

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR DEMOLITION SERVICES FOR
MISSOURI CITY HISTORIC GYMNASIUM RENOVATION PROJECT
PURSUANT TO CHOICE PARTNERS PURCHASING COOPERATIVE CONTRACT 15/041JN-12**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and The Thomas Group (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide demolition services for the Missouri City Historic Gymnasium Renovation Project, (hereinafter "Services") pursuant to Choice Partners Purchasing Cooperative Contract No. 15/041JN-12; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

Contractor shall render Services to County as described in the Quotation/Proposal dated May 12, 2017, (attached hereto as Exhibit A).

Section 2. Personnel

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 3. Compensation and Payment

3.1 Contractor's fees shall be calculated at the rates set forth in the attached exhibit. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is one hundred sixty-nine thousand one hundred forty-six dollars and 01/100 (\$169,146.01). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an amendment executed by the parties.

3.2 All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Contractor based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County staff designated by the Facilities Management & Planning Director, one (1) electronic (pdf) and/or one (1) original copy of invoice showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of one hundred sixty-nine thousand one hundred forty-six dollars and 01/100 (\$169,146.01), specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed one hundred sixty-nine thousand one hundred forty-six dollars and 01/100 (\$169,146.01).

Section 5. Time of Performance

5.1 The time for performance of the Scope of Services by Contractor shall begin with receipt of the Notice to Proceed from County provided after "kickoff meeting" and end no later than one hundred eighty (180) calendar days thereafter. Contractor shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the County.

5.2 If the Services are not substantially completed within the time for performance or within such additional time as may be extended by County, County will deduct from the final payment as liquidated damages and not as a penalty the sum of two hundred and fifty (\$250.00) per calendar day that the Services are not substantially complete. Such sum is agreed upon as a reasonable and proper measure of the damages County will sustain.

Section 6. Modifications and Waivers

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Termination

7.1 Termination for Convenience – County may terminate this Agreement at any time upon thirty (30) days written notice.

7.2 Termination for Default

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously presented for payment by Contractor to County. Contractor's final Pay Application for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

Section 9. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

10.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability Insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

10.1.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.4 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies including Workers' Compensation written on behalf of Contractor, excluding Professional Liability, shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

10.4 Builders Risk Insurance: Contractor shall obtain and keep in full force and effect until the Transfer Date, Builders Risk Insurance, subject to policy terms and conditions, of direct physical loss or damage to property, materials, equipment and supplies which are to become an integral part of the Project, whether owned by Contractor, or subcontractors of every tier, and in which one or more of same has an insurable interest, while in transit, while at the Construction Site awaiting construction, during construction, and until the Transfer Date. Such insurance shall be maintained to cover, as nearly as practicable, the insurable value of such property, materials, equipment and supplies at risk, and shall contain a waiver of subrogation in favor of Contractor, Architect, subcontractors of any tier and County for loss or damage occurring during the Work and shall name Contractor as the named insured and County as additional insureds. All Builder's Risk Insurance proceeds shall be paid directly to the Contractor.

Section 11. Performance and Payment Bond

Contractor shall post with County, not later than ten (10) days of the execution of this Agreement, a performance and payment bond in the amount of one hundred percent (100%) of the total lump sum price in such form as is satisfactory to County. The bond shall be executed by a corporate surety company duly authorized and admitted to do business in the State of Texas and licensed to issue such a bond in the State of Texas.

Section 12. Indemnity

12.1 CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

12.2 Contractor shall timely report all such matters to County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide County with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of County required by Contractor in the defense of each matter.

12.3 Contractor's duty to defend indemnify and hold County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of the Agreement unless otherwise agreed by County in writing. The provisions of this section shall survive the termination of the Agreement and shall remain in full force and effect with respect to all such matters no matter when they arise.

12.4 In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Contractor, Contractor shall nevertheless fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Contractor are not at issue in the matter.

12.5 Contractor's indemnification shall cover, and Contractor agrees to indemnify County, in the event County is found to have been negligent for having selected Contractor to perform the work described in this request.

12.6 The provision by Contractor of insurance shall not limit the liability of Contractor under this Agreement.

12.7 Contractor shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this request, to agree to indemnify County and to hold it harmless from all claims for bodily injury and property damage that arise may from said Contractor's operations. Such provisions shall be in form satisfactory to County.

12.8 Loss Deduction Clause - County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Contractor and/or trade contractor providing such insurance.

Section 13. Confidential and Proprietary Information

13.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

13.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts

to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

13.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

13.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

13.5 Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.

Section 14. Independent Contractor

14.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

14.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section 15. Notices

15.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

15.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Facilities Management and Planning
Attn: Director
301 Jackson Street, Suite 301
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

Contractor: The Thomas Group
3857 Wichita
Houston, Texas 77004

15.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 15.1 and 15.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

15.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

15.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 16. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

THE THOMAS GROUP

Robert E. Hebert, County Judge

Date

ATTEST:

Laura Richard, County Clerk

Authorized Agent- Signature

John Thomas
Authorized Agent- Printed Name

President
Title

5/26/2017
Date

APPROVED:

James Knight, Facilities Management/Planning Director

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

Line Number	Description	Quantity	Unit	Unit Total Incl O&P	Ext. Total Incl O&P
015433400030	Rent aerial lift, scissor type, to 30' high, 1200 lb. capacity, electric	45	Day	\$80.75	\$3,633.75
015436501200	Mobilization or demobilization, delivery charge for small equipment, placed in rear of, or towed by pickup truck	6	Ea.	\$450.00	\$2,700.00
017613200020	Temporary protection, flooring, taped seams, 1/8" tempered hardboard	6,500	S.F.	\$1.15	\$7,475.00
024119190840	Selective demolition, rubbish handling, dumpster, 40 C.Y., 10 ton capacity, weekly rental, includes one dump per week, cost to be added to demolition cost	26.000	Week	\$963.08	\$25,040.00
024119192040	Selective demolition, rubbish handling, 0 - 100' haul, load, haul, dump and return, hand carried, cost to be added to demolition cost	440.000	C.Y.	\$74.13	\$32,618.20
050505102825	Selective metals demolition, demolish hand rail, excl shoring, bracing, cutting, loading, hauling, dumping	120.000	L.F.	\$5.90	\$707.81
050505102950	Selective metals demolition, minimum labor/equipment charge	46.000	Job	\$1,449.91	\$66,695.86
090505101580	Ceiling demolition, support wires for ceiling insulation, on suspension system, remove	16,000	S.F.	\$0.87	\$13,920.00
090505300100*	Walls demolition, brick, 4" to 12" thick, uncover windows	40	Ea.	\$230.00	\$9,200.00
090505309000	Walls and partitions demolition, minimum labor/equipment charge	50.000	Job	\$79.49	\$3,974.58
230505101570*	Ductwork, metal; steel and stainless steel, fabricated, selective demolition	2,000	Lb.	\$2.50	\$5,000.00
230505103600*	HVAC, mechanical equipment, heavy items; unit is weight, not cooling, selective demolition	12	Ton	\$1,280.00	\$15,360.00
					\$186,325.19



CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

JR Thomas Group Inc
HOUSTON, TX United States

Certificate Number:
2017-215895

Date Filed:
05/31/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

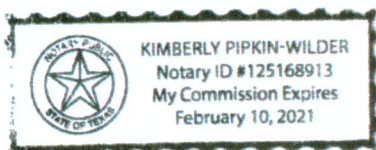
15/041VN-12
Demolition Services for Missouri City Historic Gymnasium

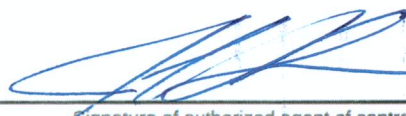
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Thomas, John	Houston, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

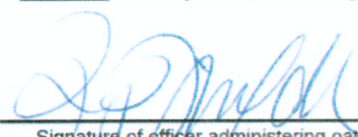
I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.




Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said JOHN R THOMAS, this the 31ST day of MAY, 20 17, to certify which, witness my hand and seal of office.

 KIMBERLY PIPKIN-WILDER NOTARY
Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath