractor with respect to fulfilling the duties and obligations of the Contractor to the Department under the Master Contract.
 - 3. The Department's approval of a subcontract does not relieve the Contractor of its duty to perform under the Master Contract.
 - 4. The Department shall be deemed a "third party beneficiary" to the subcontract.

5. The subcontract shall also contain the required clauses referenced in Sections E.3 and I.12.

H.2.1 Insurance

The Contractor shall require all subcontractors to obtain, maintain and keep in force insurance coverage in accordance with accepted industry standards and the Contract during the time they are engaged hereunder.

H.2.2 Historically Underutilized Business (HUB)

- A. The Contractor shall make a good faith effort to award necessary subcontracts to HUBs in accordance with Texas Government Code, Sections 2161.181-182, 2161.252(b), and Texas Administrative Code (TAC), Title 34, Part 1, Chapter 20, Subchapter B, Rule 20.13. Pursuant to the Statewide Support Services Division HUB Rules, TAC, Title 34, Part 1, Chapter 20, Subchapter B, Rules 20.13 and 20.14, the Contractor shall submit a HUB Subcontracting Plan (HSP) as part of the bid submission, as well as make a good faith effort to implement the HSP. The Contractor shall seek written approval from the Department prior to making any modifications to its HSP.
- B. A detailed description of the HSP and required forms to be submitted with the bid submission are included as Exhibit J.1.
- C. The Contractor shall provide notice to all subcontractors of their selection as a subcontractor for this Contract. The notice must specify, at a minimum, this agency's name, the name of the Contract Administrator, this Contract's assigned contract number, the subcontracting opportunity the subcontractor will perform, the approximate dollar value of the subcontract and the expected percentage of this Contract's total value that the subcontract represents. A copy of the notice shall be provided to the Contract Administrator no later than ten (10) working days after this Contract is awarded.
- D. The Contractor shall submit to the Contract Administrator on a monthly basis (by the 5th day of the following month) the Prime Contractor Progress Assessment Report, which is included as Exhibit J.1.

H.3 UTILIZATION OF SERVICES

The Department does not covenant or represent to the Contractor a minimum amount of Service that will be performed under this Contract. The Department will not be liable to the Contractor for loss of profits or damages incurred by the Contractor in the event that the Department does not utilize aerial spraying Services from the Contractor.

H.4 UTILIZATION OF PRODUCTS AND MATERIALS PRODUCED IN TEXAS

- A. The Contractor shall comply with Texas Government Code, Section 2155.4441 relating to the service contract use of products produced in the State of Texas.
- B. In performing Services under this Contract, the Contractor shall purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside of Texas.

H.5 BOOKS AND RECORDS

All records and documents pertinent to the Services contracted hereunder shall be kept for a minimum seven (7) years after the termination hereof. If any litigation, claim, or audit involving these records begins before the retention period expires, the Contractor must continue to retain said records and documents until all litigation, claims or audit findings are resolved, meaning that there is a final court order from which no further appeal may be made, or written agreement is entered into between the Department and the Contractor.

H.6 FELONY CRIMINAL CONVICTIONS

The Contractor represents and warrants that the Contractor has not and the Contractor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, the Contractor has fully advised the Department as to the facts and circumstances surrounding the conviction.

H.7 SECURITY

The Contractor's employees and representatives, vehicles and equipment must be under security surveillance at all times and are subject to inspection at any time while on State property. The Contractor agrees to abide by all Department Policies and unit rules and regulations on State property. These rules, in part, prohibit the introduction of alcohol, narcotics, weapons, gambling paraphernalia, pagers and cellphones to any State property. This includes having these items in the personal vehicles of on-site employees. The Contractor's employees may not carry more than twenty-five dollars (\$25.00) in cash into any Department facility. Tobacco products are strictly prohibited on TDCJ units, but are allowed in the personal vehicles of on-site employees or in designated smoking areas. All vehicles must be kept locked when not in use and the Contractor's employee must stay with the vehicle when it is unlocked.

H.8 ORGANIZATIONAL AND NAME CHANGE

The Contractor shall submit written notification to the Department, within thirty (30) days, of any changes in the Contractor's name, address, telephone number, facsimile number and/or e-mail address with an effective date of such change. The Contractor shall submit to the Department a copy of any registration "to do business as", "DBA"; "AKA"; or "also known as", and any legal corporate name change filed with the Secretary of State.

H.9 FREE EXERCISE OF RELIGION

The Contractor is prohibited from substantially burdening an employee's or Offender's free exercise of religion.

H.10 DELAY OF SERVICES

The Contractor shall meet its obligations to commence Services at the Facility within the time frames defined by the Contract. In the event the Contractor fails to meet those time frames as defined by the Contract, absent extensions from the Department, the Department will have the right to obtain the Services from another source and charge the cost thereof to the Contractor for each day that Services are not performed due to delays caused by the Contractor's nonperformance. The Department will provide written notification to the Contractor by certified

- mail, return receipt requested, of the charges which will include the date of imposition and the amount that has accrued daily as of the date of the notification.

SECTION I - CONTRACT CLAUSES**I.1 AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR**

- A. Funds are not presently available for performance under this Contract beyond August 31, 2017.
- B. The Department's obligation for performance of this Contract beyond that date is contingent upon legislative approval and the availability of appropriated funds from which Payment for Contract purposes can be made.
- C. No legal liability on the part of the Department for any Payment may arise for performance under this Contract beyond August 31, 2017, until funds are made available to the Department for performance and until the Contractor receives notice of availability.
- D. Refer to Section I.3.4.C, Termination for Unavailability of Funds, for the Department's right to terminate this Contract in the event it is appropriated insufficient funds.

I.2 ADVERTISING OF AWARD

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or Service provided is endorsed or preferred by the Department or is considered by the Department to be superior to other products or Services.

I.3 DEFAULT AND TERMINATION**I.3.1 Default by the Contractor**

Each of the following shall constitute an Event of Default on the part of the Contractor:

- A. A material failure to keep, observe, perform, meet, or comply with any covenant, agreement, term, or provision of this Contract to be kept, observed, met, performed, or complied with by the Contractor hereunder, when such failure continues for a period of twenty (20) days after the Contractor's receipt of written notice thereof;
- B. A material failure to meet or comply with, Department policy, federal or state requirement or law, when such failure continues for a period of twenty (20) days after the Contractor's receipt of written notice thereof;
- C. The Contractor's material failure to comply with any Departmental policies for which the Contractor has been expressly required to comply and for which the Contractor has not received a prior written waiver from the Department, when such failure continues for a period of twenty (20) days after the Contractor's receipt of written notice thereof;
- D. Insolvency of the Contractor as evidenced by any of the following occurrences:
 - 1. Its inability to pay its debts;
 - 2. Any general assignment for the benefit of creditors;

3. Any decree or order appointing a receiver or trustee for it or substantially all of its property to be entered and, if entered without its consent, not to be stayed or discharged within sixty (60) days;
 4. Any proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors to be instituted by or against it and, if contested by it, not to be dismissed or stayed within sixty (60) days; or
 5. Any judgment, writ of attachment or execution, or any similar process to be issued or levied against a substantial part of its property which is not released, stayed, bonded, or vacated within sixty (60) days after issue or levy.
- E. The discovery by the Department that any statement, representation or warranty in this Contract is false, misleading, or erroneous in any material respect; or
- F. A failure by the Contractor to comply with contractual terms and conditions, resulting in a breach of security or health and safety standards. This Event of Default may result in the immediate termination of this Contract.

I.3.2 Further Opportunity to Cure

- A. If an Event of Default of the type specified in Section I.3.1 occurs and the Contractor reasonably believes that such Event of Default cannot be cured within the twenty (20) days allowed in Section I.3.1 but that such Event of Default can be cured through a diligent, ongoing, and conscientious effort on the part of the Contractor, within a reasonable period not to exceed three (3) months, then the Contractor may, within the twenty (20) day cure period, submit a detailed plan for curing the Event of Default to the Department.
- B. Upon receipt of any such plan for curing an Event of Default, the Department shall promptly review such plan and at its discretion, which must be reasonable in the circumstances, may allow, or not allow, the Contractor to pursue such plan of cure.
- C. The decision of the Department will be communicated in writing to the Contractor.
- D. The Department agrees that it will not exercise its remedies thereunder with respect to such Event of Default for so long as the Contractor diligently, conscientiously, and timely undertakes to cure the Event of Default in accordance with the approved plan.
- E. If the Department does not allow the Contractor an extension of the cure period, the twenty (20) day time period shall be tolled during the period of time the request is pending before the Department.

I.3.3 Remedy of the Department

When an Event of Default by the Contractor has been determined to exist, the Department's Authorized Representative will notify the Contractor of such Event of Default, and subject to the provisions of Section I.3.2, the Department will have the right to pursue any remedy it may have by law or in equity including, but not limited to:

- A. Reducing its claim to a judgment;

- B. Taking action to cure the Event of Default, in which case the Department may offset against any Payments owed to the Contractor all reasonable costs incurred by the Department in connection with its efforts to cure such Event of Default;
- C. Withholding of funds as authorized in Section G.4.2; or
- D. Exercising a Termination for Default.
 - 1. In the event of Termination for Default, the Department shall offset against Payments owed to the Contractor any reasonable amounts expended by the Department to cure the Event of Default.
 - 2. The Department will have no further obligations to the Contractor after such termination.
 - 3. The Department may also acquire, in the manner the Department considers appropriate, services similar to those terminated and the Contractor will be liable to the Department for any increase in costs for those services.
 - 4. The Contractor shall not be liable for any increase in costs if the failure to perform the Contract arises from and without the fault or negligence of the Contractor as follows:
 - a. Acts of God or of the public enemy;
 - b. Acts of the State in either its sovereign or contractual capacity;
 - c. Fires;
 - d. Floods;
 - e. Epidemics;
 - f. Quarantine restrictions;
 - g. Strikes;
 - h. Freight embargoes; and
 - i. Unusually severe weather.

In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

I.3.4 Termination for Unavailability of Funds

- A. The Payment of money by the Department or the State under any provisions hereof is contingent upon the availability of funds appropriated by the Legislature to an agency or department of the State to cover the provisions hereof.
- B. Neither the State, the Department nor its elected officials, officers, employees, agents, attorneys or other individuals acting on behalf of the State, make any representations or

warranty as to whether any appropriation will, from time to time during the Contract Term, be made by the Legislature of the State.

- C. In the event State funds for this Contract become unavailable due to Non-Appropriation, the Department will have the right to terminate the Contract without penalty.
- D. The Contractor acknowledges that the Department does not receive a "line item appropriation".
 - 1. If the funds appropriated are not sufficient to pay for the Department's operating expenses, contractual obligations and other financial obligations, the Department, in its sole discretion, will determine what operating expenses, contractual obligations and other financial obligations it will pay.
 - 2. In the event the Department determines it was not appropriated sufficient money, the Department may terminate this Contract without paying the Contractor any additional money or penalty, provided that the Department will pay the Contractor for obligation that occurred up to the time of termination.

I.3.5 Non-Appropriation Effect and Remedy

An event of Non-Appropriation shall not cause the Department to be in default hereunder, but upon any such event of Non-Appropriation, this Contract shall automatically terminate as of the last day of the Biennium for which appropriations have been made.

I.3.6 Termination for Convenience

The Department may, in its sole discretion, terminate this Contract with or without cause, by providing the Contractor with sixty (60) days prior written notice of such termination.

I.3.7 Termination by Mutual Agreement

The parties may terminate this Contract by mutual agreement, the terms of which shall be set forth in writing.

I.3.8 Termination Procedures

- A. Upon Termination for Default, Termination for Convenience, Termination by Mutual Agreement or Termination for Unavailability of Funds as heretofore mentioned, the following procedures will be adhered to:
 - 1. The Department will immediately notify the Contractor in writing specifying the effective termination date.
 - 2. After receipt of the Notice of Termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract:
 - a. Place no further subcontracts or orders in support of this Contract;
 - b. Terminate all subcontracts; and

- c. Cancel all orders as applicable.
- B. Upon termination, the Contractor shall be entitled to receive from the Department Payment for all Services satisfactorily furnished under this Contract up to and including the date of termination. Claims submitted after one hundred eighty (180) days from the date of termination will not be considered.

I.3.9 Default by the Department

Each of the following shall constitute an Event of Default on the part of the Department:

- A. Failure by the Department to observe and perform any material covenant, condition, or agreement on its part to be observed or performed; or
- B. Its failure or refusal to substantially fulfill any of its material obligations hereunder, unless caused by the default of the Contractor; and
- C. Unless cured by the Department within twenty (20) days after receiving written notice thereof.

I.3.10 Remedy of the Contractor

Upon an Event of Default by the Department, the Contractor's sole remedy shall be to follow the Dispute Resolution Process in Section I.3.11 below.

I.3.11 Dispute Resolution

- A. Any dispute arising under this Contract, which is not disposed of by mutual agreement between the Department and the Contractor shall be resolved as follows:
 - 1. The dispute resolution process provided for in Texas Government Code, Chapter 2260, shall be used, as further described herein, by the Department and the Contractor to attempt to resolve any claim for breach of Contract made by the Contractor.
 - 2. A Contractor's claims for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Texas Government Code, Chapter 2260, Subchapter B.
 - 3. To initiate the process, the Contractor shall submit written notice, as required by Texas Government Code, Chapter 2260, Subchapter B, to the Contracts and Procurement Director or designee, at 2 Financial Plaza, Suite 525, Huntsville, Texas 77340.
 - 4. Said notice shall specifically state the provisions of Texas Government Code, Chapter 2260, Subchapter B, are being invoked, and shall also be given to all other representatives of the Department and the Contractor otherwise entitled to notice under the parties' Contract.
 - 5. Compliance by the Contractor with Subchapter B, is a condition precedent to the filing of a contested case proceeding under Texas Government Code, Chapter 2260, Subchapter C.

6. The contested case process provided in Texas Government Code, Chapter 2260, Subchapter C, is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of Contract by the Department if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.
 7. Compliance with the contested case process provided in Texas Government Code, Chapter 2260, Subchapter C, is a condition precedent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code.
 8. Neither the execution of this Contract by the Department nor any other conduct of any representative of the Department related to the Contract shall be considered a waiver of sovereign immunity to suit.
- B. In addition to complying with Texas Government Code, Chapter 2260, the Department and the Contractor shall comply with the rule published in the Texas Administrative Code, Title 37, Part 6, Chapter 155, Subchapter C, Rule 155.31.
 - C. At all times during the course of the dispute resolution process, the Contractor shall continue with providing Services as directed, in a diligent manner and without delay, shall conform to the Department's directive, decision or order, and shall be governed by all applicable provisions of this Contract.
 - D. Records of the Services performed shall be kept in sufficient detail to enable payment in accordance with applicable provisions of this Contract, if this should become necessary.
 - E. This provision shall not be construed to prohibit the Contractor from seeking any other legal or equitable remedy to which it is entitled.

I.4 NO WAIVER OF RIGHTS

- A. No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or in the exercise of any other right.
- B. The remedies provided in this Contract are cumulative and non-exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

I.5 INDEMNIFICATION OF THE DEPARTMENT

I.5.1 Acts or Omissions

The Contractor shall indemnify and hold harmless the State of Texas, the Department and the TBCJ, 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 the Contractor with the Office of the

Attorney General when Texas State Agencies are named defendants in any lawsuit and the Contractor may not agree to any settlement without first obtaining the concurrence from the Office of the Attorney General. The Contractor and the Department agree to furnish timely written notice to each other of any such claim.

I.5.2 Infringements

- A. The Contractor shall indemnify and hold harmless the State of Texas the Department and the TBCJ, 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 the Contractor pursuant to this Contract. The Contractor and the Department agree to furnish timely written notice to each other of any such claim. The Contractor shall be liable to pay all costs of defense including attorneys' fees. The defense shall be coordinated by the Contractor with the Office of the Attorney General when Texas State Agencies are named defendants in any lawsuit and the Contractor may not agree to any settlement without first obtaining the concurrence from the Office of the Attorney General.
- B. The Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by:
1. Use of the product or Service for a purpose or in a manner for which the product or Service was not designed;
 2. Any modification made to the product without the Contractor's written approval;
 3. Any modification made to the product by the Contractor pursuant to the Department's specific instructions;
 4. Any intellectual property right owned by or licensed to the Department; or
 5. Any use of the product or Service by the Department that is not in conformity with the terms of any applicable license agreement.
- C. If the Contractor becomes aware of an actual or potential claim, or the Department provides the Contractor with notice of an actual or potential claim, the Contractor may (or in the case of an injunction against the Department, shall), at the Contractors sole option and expense:
1. Procure for the Department the right to continue to use the affected portion of the product or Service; or
 2. Modify or replace the affected portion of the product or Service with functionally equivalent or superior product or Service so that the Department's use is non-infringing.

I.5.3 Taxes/Workers' Compensation/Unemployment Insurance - Including Indemnity

- A. The Contractor agrees and acknowledges that during the existence of this Contract, the Contractor shall be entirely responsible for the liability and payment of the Contractor's and the Contractor's employees' taxes of whatever kind, arising out of the performances in this Contract. The Contractor agrees to comply with all state and federal laws applicable to any

such persons, including laws regarding wages, taxes, insurance, and workers' compensation. The Department 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.

- B. The Contractor agrees to indemnify and hold harmless the Department, the TBCJ, 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. The Contractor shall be liable to pay all cost of defense including attorneys' fees. The defense shall be coordinated by the Contractor with the Office of the Attorney General when Texas State Agencies are named defendants in any lawsuit and the Contractor may not agree to any settlement without first obtaining the concurrence from the Office of the Attorney General. The Contractor and the Department agree to furnish timely written notice to each other of any such claim.

I.6 NO WAIVER OF DEFENSES

- A. Neither the Department nor the Contractor shall waive, release or otherwise forfeit any possible defense the Department or the Contractor may have regarding claims arising from or made in connection with the performance of the Services by the Contractor without the consent of the other party.
- B. The Department and the Contractor shall reserve all such available defenses and cooperate with each other to make such defenses available for each other's benefit to the maximum extent allowed by law, including any defenses the Department may have regarding litigation, losses and costs resulting from claims or litigation pending at the time the Contract becomes effective, or arising thereafter from occurrences prior to the effective date hereof.

I.7 INDEPENDENT CONTRACTOR

- A. The Contractor is associated with the Department only for the purposes and to the extent set forth herein, and with respect to the performance of Services hereunder, the Contractor is and shall be an independent contractor and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties hereunder.
- B. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for the Department whatsoever with respect to the indebtedness, liabilities, and obligations of the Contractor or any other party.
- C. The Contractor shall be solely responsible for (and the Department shall have no obligation with respect to) payment of all Federal Income, FICA, and other taxes owed or claimed to be owed by the Contractor, arising out of the Contractor's association with the Department pursuant hereto, and the Contractor shall indemnify and hold the Department harmless from and against any and all liability from all losses, damages, claims, costs, penalties, liabilities, and expenses howsoever arising or incurred because of, incident to, or otherwise with respect to any such taxes.

I.8 LAWS OF TEXAS

This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction of Travis County, Texas.

I.9 ASSIGNMENT

- A. The Contractor may not assign any interest in this Contract without the prior written consent of the Department which consent the Department may withhold at its sole discretion.
- B. If the Department so elects in its sole discretion, this Contract will terminate upon the occurrence of any of the following:
 - 1. More than fifty percent (50%) of the assets of the Contractor are sold;
 - 2. The Contractor is merged into, acquired by, or consolidated with another corporation or business entity; or is otherwise the subject of reorganization; or
 - 3. Any shareholder or owner of the Contractor who owns at least ten percent (10%) beneficial ownership of the Contractor fails to continue to own at least the percent (10%).
- C. In the event that any sale, transfer, or assignment, as referenced in paragraph A and B above, is consented to by the Department, the transferee or its legal representative shall agree in writing with the Department to assume, perform and be bound by the covenants, obligations and agreements contained herein.

I.10 MAINTENANCE OF CORPORATE EXISTENCE AND BUSINESS

- A. The Contractor, if incorporated, shall at all times maintain its corporate existence and authority to transact business and be in good standing in its jurisdiction of incorporation and the State of Texas.
- B. The Contractor shall maintain all licenses, permits and franchises necessary for its businesses where the failure to so maintain might have a material adverse effect on its ability to perform its obligations under this Contract.

I.11 APPROVAL OF CONTRACT

- A. This Contract is subject to written approval of the Executive Director of the Department or the Director's designated representative and shall not be binding until so approved.
- B. For Contracts valued over one million dollars in the initial Contract term, the Executive Director's approval shall be given only on the approval of the TBCJ.

I.12 NON-DISCRIMINATION

In the performance of this Contract, the Contractor warrants that it shall not discriminate against any employee, subcontractor, participant or provider on account of race, color, disability or perceived disability, religion, sex, national origin, genetic information, or age, and in accordance with the following:

- A. The Contractor shall not discriminate against employees, subcontractors, participants or providers who have or are perceived to have a disability because of Acquired Immune Deficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The Contractor shall post notices setting forth the provisions of this Non-Discrimination Clause in conspicuous places, available to employees and applicants for employment.
- B. In all solicitations or advertisements for employees and/or the purchase of Services, the Contractor shall state that it is an equal opportunity employer; provided, however, that notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting this requirement.
- C. The Contractor shall include the provisions of the foregoing paragraphs in every subcontract so that such provisions shall be binding upon each subcontractor or vendor.

I.13 CONFIDENTIALITY AND OPEN RECORDS

I.13.1 Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of the Contract shall be kept confidential unless otherwise provided by law and shall not be made available to any individual or organization by the Contractor or the Department without prior approval of the other party.

I.13.2 Open Records

In accordance with Texas Government Code, Section 2252.907, the Contractor acknowledges that this Contract and information created or maintained in connection with this Contract is public information and subject to disclosure as provided by Texas Government Code, Chapter 552 (Texas Public Information Act). The Texas Public Information Act may require the Contractor to make information related to this Contract available to the public pursuant to a request for public information. The Contractor agrees, upon request, to make information related to this Contract that is not otherwise excepted from release by the Texas Public Information Act available to the public, in hard copy, unless the requestor of the information consents to receive the information in another mutually agreeable format. The Contractor acknowledges that the agency shall not provide legal counsel related to the Contractor's compliance with the Texas Public Information Act.

I.14 CONTRACT CHANGES

- A. Changes/modifications to this Contract (except the Contract extensions, administrative changes, such as changing the Contract Administrator designation, correcting typographical errors or other unilateral changes discussed elsewhere in the Contract) shall be mutually agreed to by the parties and executed in writing with the authorized signatures.
- B. The Department, at its sole discretion, may revise funding during the course of this Contract by issuing a unilateral modification to the Contractor.

I.15 OPTION TO EXTEND THE TERM OF THE CONTRACT

- A. The Department may, at its sole discretion, extend the Contract Term by written notice to the Contractor within ten (10) days of Contract expiration, provided that the Department shall give the Contractor a preliminary written notice of its intent to extend at least sixty (60) days before the Contract expires.
- B. The preliminary notice does not commit the Department to an extension.
- C. If the Department exercises this option, the extended Contract shall be considered to include this option provision.

I.16 OPTION TO EXTEND SERVICES

- A. The Department may require continued performance of any Services within the limits and at the rates specified in this Contract.
- B. The Department reserves the right to extend this Contract for a ninety (90) day period at the end of each Contract and/or extension period for the purpose of re-advertising the Service, awarding a new contract, and transitioning into a new contract.
- C. This option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed six (6) months.
- D. The Department may exercise the option by written notice to the Contractor within the period specified in Section I.15.

I.17 SEVERABILITY

In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

I.18 IMMIGRATION

The Contractor agrees to comply with the Immigration Reform and Control Act of 1986, and Immigration Act of 1990 regarding employment verification and retention of verification forms of any individuals who will perform any labor or Services under this Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) enacted on September 30, 1996.

I.19 NO LIABILITY UPON TERMINATION

If this Contract is terminated for any reason, the Department and the State of Texas shall not be liable to the Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, the Contractor may be entitled to the remedies established in Section I.3.11.

I.20 LIMITATION ON AUTHORITY

The Contractor shall have no authority to act for or on behalf of the Department or the State of Texas except as expressly provided for in this Contract; no other authority, power or use is granted or implied. The Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or the Department.

I.21 INTELLECTUAL PROPERTY INDEMNIFICATION

- A. The Contractor will indemnify, defend, and hold harmless the State of Texas and the Department against any action or claim brought against the State of Texas and/or the Department that is based on a claim that software infringes any patent rights, copyright rights or incorporated misappropriated trade secrets. The Contractor will pay any damages attributable to such claim that are awarded against the State of Texas and/or the Department in a judgment or settlement.
- B. If the Department's use of the software becomes subject to a claim, or is likely to become subject to a claim, in the sole opinion of the Department, the Contractor shall, at its sole expense (1) procure for the Department the right to continue using such software under the terms of this Contract; or (2) replace or modify the software so that it is non-infringing.

I.22 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS, AS REQUIRED BY TEXAS ADMINISTRATIVE CODE, TITLE 1, PART 10, CHAPTER 213

- A. Effective September 1, 2006 State Agencies and Institutions of Higher Education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in Texas Administrative Code, Title 1, Part 10, Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
- B. The Contractor shall provide the Department with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under the Rehabilitation Act, Section 508), or indicate that the product/Service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Contractors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide the Department with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

I.23 RIGHTS TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP)

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by the 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 Department by the Contractor upon completion, termination, or cancellation of this Contract. The Contractor may, at its own expense, keep copies of all its writings for its personal files. The Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the Contractor's obligations under this Contract without the prior written consent of the Department; provided, however, that the 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.

I.24 FORCE MAJEURE

- A. Neither the Contractor nor the Department shall be liable to the other for any delay in, or failure of performance, of any requirement included in this 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.
- B. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.
- C. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

I.25 NOTICES

Any written notices required under this Contract will be delivered by carrier service to the Contractor's office address specified on Page 1, of this Contract or by U.S. mail.

Jason Andrews, Contract Administrator
Texas Department of Criminal Justice
Contracts and Procurement Department
Two Financial Plaza, Suite 525
Huntsville, Texas 77340

Notice will be effective upon receipt by the affected party. Either party may change the designated notice address in this section by written notification to the other party. This change shall be incorporated with a unilateral modification.

I.26 SUBSTITUTIONS

Substitutions are not permitted without written approval of the Department.

I.27 U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM

- A. 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:
 - 1. All persons employed to perform duties within Texas, during the Contract Term; and
 - 2. All persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

- B. The Contractor shall provide, upon request of the Department, 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 (3) most recent hires that match the criteria above, by the Contractor, and the Contractor's subcontractors, as proof that this provision is being followed.
- C. 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.

SECTION J - LIST OF EXHIBITS

EXHIBIT NO.	TITLE	NUMBER OF PAGES
J.1	HUB Subcontracting Plan	11
J.2	Aerial Maps	10



HUB Subcontracting Plan (HSP)

Rev. 09/15

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

- Agency Special Instructions/Additional Requirements -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract* in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

The TDCJ HUB goals are defined as:

- 17.6 percent for heavy construction other than building contracts. This goal is higher than the statewide goal and therefore must be the utilized goal for this category,
- 36.9 percent for all building construction, including general contractors and operative builders contracts. This goal is higher than the statewide goal and therefore must be the utilized goal for this category,
- 32.7 percent for all special trade construction contracts,
- 23.8 percent for professional services contracts,
- 24.6 percent for all other services contracts, and
- 21 percent for commodities contracts.

The TDCJ has determined that the HUB Category for this contract falls under the **All Other Services Contracts** Category. The HUB Goal for this category is therefore identified as **26.0 %**.

For assistance in completing the HSP contact:
Sharon Schultz @ 936-437-7026
sharon.schultz@tdcj.texas.gov

SECTION-1: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: Whitten Flying Service LLC State of Texas VID #: _____
 Point of Contact: Mary Cabrera Whitten Phone #: 979-272-8457
 E-mail Address: marycwhitten@yahoo.com Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: 696-AG-16-B019 Bid Open Date: May 24, 2016
(mm/dd/yyyy)

Enter your company's name here: Whitten Flying Service Regulation #: 696-AG-16-509

SECTION 2 RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including contracted staffing, goods, services, transportation and delivery will be subcontracted. Note: In accordance with 34 TAG §20.11, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b of this SECTION and continue to Item c of this SECTION.)
- No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
1	Pilots, planes	26 %	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/proc/hub/hub-subcontracting-plan/>)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract in place for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or services, to include transportation and delivery under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: Whitten Flying Service Requisition #: 696-AG-16-8019

SECTION-3 SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION

If you responded "No" to SECTION 2, Item a, in the space provided below explain how your company will perform the entire contract with its own employees, supplies, materials and/or equipment, to include transportation and delivery.

[Empty space for justification text]

SECTION-4 AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report - PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentpl.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.


owner
5-16-16

Signature
Printed Name
Title
Date

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

TRADE ORGANIZATIONS/DEVELOPMENT CENTERS

ORGANIZATION	MAILING ADDRESS	PHONE	FAX	EMAIL
Asian Contractor Association	4201 Ed Bluestein Blvd., Austin, TX 78721	512-926-5400	512-926-5410	asiancontractor@gmail.com
Black Contractors Association – Dallas/Fort Worth	1409 S. Lamar Street, Suite 251, Dallas, TX 75215	214-485-0483	214-485-0467	rwashington@blackcontractors.org
Dallas Black Chamber of Commerce	2838 Martin Luther King Jr. Boulevard, Dallas, TX 75215	214-421-5200	214-421-5510	chum@dbcc.org
DFW Minority Supplier Development Council	8828 N Stemmons Frwy, 5 th Floor, Suite 550, Dallas, TX 75247	214-630-0747	214-637-2241	construction@dfwnsdc.com
Dallas Hispanic Chamber of Commerce	4622 Maple Avenue, Suite. 207, Dallas, TX 75219	214-521-6007	214-520-1687	gquezada.gdhcc.com
Del Mar College PTAC, Corpus Christi Black C of C	101 Baldwin Blvd., CED-146, Corpus Christi, TX 78404	361-698-1025	361-698-1024	ptac@delmar.edu
El Paso Hispanic Chamber of Commerce	2401 E. Missouri, El Paso, TX 79903	915-566-4066	915-566-9714	treed@elpasombdacenter.com
Fort Worth Metropolitan Black Chamber of Commerce	1150 South Freeway, Suite 211, Fort Worth, TX 76104	817-871-6538	817-332-6438	bbolden@fwmbcc.org
Golden Triangle Minority Business Council	PO Box 5064, Beaumont, TX 77726-5064	409-962-8530	409-722-5402	hatcher.beverly@gtmbc.com
Greater Asian Chamber of Commerce	8001 Centre Park Dr. Suite 160, Austin, TX 78754	512-407-8240		Exec.Admin@AustinAsianChamber.org
Greater Austin Black Chamber	912 E. 11 th Street, Suite A, Austin, TX 78702	512-459-1181	512-459-1183	nmc@austinbcc.org
Greater Houston Business Procurement Forum	17071/2 South Post Oak Blvd., PMB 273, Houston, TX 77056	832-216-2185	713-436-8333	miltonhibodeaux@gmail.com
Hispanic Contractors Association - Houston	7 Parker Road, Houston, TX 77076	832-883-5078		randymagdalen@yaho.com
Hispanic Contractors Association –San Antonio	800 Quintana Road. # 333 San Antonio, TX 78211	210-444-1100	210-444-1101	admin@hcadesa.org
Hispanic Contractors Association – Regional	2210 W. Illinois Avenue, Dallas, TX 75224-1636	972-786-0909	972-786-0910	volanda@regionalhca.org
Houston Hispanic Chamber of Commerce	1801 Main Street, Suite 890, Houston, TX 77002	713-644-7070	713-644-7377	mzarate@houstonhispanicchamber.com
Houston Minority Supplier Development Council	Three Riverway, Suite 555, Houston, TX 77056	713-271-7805	713-271-9770	angela.freeman@hmsdc.org
National Association of Minority Contractors Inc.–Houston	3825 Dacoma St., Houston, TX. 77092	713-843-3791	713-843-3777	info@namctexas.org
San Antonio Hispanic Chamber of Commerce	200 East Grayson, Suite 203, San Antonio, TX 78215	210-225-0462	210-225-2485	polettf@sahcc.org
Southwest Minority Supplier Development Council	912 Bastrop Highway, Suite. 101, Austin, TX 78741	512-386-8766	512-386-8988	smsdc@smsdc.org
Texas Association of African American Chambers of Commerce (TAAACC)	4100 NW Loop 410 Suite 230, San Antonio, TX 78229	512-659-2160		xenia@smsdc.org
	P.O. Box 13064, Austin, TX 78711-3064	512-535-5610		taaacc179@yahoo.com
Texas Association of Historically Underutilized Businesses	7518 Robert Kleburg Lane, Austin, TX 78749	512-468-0113	915-585-7751	rmata@tgsaustin.com
Texas Association of Mexican American Chambers of Commerce (TAMACC)	P.O. Box 41780, Austin, TX 78704	512-444-5727		panton@tamacc.org
Tri-County Black Chamber of Commerce	P.O. Box 88376, Houston, TX 77288	832-875-3977	281-336-0870	procurement@tcbcc.org
U.S. Hispanic Contractors Association de Austin	920 E. Dean Keeton, Austin, TX 78705	512-922-0507		info@ushca-austin.com
U.S. Pan Asian American Chamber of Commerce SW	202 E. Border Street, Suite 144, Arlington, TX 76010	682-367-1393	817-469-9485	gmcdermott@uspaacc-sw.org
Women’s Business Council - Southwest	2201 North Collins, Suite 158, Arlington, TX 76011	817-299-0566	817-299-0949	asteale@wbcsouthwest.org
Women’s Business Enterprise Alliance (WBEA)	9800 NW Frwy, Suite 120, Houston, TX 77092	713-681-9232	713-681-9242	bids@wbea-texas.org
Women Contractors Association (WCA)	P.O. Box 70966, Houston, TX. 77270	713-807-9977	713-807-9917	director@womencontractors.org

HUB SUBCONTRACTOR LISTING - AERIAL SPRAYING

Company Name	Contact Person	Address	City	Zip	Email	Phone	Fax	Business Description
24/6 LOGISTICS, LLC	Jesse J. Victor	23497 FAIRLAKE LANE	HUFFMAN	77336	a246log@yahoo.com	713-539-4191	281-324- 4925	Trucking Transportation Local
AIM OVER-THE-ROAD LLC AMERICA TRANSPORTATION GROUP, INC.	Angelica Garcia-Dunn Veronica Castaneda	PO BOX 259 14002 MINES RD	KATY LAREDO	77492-0259 78045-7827	agarcia@aimgloballogistics.com vcastaneda@americatranspo rtation.net	713-489-8911 956-725-7700	866-562- 5988 956-725- 8800	Transportation arrangement Over the road transportation services.
B & E TRUCKING CO.	Bill Hall	7014 BUTTERFIEL D	SAN ANTONIO	78227	bhall69032@gmail.com	210-267-8188	210-267- 8188	Trucking & Material Hauling
BAILEY'S PREMIER SERVICES LLC	Tamiko W Bailey	PO BOX 16454	FORT WORTH	76162	twbailey@baileyspremierser vices.com	817-292-2423	817-292- 2456	Fixed and Rotary Wing Maintenance, Aircraft and Airport Operations, Medical/Healthcare Services, Aircraft Parts, Janitorial, Custodial
BEXAR AERO TRANSIT SERVICES	Albert A Sanchez	727 E ASHBY PL	SAN ANTONIO	78212-4144	bexaraerotrans@gmail.com	210-834-7448		Aircraft Services to include Washing, Detailing, Lavatory and Maintenance Services
BLUE BENGAL TRANSPORTATION SERVICES LLC	Bruce Barnes	15634 WALLISVILLE RD # 800- 323	HOUSTON	77049-4635	bruce@bluebengaltransport ation.com	281-862-8944		Transportation of goods and other freight services.
C & C ALCOSER TRUCKING	Cristoval Alcoser	4606 PINE HURST MESA	SAN ANTONIO	78247	alcosertrucking@sbcglobal.n et	210-771-5458	210-599- 1197	Trucking Hauling-Earth Materials
CENTRAL TEXAS HAULING	Javier Rodriguez	5202 BLUE SAGE DRIVE	PEARLAND	77584	cthpearland@aol.com	281-485-0849	281-485- 0849	Tandem Truck - Earth Hauling
CHRISTOVAL PONY EXPRESS, LLC	Ruben Jasso	PO BOX 176	CHRISTOVAL	76935	cpe_2011@yahoo.com	325-896-2417	325-896- 2417	Pneumatic frac sand hauling; pneumatic cement transportation; pneumatic fly ash transport
D.E.E.R. TRUCKING, LLC	RAY, DERRICK	491 HAMPEL ROAD	PALMER	75152	DEERTRUCKINGLLC@YAHOO .COM	972-228-4615	972-228- 4615	HAULING

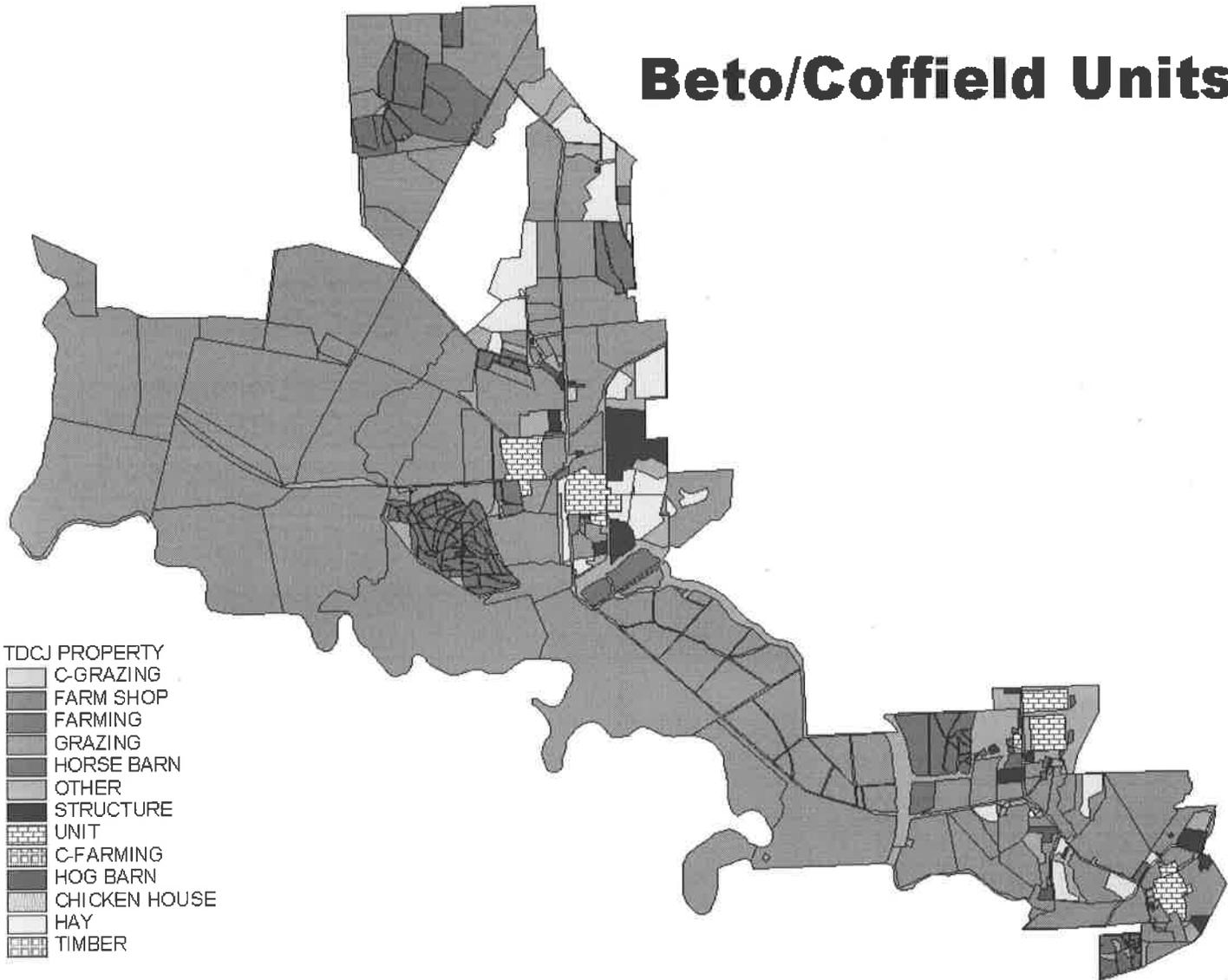
DAN-ELI ACE FORWARDING INC	FIDENCIO FLORES JR	2201 UVALDE AVE., SUITE 19	MCALLEN	78503	daneliace@aol.com	956-631-9700	956-631-9700	AIR FREIGHT, Hot shot service, transportation, air, land, ocean,
DFW LINQ TRANSPORT, INC	Sylvia Dayer	2300 VALLEY VIEW LANE	IRVING	75062	hector@lincqtransport.com	972-573-4238	972-522-1500	General Freight Trucking, Long-Distance, Truckload
DSWOODS TRUCKING LLC	Diane Woods	3505 NORTHFIELD DR	MIDLAND	79707	dwoods713@sbcglobal.net	432-570-6168	432-978-4208	trucking and logistic services and hazmat services.
ECONO MOVE & STORAGE, INC.	MARC ABRAMS	11127 OSGOOD, STE. A	SAN ANTONIO	78233-5703	marc@economoveandstorage.com	210-637-6396	210-637-6100	Nationwide Moving and Storage, Nationwide Freight
GAMMA WASTE SYSTEMS, LLC	Jenny C. Kappil	712 PASADENA FWY	PASADENA	77506-1414	joekappil@gammaservices.com	281-991-5277	713-910-6477	Medical waste transportation & disposal services-waste management & consulting services. Air and water pollution control.
GOLDEN LOGISTICS, LLC	Barbara A. Billups	2766 HARNEY RD	SAN ANTONIO	78234-2688	goldenlogistics310@yahoo.com	210-492-9595	210-854-3877	Logistics Consulting, Courier, Logistics, Warehousing
GOT BIG FREIGHT?	Carrie Ann Moore	PO BOX 471039	FORT WORTH	76147-1039	carriemoore@gotbigfreight.com	214-723-7659	214-473-4045	multiple modes of transportation and freight services which include LTL, Truckload
GULF COAST AGRICULTURAL SERVICES, INC.	BROOK JUDICE	9606 STOCKPORT DR	SPRING	77379-6564	GULFCOASTAGSVC@GMAIL.COM	832-520-6929		Source and deliver plants and other materials for the landscape construction industry.
HARRIS UNLIMITED	DARIRON L HARRIS	828 EDGEWOOD DR	DESOTO	75115-4333	darironh@yahoo.com	214-683-3584		Interstate trucking company that specializes in expedited freight delivery.
HARRISON TRUCK LINES, INC.	JEANETTE HARRISON	P O BOX 486	BELLVILLE	77418	jeanetteharrison20@yahoo.com	979-865-5214	979-865-9127	TRUCKING SERVICE
HAUL-LINE, INC.	Ricardo Gomez	8529 ARBOLEDA DR.	EL PASO	79907	rick@haul-line.com	915-856-3243	915-346-2132	Truckload Carrier/Broker of freight all kinds through out the continental United States
HAZEL'S HOT SHOT, INC.	Dustin Marshall	PO BOX 810239	DALLAS	75381-0239	dustin@hazelshotshot.com	972-242-5533	972-620-8812	Expedited freight service and air freight forwarders
INTERSTATE EXPRESS DELIVERY SERVICE	RODERICK ADDISON	9903 PLOVER STREET	AUSTIN	78753	interstate815@aol.com	512-873-0104		DELIVERY SERVICE

JAMCO INTERNATIONAL, INC.	JUAN MENCHACA	PO BOX 430321	LAREDO	78045	juanm@jamcointl.com	956-717-3322	956-693-2929	CUSTOMS CLEARANCE, WAREHOUSE & DISTRIBUTION, AND TRANSPORTATION LOGISTICS.
JARHEAD INDUSTRIES LLC	Mark Moore	PO BOX 1121	ALLEN	75013	jarheadindustries@gmail.com	469-219-9414		A corporation that provides complete global and domestic transportation services and solutions.
KJK LOGISTICS INCORPORATED	Kristy J Kroll	115 HAHNE RD	BANDERA	78003-6113	kris@ets-atlanta.com	830-928-1717	210-247-9379	Transportation of freight via truckload, expedited truck, domestic air charter, international air & ocean.
KT CHEMICALS, INC.	Michelle L Taft	1002 N CENTRAL EXPY	RICHARDSON	75080-4404	mtaft@kt-chemicals.com	855-932-2228		specialty chemicals and equipment manufacturer
LOGISTICS TRADE INTERNATIONAL	Yezbel Garcia	3966 GREENS PRAIRIE RD W	COLLEGE STATION	77845-7339	yezbelg@tint.net	979-268-4200	979-690-1900	Logistics- transportation of goods
LOGNET WORLDWIDE, INC.	VANDARISE CLARK	3340 GREENS RD. STE. 880	HOUSTON	77032-2240	van_clark@lognetworldwide.com	281-449-5067	281-449-9285	PROVIDING CARGO TRANSPORTATION AND LOGISTICAL SERVICES WORLDWIDE VIA AIR, SEA, OR GROUND TRANSPORTATION.
LTT TRUCKING LLC	LeAnn Manning	PO BOX 488	MABANK	75147-0488	leann@litttrucking.com	903-451-2532	888-286-8923	Arrange the transportation between the shippers and carriers
MAGNA-FLOW INTERNATIONAL, INC.	Victor G. Sanchez	14915 HIGHWAY 59 NORTH	HUMBLE	77396	angie.russell@magna-flow.com	281-448-8585	281-397-7195	Sludge, Biosolids Transportation, Beneficial Land Disposal/ Waste Trans & Disposal: Waste Water, Industrial Non-Hazard Waste, Lagoon Sludge Removal, D
MORGENROTH AVIATION LLC	ELIZABETH MORGENROTH	134 AVANT GARDE DR	VICTORIA	77901-2817	lizmorgenroth@hotmail.com	361-648-2308		AERIAL SPRAYING STATE WIDE
MUSTANG EXPRESS, LTD	Rick Hernandez	PO BOX 960112	EL PASO	79996	rick@mustangexpress.net	915-598-2600	915-598-2602	Logistics, Transportation
NEWKIRK LOGISTICS, INC	Jackie Pagan	PO BOX 143021	IRVING	75014	jackiepagan@newkirklogistics.com	972-773-9562		transportation, logistics, warehousing, and supply chain.

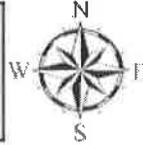
ORGANIC HOLDINGS, LLC	Tracy Bouhware	10500 DEER LAKE LODGE RD	MONTGOMERY	77316	altraindustries@yahoo.com	713-626-1908	713-626-1916	Transport Logistics is a company specialized in the transport by truck of specialty chemicals, fuel blends, and other petrochemical and fuel based products.
PANCHO'S TRANSPORTATION SERVICES, LLC	Frank Quesada	PO BOX 420007	LAREDO	78042	pquesada@pnqs.com	956-722-6446	956-726-3810	Regionally Trucking and transportation.
PROFAM SERVICES LLC	Marlon Peoples	4834 JOHN VICTOR DR	SAN ANTONIO	78220-1825	mpeoples2014@gmail.com	210-417-6080	210-855-3488	Local Freight transportation courier and delivery service.
PULIDO TRUCKING, L.P.	Jose J. Pulido	514 W. 16TH STREET	HOUSTON	77008	pulido.trucking@comcast.net	713-514-0500	713-514-0511	Transportation for Fuel and Waste (Hazardous/Nonhazardous)
PUNCH LOGISTICS, LLC	ANTOINETTE C. PUNCH	6603 BILLIKIN DR	HOUSTON	77086-1902	punchlogistics@gmail.com	832-270-5610		FREIGHT BROKER SERVICES AND HAULING SERVICES
PURPOSE TRANSPORTATION LLC	KELLEY H CRAWFORD	701 HANOVER DR	GRAPEVINE	76051-7674	kelley@purposetransportation.com	972-746-4585	972-746-4584	Full service transportation company, providing truckloads, hot shots, less than truckloads, and heavy haul.
QUINTANILLA TRANSPORTATION SERVICES	ROLANDO QUINTANILLA	505 UNION PACIFIC	LAREDO	78045	ROQUIN@TQ.COM.MX	956-796-9775		Transportation Services.
SAR TRANSPORTATION LLC	Pam Davis	1101 JARVIS ROAD	SAGINAW	76179-5612	pam@sartrans.com	817-232-2599		Trucking and sale of aggregates and road building materials.
SHAYCO, L.L.C.	Beth Kelly	2810 PRAIRIE CT	WYLIE	75098-6582	bkelly2442@yahoo.com	972-880-2065		logistics support and management for truckload, ltl, international and rail freight.
SILVAS TRUCKING, LLC	Benito Silva	2509 JANICE LANE	FORT WORTH	76112	silvastruckingllc@att.net	817-401-9317	628-213-2569	Trucking, transportation, delivery, long/short hauls, construction dumptrucks services.
SMART DELIVERY SERVICE INC	Shawn Benjamin	751 PORT AMERICA PLACE	GRAPEVINE	76051-7638	sbenjamin@smart-delivery.com	817-540-0000	817-540-0003	Local Messengers and Local Delivery
SPIRIT TRUCK LINES, INC.	Raul Garza	P.O. BOX 87	SAN JUAN	78589	rcgarza@spirittrucklines.com	956-781-7715	956-781-1822	International Transportation, and Logistics
SPIRIT TRUCKING LLC	Darci A. Uetrecht	4009 LILLIAN LN	AUSTIN	78749-3948	darci@spirittruckingllc.com	512-410-5326		Local general trucking and courier delivery services

SUNRISE DELIVERY INC	Flores, Denise	2020 LAWRENCE STREET	HOUSTON	77008-3653	df@sditex.com	713-864-2020	713-864-6055	delivery service across Texas
TDS EXPRESS INC	Virginia Kirk	PO BOX 2311	ATHENS	75751	skgk01@aol.com	903-681-6891	903-338-2148	TRANSPORTATION OF GOODS (FREIGHT)
THREE R FREIGHT, INC.	Rita Trammel	P.O. BOX 53185	LUBBOCK	79423-3185	threerfreight@aol.com	806-745-9300	806-403-1599	Arrangement of shipping freight between customer and carrier.
TIGER TRANSPORTATION, INC.	Lynda Kroneman	P.O. BOX 2396	BELLAIRE	77402-2396	lynda@tigertransportation.com	713-666-5200	713-666-4848	TRUCKING INDUSTRY
TLC TRUCKING & CONTRACTING, INC.	Hayley Lauren Hubbard	20910 HUNTERS CREEK WAY	HOCKLEY	77447	tlctrucking@sbcglobal.net	281-357-4069	713-849-2734	Dump Trucking, Hauling, and the Locating of Materials & Dumping Space
TRANSPORTATION SUPPORT SERVICES,	PAMELA REGAN HAYES	INC.	IRVING	75014	PHAYES@TSSMOVES.COM	972-438-4151	972-438-3907	FREIGHT TRANSPORTATION LOGISTICS
UNITED CARRIERS LLC	Hector Bilbao	PO BOX 81762	AUSTIN	78708-1762	hector@unitedcarriers.com	512-213-2600	866-662-6116	Provide Logistics and Transportation of Freight in Texas and the US.
WOLFE NURSERY DIRECT, CO.	Dale Mabry	PO BOX 957	STEPHENVILLE	76401-0009	dale@greencreek.com	254-968-2227	254-968-2162	Landscaper Plants and Supplies. Wholesale crapemyrtles, trees, shrubs, groundcover, annual/perineals, and xeriscape products. Horticulture, landscaping, irrigation, and fencing project management and services.
WORLD-WIDE AIR FREIGHT, INC.	Timothy Berry	1704 EAST 18TH STREET	AUSTIN	78702	worldwide@mygrande.net	512-659-9610	512-524-8091	commercial freight company
Jason Andrews - April 5, 2016								

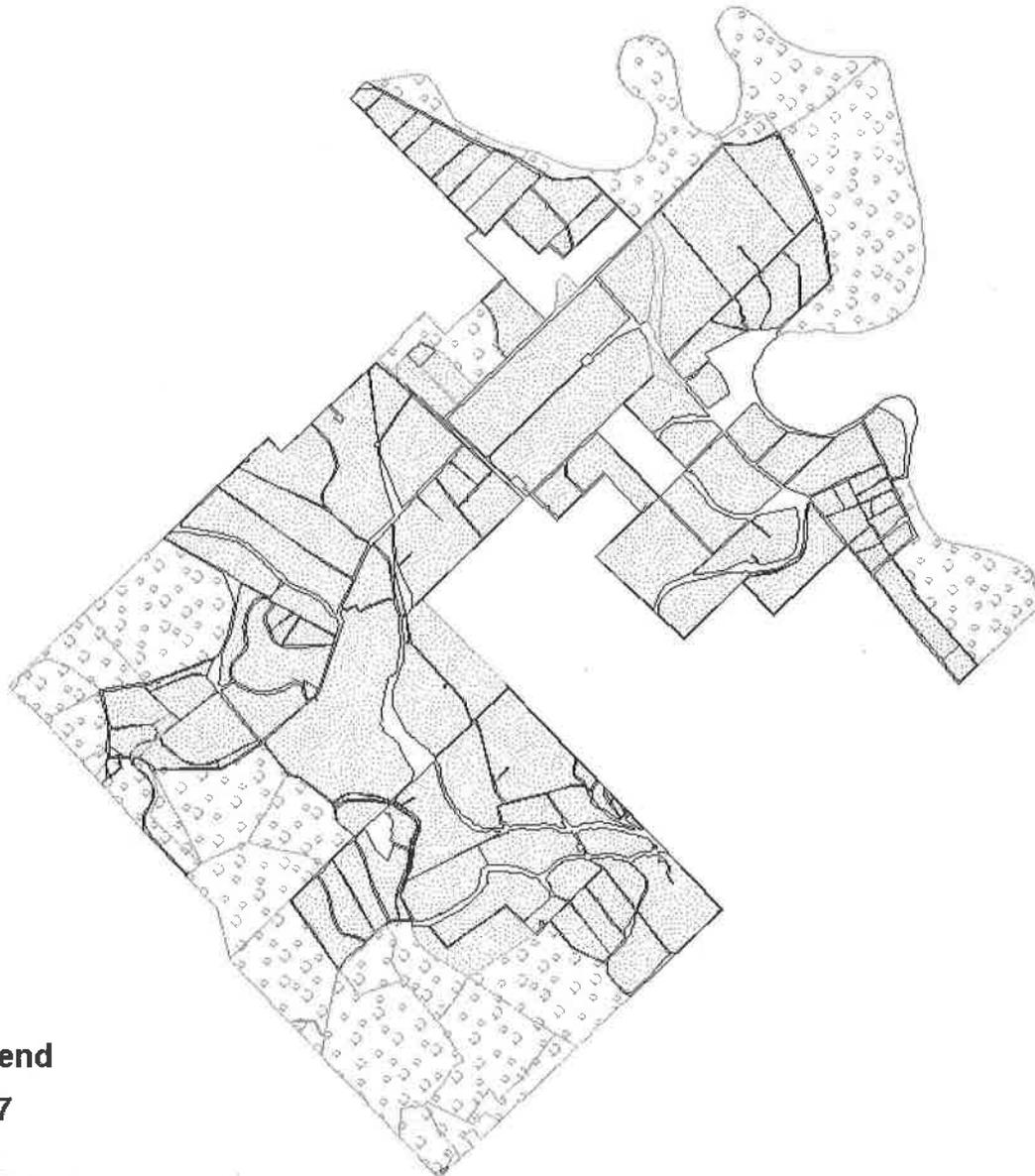
Beto/Coffield Units



 *this map prepared by:*
Texas Department of Criminal Justice
Agribusiness, Land and Minerals
Huntsville, Texas



BUFFALO RANCH USE MAP



Legend

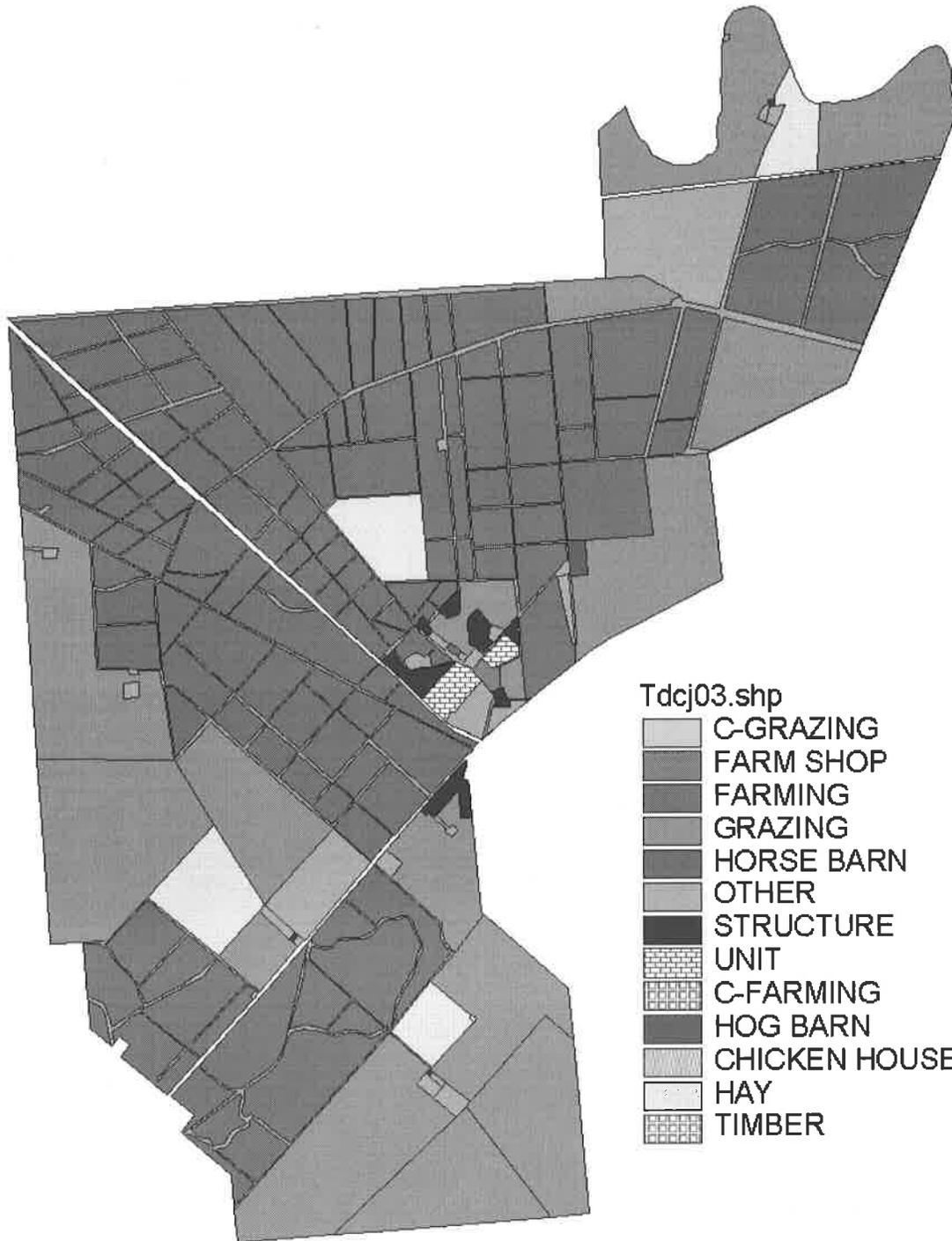
FY07

USE

-  FARMING
-  GRAZING
-  OTHER



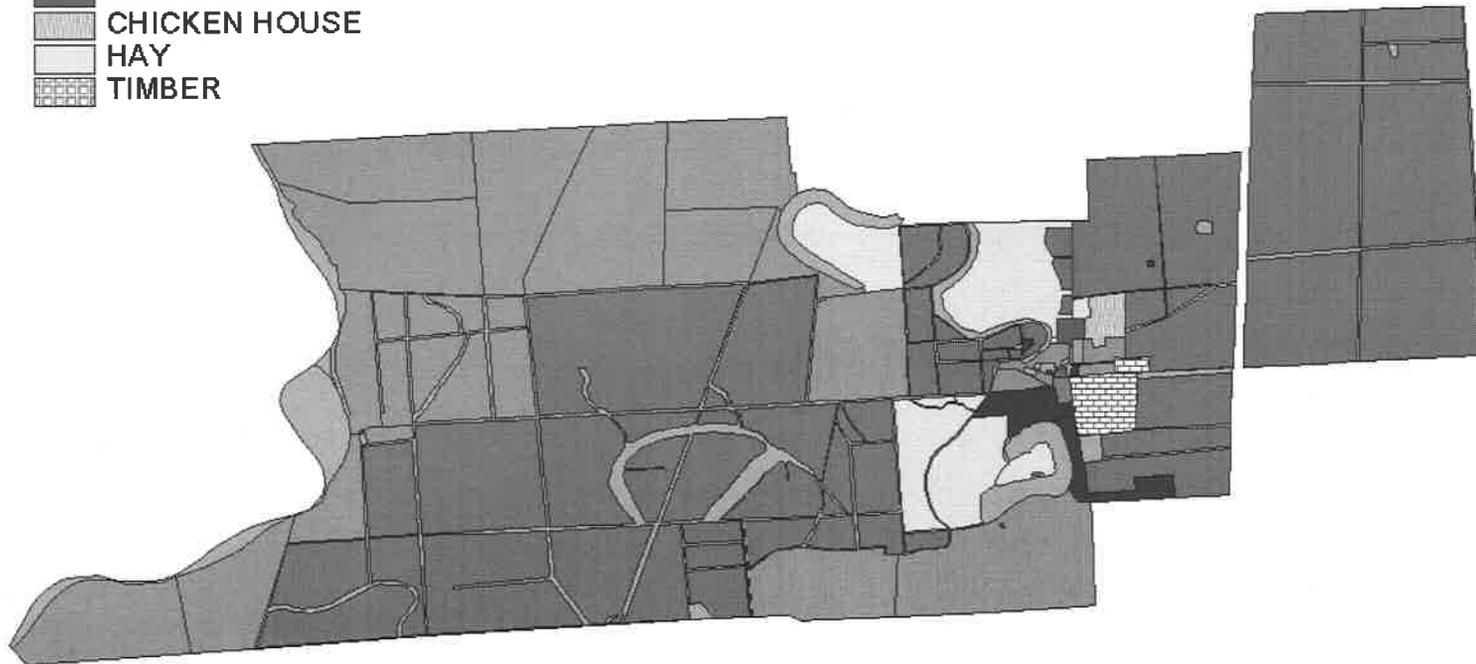
CLEMENS UNIT



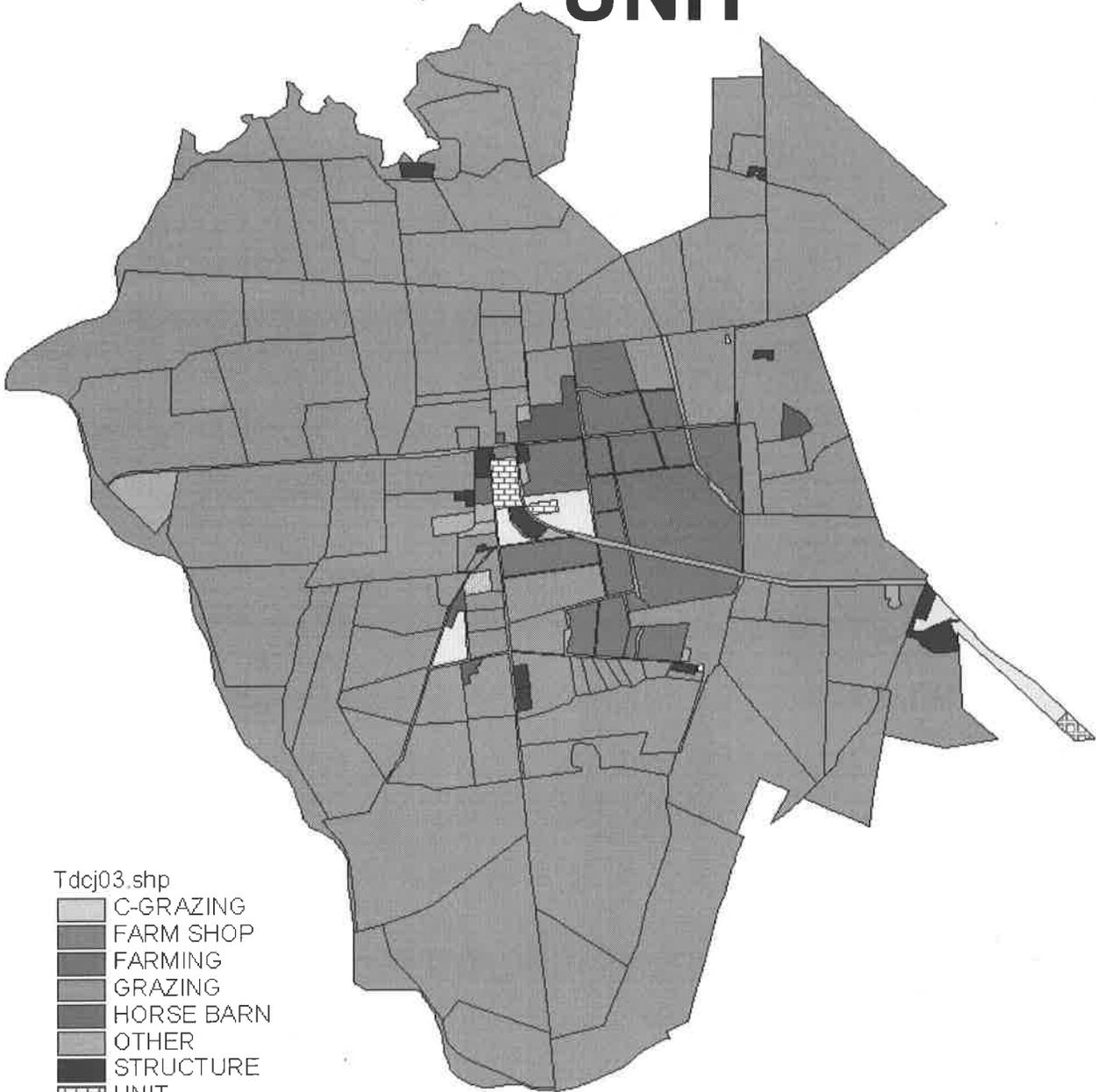
DARRINGTON UNIT

Tdcj03.shp

-  C-GRAZING
-  FARM SHOP
-  FARMING
-  GRAZING
-  HORSE BARN
-  OTHER
-  STRUCTURE
-  UNIT
-  C-FARMING
-  HOG BARN
-  CHICKEN HOUSE
-  HAY
-  TIMBER

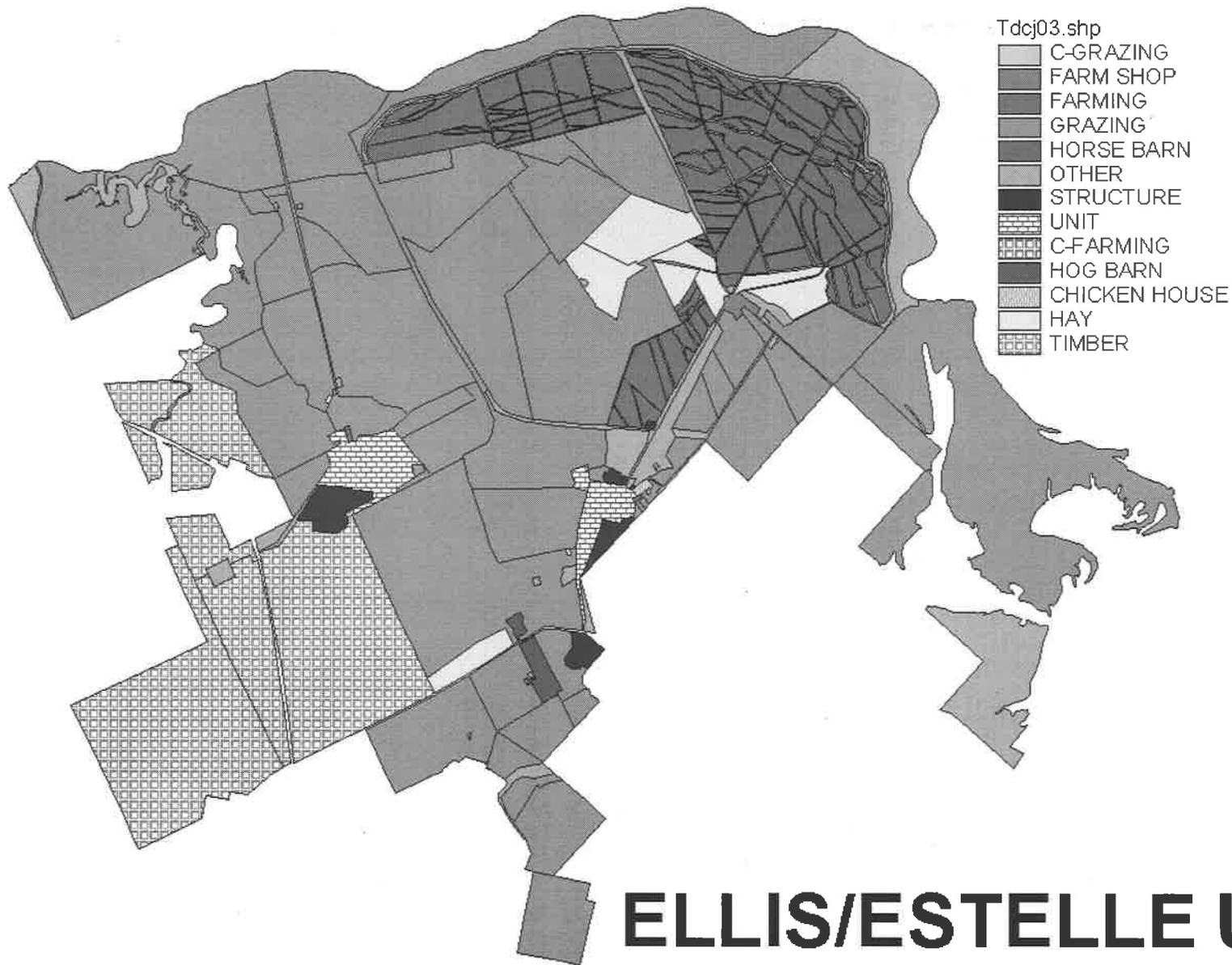


EASTHAM UNIT

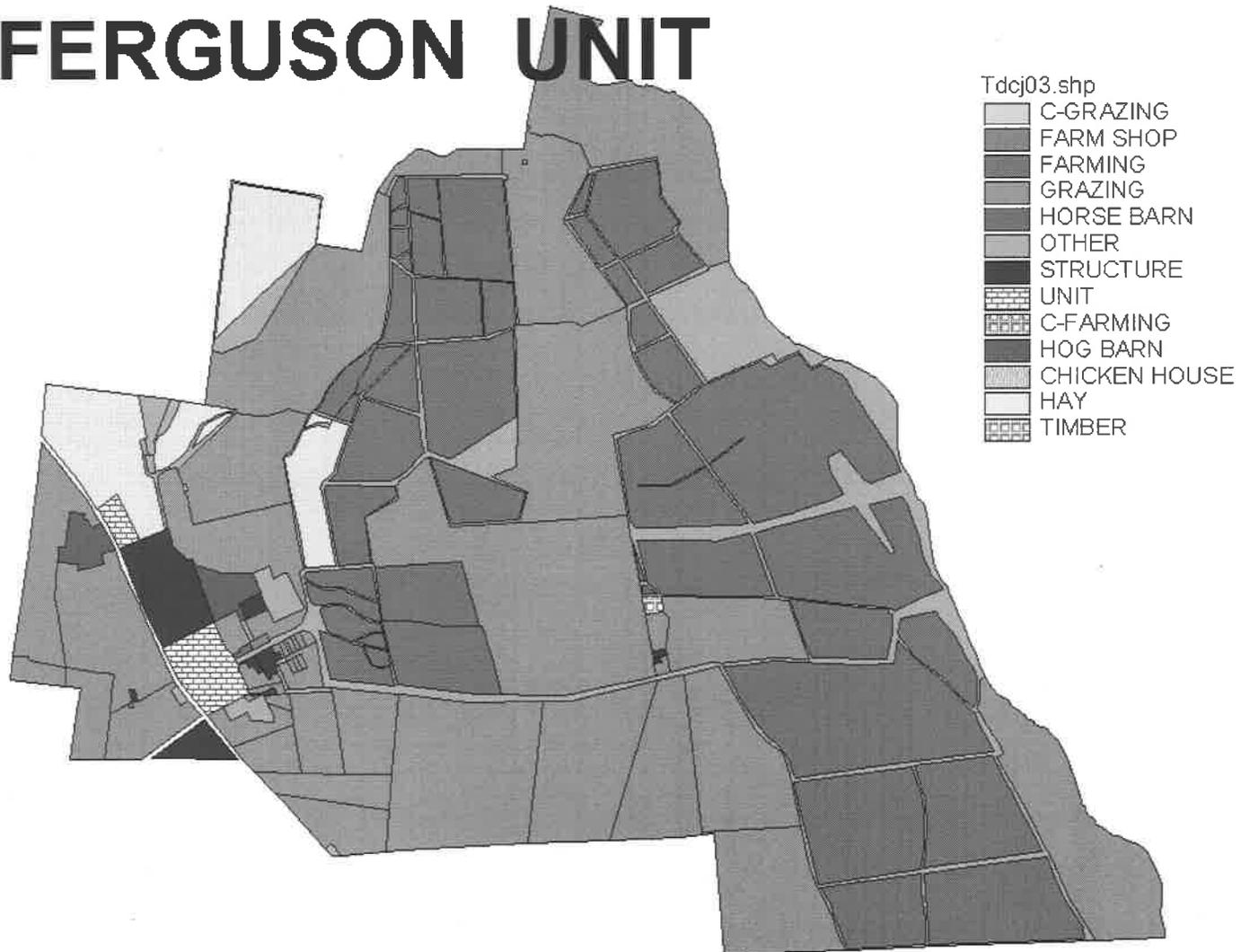


Tdcj03.shp

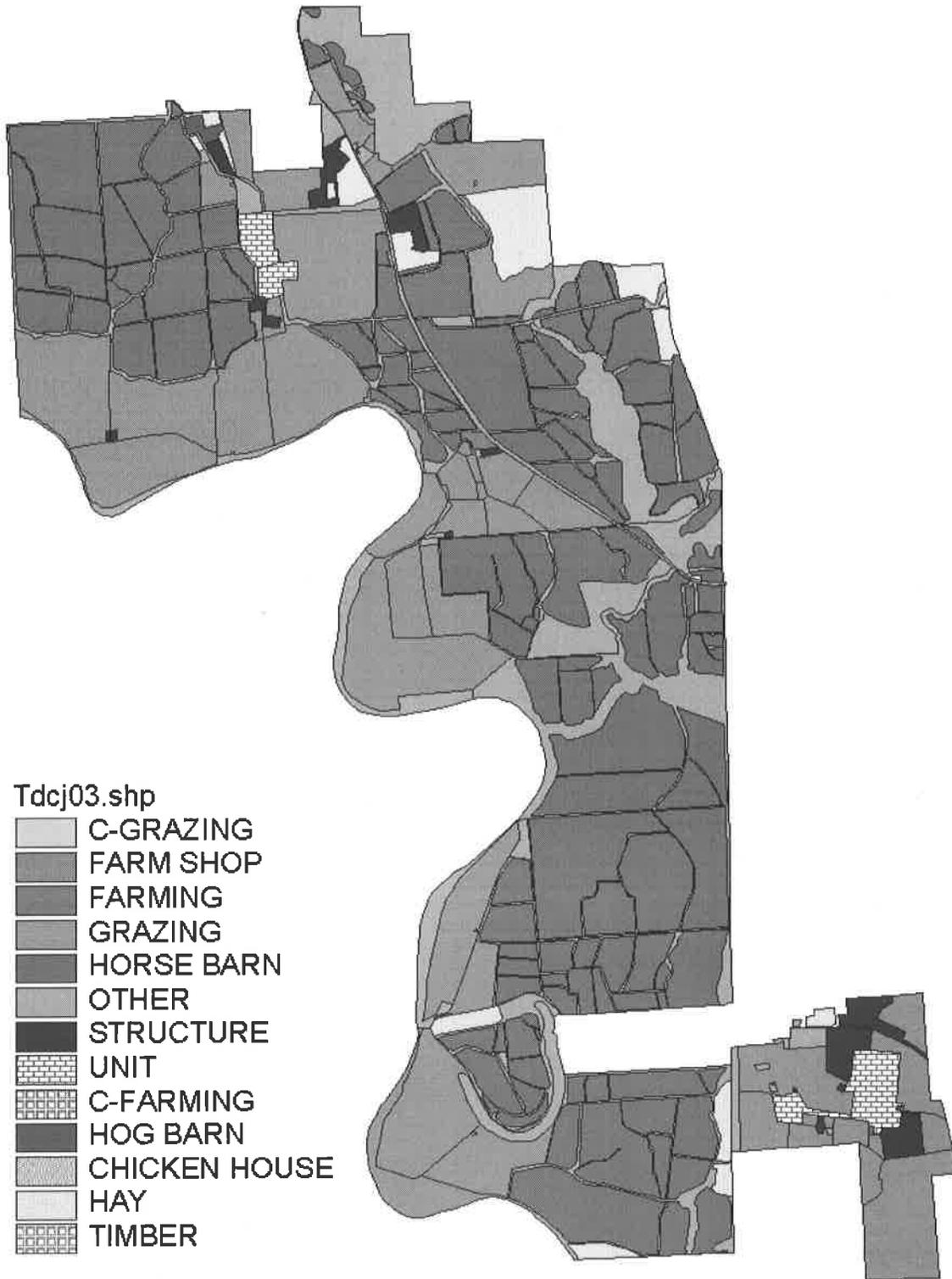
-  C-GRAZING
-  FARM SHOP
-  FARMING
-  GRAZING
-  HORSE BARN
-  OTHER
-  STRUCTURE
-  UNIT
-  C-FARMING
-  HOG BARN
-  CHICKEN HOUSE
-  HAY
-  TIMBER



FERGUSON UNIT



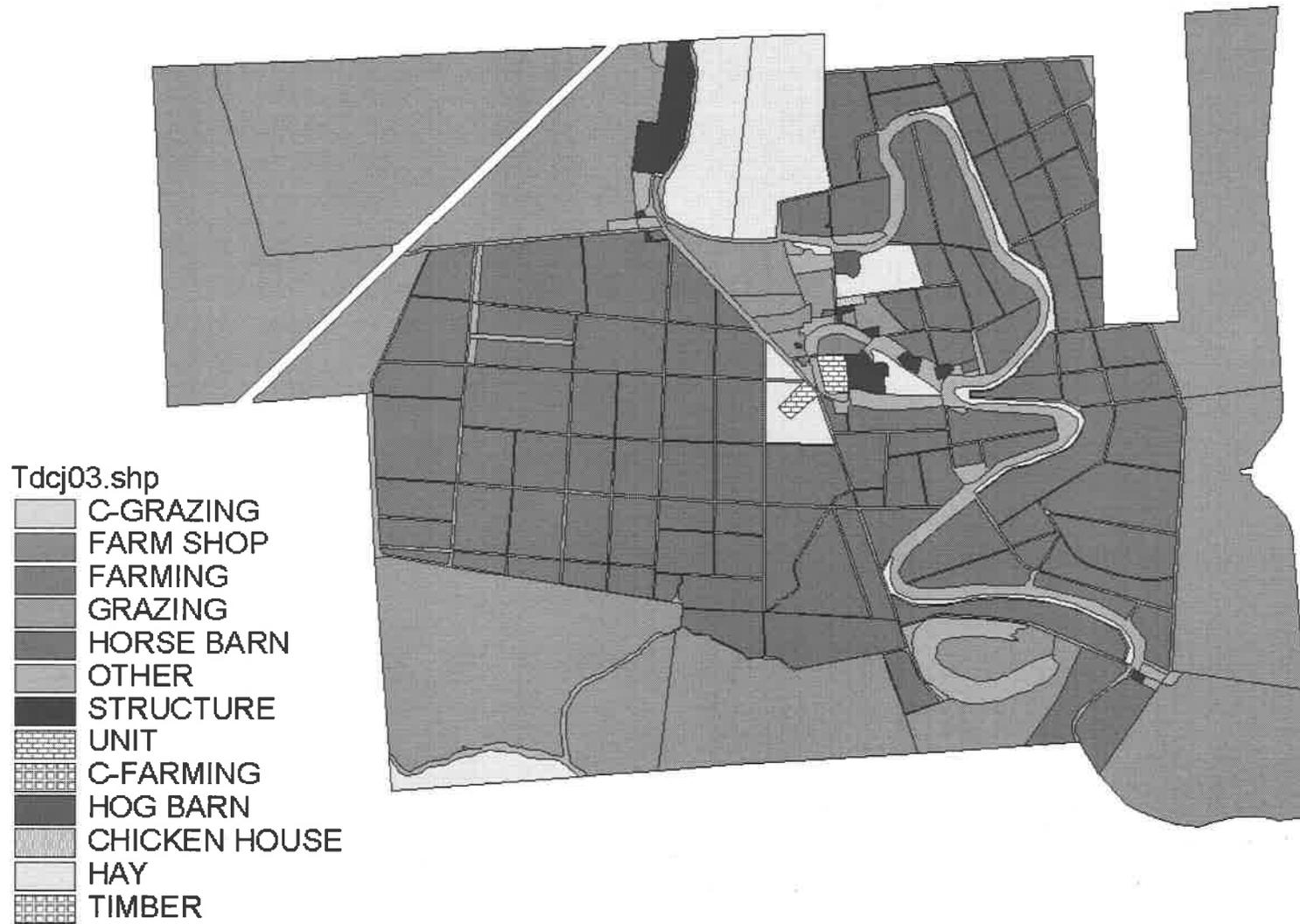
PACK/LUTHER UNITS





RAMSEY UNIT

SCOTT UNIT



SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF BIDDERS**K.1 HISTORICALLY UNDERUTILIZED BUSINESS (HUB) REPRESENTATION****K.1.1 Definition**

- A. "Historically Underutilized Business" means an entity with its principal place of business in this State that is:
1. A corporation formed for the purpose of making a profit in which fifty-one percent (51%) or more of all classes of the shares of stock or other equitable securities are owned by one (1) or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation and management;
 2. A sole proprietorship created for the purpose of making a profit that is completely owned, operated and controlled by an economically disadvantaged person;
 3. A partnership formed for the purpose of making a profit in which fifty-one percent (51%) or more of the assets and interest in the partnership are owned by one (1) or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;
 4. A joint venture in which each entity in the venture is a HUB, as determined under another paragraph of this subdivision; or
 5. A supplier contract between a HUB as determined under another paragraph of this subdivision and a prime Bidder under which the HUB is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.
- B. "Economically Disadvantaged Person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group including Black Americans, Hispanic Americans, Women, Asian Pacific Americans, Native Americans and Service-Disabled Veterans who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

K.1.2 Representation

The Bidder represents and certifies as part of its bid that it [] is, or [X] is not, a HUB certified by the Statewide Support Services Division.

K.2 CHILD SUPPORT REPRESENTATION

- A. Under the Texas Family Code, Section 231.006, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder or owner with an ownership interest of at least twenty-five percent (25%) is not ineligible to receive payments from State funds under a contract to provide property, materials or services.

- B. Governmental entities and any business entity, including a non-profit corporation, that does not have a majority shareholder who is a natural person capable of being a child support obligor, are not subject to Texas Family Code, Section 231.006.

Check ONE:

 X Bidder DOES NOT have a sole proprietor, majority stockholder or substantial owner who is a natural person capable of being a child support obligor therefore IS NOT subject to Section 231.006.

 Bidder DOES have a sole proprietor, majority stockholder or substantial owner who is a natural person capable of being a child support obligor therefore IS subject to Section 231.006.

If subject to Section 231.006, a bid must include names and social security numbers of each person with at least a twenty-five percent (25%) ownership of the business entity submitting the bid.

Print Name	SSN	Print Name	SSN
Print Name	SSN	Print Name	SSN

The Bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified Payments and acknowledges that any resultant the Contract may be terminated and Payment may be withheld if this certification is inaccurate.

K.3 FRANCHISE TAX REPRESENTATION

The Bidder represents and certifies, as part of its bid that it is not currently delinquent in the payment of any franchise tax owed the State of Texas.

K.4 TYPE OF BUSINESS ORGANIZATION

The Bidder, by checking the applicable box, represents that:

- A. It operates as a corporation incorporated under the laws of the State of Texas, an individual, a partnership, a nonprofit organization or a joint venture; or
- B. If the Bidder is a foreign entity, it operates as an individual, a partnership, a nonprofit organization, a joint venture, or a corporation, registered for business in _____ (country).

K.5 PREFERENCE CLAIM

In accordance with Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter C, Rule 20.38, the Bidder shall check below if claiming a preference. If the appropriate line is not marked,

a preference will not be granted unless other documents included in the bid show a right to the preference.

K.5.1 Source and Specification Preferences

- _____ Products of persons with mental or physical disabilities.
- _____ Products made of recycled, remanufactured, or environmental sensitive materials including recycled steel.
- _____ Energy efficient products.
- _____ Rubberized asphalt paving material.
- _____ Recycled motor oil and lubricants.

K.5.2 Tie-Bid Preferences

- _____ Goods produced or offered by a Texas bidder that is owned by a Texas resident Service-Disabled Veteran.*
- _____ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident Service-Disabled Veteran.*
- _____ Agricultural products produced or grown in Texas.
- _____ Agricultural products or services offered by Texas bidders.*
- _____ Services offered by a Texas bidder that is owned by a Texas resident Serviced-Disabled Veteran.*
- _____ Services offered by a Texas bidder that is not owned by a Texas resident Serviced-Disabled Veteran.
- _____ Texas Vegetation Native to the Region.
- _____ USA produced supplies, materials, equipment or agricultural products.

K.5.3 Additional Preferences

- _____ Products produced at facilities located on formerly contaminated property.
- _____ Products and services from economically depressed or blighted areas.
- _____ Vendors that meet or exceed air quality standards.
- _____ Recycled or reused computer equipment of other manufacturers.
- _____ Foods of higher nutritional value (for consumption in a public cafeteria only).

*By signing this bid, the Bidder certifies that if a Texas address is shown as the address of the Contractor, the Contractor qualifies as a Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter C, Rule 20.32 (68).

K.6 REPRESENTATIONS OF BIDDER

The Bidder represents and warrants to and for the benefit of the Department, with the intent that the Department will rely thereon for the purposes of entering into this Contract, as follows:

K.6.1 Organization and Qualification

If the Bidder operates as a corporation incorporated under the laws of any State outside Texas, it is duly qualified to do business as a foreign corporation in good standing in Texas.

K.6.2 Authorization

This Contract has been duly authorized, executed and delivered by the Bidder and, assuming due execution and delivery by the Department, constitutes a legal, valid and binding agreement enforceable against the Bidder in accordance with its terms.

K.6.3 No Violation of Agreements, Articles of Incorporation or Bylaws

The consummation of the transactions contemplated by this Contract and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit or other agreement or instrument to which the Bidder is a party or by which its properties are bound, or any order, rule or regulation of any court or any regulatory body, administrative agency or other governmental body applicable to the Bidder or any of its properties, except any such conflict, breach, or default which would not materially and adversely affect the Bidder's ability to perform its obligations under this Contract, and will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under, the Articles of Incorporation (or other corresponding charter document) or Bylaws of the Bidder.

K.6.4 No Defaults Under Agreements

The Bidder is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by the Bidder under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect the Bidder's ability to perform its obligations under this Contract.

K.6.5 Compliance With Laws

Neither the Bidder nor its officers and directors purporting to act on its behalf have been advised or have reason to believe that the Bidder or such officers and directors have not been conducting business in compliance with all applicable laws, rules and regulations of the jurisdictions in which the Bidder is conducting business, including all safety laws and laws with respect to discrimination in hiring, promotion or pay of employees or other laws affecting employees generally, except where failure to be in compliance would not materially and adversely affect the Bidder's ability to perform its obligations under this Contract.

K.6.6 No Litigation

- A. The Bidder certifies that there is not now pending, or to its knowledge threatened, any action, suit or proceeding to which the Bidder or any of its employees, are a party, before or by any court or governmental agency or body, which may result in any material adverse change in the Bidder's ability to perform its obligations under this Contract, or any such action, suit or proceeding related to environmental or civil rights matters.
- B. The Bidder further certifies that no labor disturbance by the employees of the Bidder exists or is imminent which may be expected to materially and adversely affect the Bidder's ability to perform its obligations under this Contract.

- C. Prior to the Department making an award of this Contract, the Department may require Bidder being considered for the award to recertify the representations set forth above. The Department, in its sole discretion, may disqualify any Bidder that in the opinion of the Department is a party, or who has any employees that are a party, to any action, suit or proceeding that may result in any material adverse change in Bidder's ability to perform its obligations under this Contract.
- D. During the Contract Term, to include extensions hereof, the Bidder shall notify the Department in writing within five (5) days of the Bidder having received knowledge of any actions, suits or proceedings filed against the Bidder, or any of its employees, or to which the Bidder, or any of its employees, are a party, before or by any court or governmental agency or body, which:
 - 1. May result in any material adverse change in the Bidder's ability to perform its obligations under this Contract;
 - 2. Filed in any federal court, state court, or federal or state administrative hearing within the State of Texas regardless as to any anticipated material adverse change in the Bidder's ability to perform its obligations under this Contract;
 - 3. Is brought by or on behalf of a State of Texas Offender regardless as to any anticipated material adverse change in the Bidder's ability to perform its obligations under this Contract; and
 - 4. The Contractor shall provide in writing, to the Contract Administrator, a quarterly report listing litigation identified in the above requirements.

K.6.7 Taxes

- A. The Bidder has filed all necessary federal, state and foreign income and franchise tax returns and has paid all taxes as shown to be due thereon.
- B. The Bidder has no knowledge of any tax deficiency which has been or might be asserted against it and which would materially and adversely affect the Bidder's ability to perform its obligations under this Contract.

K.6.8 Disclosure

There is no material fact which materially and adversely affects or in the future will (so far as the Bidder can now reasonably foresee) materially and adversely affect its ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to the Department by the Bidder prior to the date hereof.

K.6.9 No Collusion

- A. The Bidder represents and certifies its employees, agents and representatives have not and shall not discuss or disclose the terms of their bid and its submission or response thereto with any third party other than persons or entities, which the Bidder engaged to assist it with respect to such response or submission.

- B. Neither the Bidder nor the firm, corporation, partnership or institution represented by the Bidder or anyone acting for such firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly, the bid made to any competitor or any other person engaged in such line of business.

K.6.10 Ethics

K.6.10.1 Conflict of Interest

Pursuant to Texas Government Code, Section 572.051, any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established. Texas Government Code, Section 572.051, outlines the ethical standards required of State officers and employees who interact with public purchasers in the conduct of State business.

Specifically, a Department employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the State; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of the Department or purchasers of other State agencies.

K.6.10.2 Disclosure of Interested Parties

In accordance with Texas Government Code 2252.908, a governmental entity or state agency may not enter into a contract valued at \$1 million dollars or greater with a business entity unless the business entity, in accordance with Texas Administrative Code, Title 1, Part 2, Chapter 46, Rules 46.1, 46.3 and 46.5, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

The disclosure of interested parties must be submitted on a form, and in a manner, prescribed by the Texas Ethics Commission. The Disclosure of Interested Parties Form (Form 1295) and instructions may be found at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

K.6.10.3 No Gratuities

The Bidder represents 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 submitted proposal.

K.6.11 No Compensation

Pursuant to Texas Government Code, Section 2155.004 the Bidder has not received compensation for participation in the preparation of the specifications for this bid. Under Texas Government Code, Section 2155.004, the Bidder certifies that the individual or business entity named in this solicitation or the 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.

K.6.12 Contracting with Executive Head of State Agency

- A. The Bidder represents and certifies that they are in compliance with Texas Government Code, Section 669.003, relating to contracting with the executive head of a State Agency.
- B. If Section 669.003 applies, Bidder shall complete the following information in order for the Bid to be evaluated:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Date of Employment with Bidder: _____

K.6.13 Limitation on Employment of Former State Officers

The Offeror represents that they are in compliance with Section 572.069 of the Government code relating to employment of a former state officer or employee. A former state officer or employee of the TDCJ who during the period of state service or employment participated on behalf of the TDCJ on a procurement or contract negotiation involving a business entity may not accept employment from that business entity before the second anniversary of the date the officer's or employee's service or employment with the TDCJ ceased.

K.6.14 Notification

If any of the information provided in the above representations changes during the term of this Contract, the Contractor shall submit an updated representation as soon as is reasonably possible.

K.6.15 Suspension, Debarment and Terrorism

The Department is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's System for Award Management (SAM, <https://www.sam.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contents of EO 13224 may be viewed by accessing the following website: <http://www.whitehouse.gov/news/orders/>.

K.6.16 Violation of Federal Law Relating To Reconstruction Efforts As A Result Of Hurricanes Rita, Katrina or Any Other Disaster After September 24, 2005

Pursuant to Texas Government Code, Section 2261.053, a State Agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five (5) year period preceding the date of the bid or award, has been convicted of violating a federal law accessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery or reconstruction efforts as a

result of Hurricane Rita, Katrina, or any other disaster occurring after September 24, 2005. Under Texas Government Code, Section 2261.053, the Contractor certifies that the individual or business entity named in this Solicitation 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.

K.6.17 Deceptive Trade Practices; Unfair Business Practices

The Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Texas Business and Commerce Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that the Contractor has not been found to be liable for such practices in such proceedings. The Contractor certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices 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.

K.7 REPRESENTATIONS OF THE DEPARTMENT

The Department represents and warrants to and for the benefit of the Bidder with the intent that the Bidder will rely thereon for the purposes of entering into this Contract as follows:

K.7.1 Authorization

The Department has the requisite power to enter into this Contract and perform its obligations hereunder and by proper action has duly authorized the execution, delivery and performance hereof.

K.7.2 No Violation of Agreements

The consummation of the transactions contemplated by this Contract and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, security agreement, contract or other agreement or instrument to which the Department is a party or by which its properties are bound, or any order, rule or regulation of any court or any regulatory body, administrative agency or other governmental body applicable to the Department or any of its properties, except any such conflict, breach or default which would not materially and adversely affect the Department's ability to perform its obligations under this Contract.

K.7.3 Disclosure

There is no material fact which materially and adversely affects or in the future will (so far as the Department can now reasonably foresee) materially and adversely affect its ability to perform its obligations under this Contract or which might require changes in or additions to the Services required under this Contract that would increase the cost to the Bidder of providing such Services, which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to the Bidder by the Department prior to the date hereof.

K.8 PAYEE IDENTIFICATION NUMBER

The Payee Identification Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. The Offeror shall provide its Payee Identification Number in the space provided below. If this number is not known, the Offeror shall provide the Federal Taxpayer Identification Number.

Payee Identification Number: 81- 1897701 or

Federal Taxpayer Identification Number: _____.

K.9 POINT OF CONTACT

The Offeror shall provide the name, title, phone number, fax number, address and e-mail address of a point-of-contact for questions concerning the submitted proposal.

Name: Mary Cabrera Whitten Title: Owner

Phone Number: (979) 272-8457 Fax Number: ()

Street Address: 10800 C.R. 270

City: Snook State: Texas Zip Code: 77878

Email Address: Marycwhitten@yahoo.com

K.10 CERTIFICATION

To be completed by the Bidder: (The Bidder must check or complete all appropriate boxes or blanks in the Representations and Certifications, on the preceding pages). The Representations and Certifications must be executed below by an individual authorized to bind the Bidder.

The Bidder makes the foregoing Representations and Certifications as part of its bid.

Whitten Flying Service LLC
Name of Bidder

696-AG-16-B019
Solicitation No.

Mary Cabrera Whitten
Signature of Authorized Individual

5-16-16
Date

Mary Cabrera Whitten
Typed Name of Authorized Individual

Note: The penalty for making false statements shall void the submitted bid or any resulting Contracts, and the Bidder shall be removed from all bid lists.