

## STANDARD UTILITY AGREEMENT

U-0028: **En-Touch Systems**

County: Fort Bend

Highway: FM 1093 Westpark Extension Phase II

This Agreement by and between the County of Fort Bend, Texas, ("**County**"), and En-Touch Systems ("**Utility**"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **County**.

**WHEREAS**, the **County** has deemed it necessary to make certain highway improvements as designated by the **County** and approved by the Federal Highway Administration within the limits of the highway as indicated above;

**WHEREAS**, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: Relocation of overhead facilities into a predesignated corridor; and more specifically shown in **Utility's** Plans and Specifications, Estimated Costs, and Schedule which are attached hereto as Exhibits "A," "B" and "C."

**WHEREAS**, Subchapter E of Chapter 203 of the Texas Transportation Code regarding the relocation of utilities does not apply to this Project, but the County wishes to negotiate in good faith and enter into agreements with all affected utility companies for the participation in the costs of the adjustment, removal, and/or relocation of certain facilities as authorized under such subchapter.

**WHEREAS**, the **County**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities and determined it is appropriate to enter an agreement with **Utility** to govern the terms for participation in the costs of the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

### NOW, THEREFORE, BE IT AGREED:

The **County** will pay to **Utility** fifty percent (50%) of the documented actual costs incurred for relocation of the utility in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **County** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. **Utility** shall supply, upon request by the **County**, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **County**, or may, with the **County's** approval, accumulate actual direct and related indirect costs in accordance with an established accounting procedure developed by **Utility**. Bills for work hereunder will be submitted to **County** not later than 90 days after completion of the work.

When requested, the **County** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.



Fort Bend County

10/4/17  
Date

WMP  
Initial

En-Touch Systems

8/1/17  
Date

Upon execution of this agreement by both parties hereto, the **County** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **County** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

However, for any failure by **Utility** to conclude said adjustment, removal, or relocation by the stated completion date not caused by events outside **Utility's** control, the **County** may elect to: (1) reduce the reimbursement to **Utility** by one percent (1%) each day delayed; or (2) relocate the facility at the sole cost and expense of **Utility**.

The **County** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **County** reimbursement.

Unless an item below is stricken and initialed by the **County** and **Utility**, this agreement in its entirety consists of the following:

1. Standard Utility Agreement;
2. Plans & Specifications (Attachment "A");
3. Utility Construction Cost Estimate (Attachment "B");
4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **County and Utility**.

This agreement is subject to cancellation by the **County** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **County**. However, the **County** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

The **Utility** acknowledges to and for the benefit of the **County** and State of Texas that it understands the project under this Agreement is eligible for Federal-aid highway funds and as such, requires all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements") including iron, steel, and manufactured goods provided by the **Utility** pursuant to this Agreement.

The State Auditor may conduct an audit or investigation of any entity receiving funds from the **County** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that Fort Bend County, Texas makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

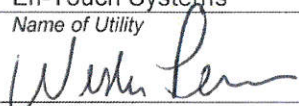
The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

  
Date 10/4/17  
Fort Bend County

  
Initial WbP Date 8/11/17  
En-Touch Systems

UTILITY

Utility: En-Touch Systems  
*Name of Utility*


By:   
*Authorized Signature*

Wesley Pennix  
*Print or Type Name*

Title: Manager – OSP Engineering

Date: 8/11/17

 10/4/17  
*Date*  
Fort Bend County

 8/11/17  
*Initial* *Date*  
En-Touch Systems

**EXECUTION RECOMMENDED:**

**COUNTY**


By: \_\_\_\_\_  
*Robert E. Hebert, County Judge*

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
*Laura Richard, County Clerk*

**APPROVED:**

By:  \_\_\_\_\_  
*Richard W. Stolleis, P.E., County Engineer*

**APPROVED AS TO LEGAL FORM:**

By: \_\_\_\_\_  
*Marcus D. Spencer, First Assistant County Attorney*

**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

\_\_\_\_\_

 \_\_\_\_\_  
Date 10/4/17  
Fort Bend County

 \_\_\_\_\_  
Initial \_\_\_\_\_ Date 8/1/17  
En-Touch Systems

# Exhibit A

## En-Touch Systems, Inc. Plans & Specifications

( 6 Pages that Follow)

lews 10/4/17  
Date  
Fort Bend County

Wep 8/1/17  
Initial Date  
En-Touch Systems

**ADDRESS: FM 359 @ FM 1093**  
**PROJECT NAME:**



**SITE LOCATION**

	<b>WESTPARK TOLLWAY EXTENSION TXDOT PERMIT</b>	
	<b>En-Touch</b>	<b>En-Touch Engineer</b> WESLEY FRENCH, Designer, BYERS DOMINIC OCHOA DATE: 8.8.2017 PROJECT: 328, 024 1 OF 8 DWG NAME: WO17CFB1304



# LEGEND

## CATV: FIBER

- FOC 1 DROP
- FOC 12 FIBER CABLE
- FOC 24 FIBER CABLE
- FOC 48 FIBER CABLE
- FOC 96 FIBER CABLE
- FOC 144 FIBER CABLE

### ADDRESS AND FIBER ASSIGNMENT

- JBOX INSIDE
- JBOX OUTSIDE
- JBOX ?
- ONX
- FDT INSIDE/OUTSIDE
- TERMINAL
- LARGE TERMINAL

## PHONE: COPPER

- 25PR
- 50PR
- 100PR
- 200PR
- 300PR
- 400PR
- 600PR

- CXB
- CXT


## COAX

- D625
- T750
- DTB-0875

- API
- AMP
- 2 PORT TAP
- 4 PORT TAP
- 8 PORT TAP
- NODE EQUIP. PRIMARY
- NODE EQUIP.
- NODE COAX IN/OUT
- HH
- INLINE EQ PWR INHIBITER
- LBI
- LINE EXTENDER
- PWRINS
- SPLITTER
- 2WAY SPLITTER
- 3WAY SPLITTER

## MISC

- ANCHORS
- POLES
- BONDS
- MANHOLES
- MARKER
- OVER LASH
- LOOP SLACK




**En-Touch**  
WESTPARK TOLLWAY  
EXTENSION  
TXDOT PERMIT

**BYERS**  
BYERS ENGINEERING  
INCORPORATED  
10000 W. HIGHTWAY 100  
DALLAS, TEXAS 75243  
TEL: 972.382.1000  
FAX: 972.382.1001  
WWW.BYERSINC.COM

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En-Touch Engineer  
WESTPARK TOLLWAY, EXTENSION, TXDOT PERMIT

DESIGN DATE: 08/2017  
DATE PLOTTED: 02/28/2018  
PAGE: 2 OF 6  
DWG NAME: WO17CFB1304



**811**  
Non-emergency  
Call before you dig

WESTPARK TOLLWAY  
EXTENSION  
TXDOT PERMIT

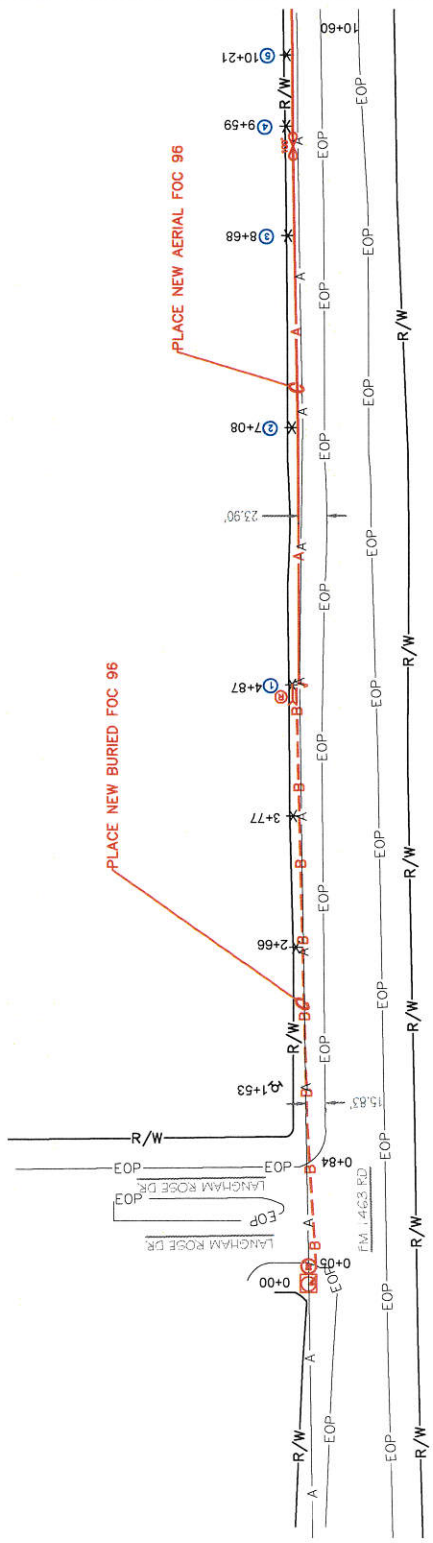
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En-Touch Engineer  
WESTPARK TOLLWAY, EXTENSION, TXDOT PERMIT

DESIGN DATE: 08/2017  
DATE PLOTTED: 02/28/2018  
PAGE: 2 OF 6  
DWG NAME: WO17CFB1304

CONSTRUCTION NOTES

- PLACE 575 OF AERIAL 96 FOC & 6M STRAND
- REMOVE 575 OF AERIAL FOC 24
- PLACE 515 OF 1-2" HDPE DUCTS
- PLACE 515 OF BURIED 96 FOC
- PLACE 1.6M/W BONDS
- PLACE 1 ANCHOR, ROD, GUY
- PLACE 1 HAND HOLES



**811**  
Know what's below.  
Call before you dig.

SCALE: 1"=100'

**BYERS**  
ENGINEERS  
ARCHITECTS  
PLANNERS

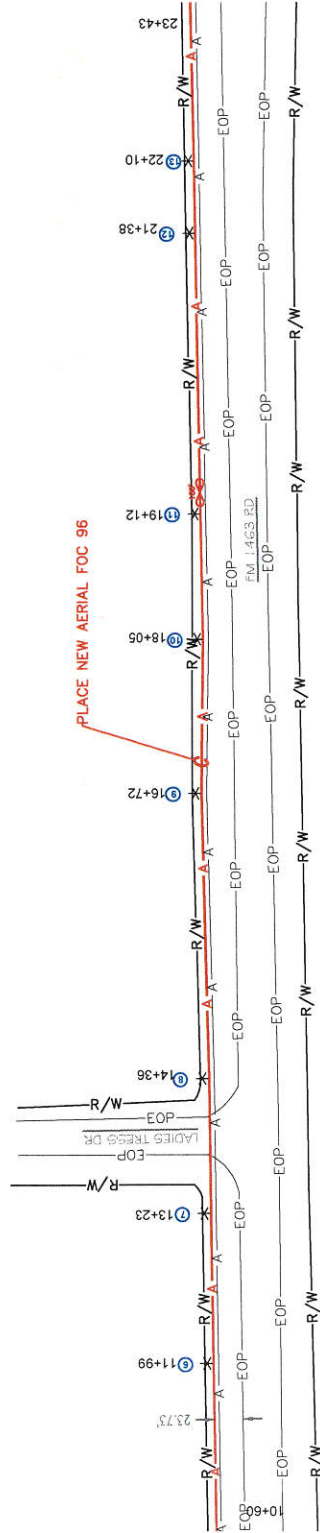
WESTPARK TOLLWAY  
EXTENSION  
TXDOT PERMIT

En-Touch  
ENGINEERS

En-Touch Engineer  
WESTPARK TOLLWAY, CORREY BY 219585  
DOMINIC OCHOA  
L.A.T.C. 8.9.2017  
P.L.C.P. 023, 024  
3 OF 6  
DWG NAME: WO17CFB1304

CONSTRUCTION NOTES

PLACE 1283' OF AERIAL 96 FOC & 6M STRAND  
 REMOVE 1383' OF AERIAL FOC 24  
 PLACE 100' SLACK LOOP 96 FOC



2



WESTPARK TOLLWAY  
EXTENSION  
TXDOT PERMIT

En-Touch Engineer  
WESTLEY PERDUE, Design By BYERS

DATE: 8.5.2017

DESIGNER: DOMINIC DECHIO

SCALE: 1"=100'

DWG NAME: W017CFB1304

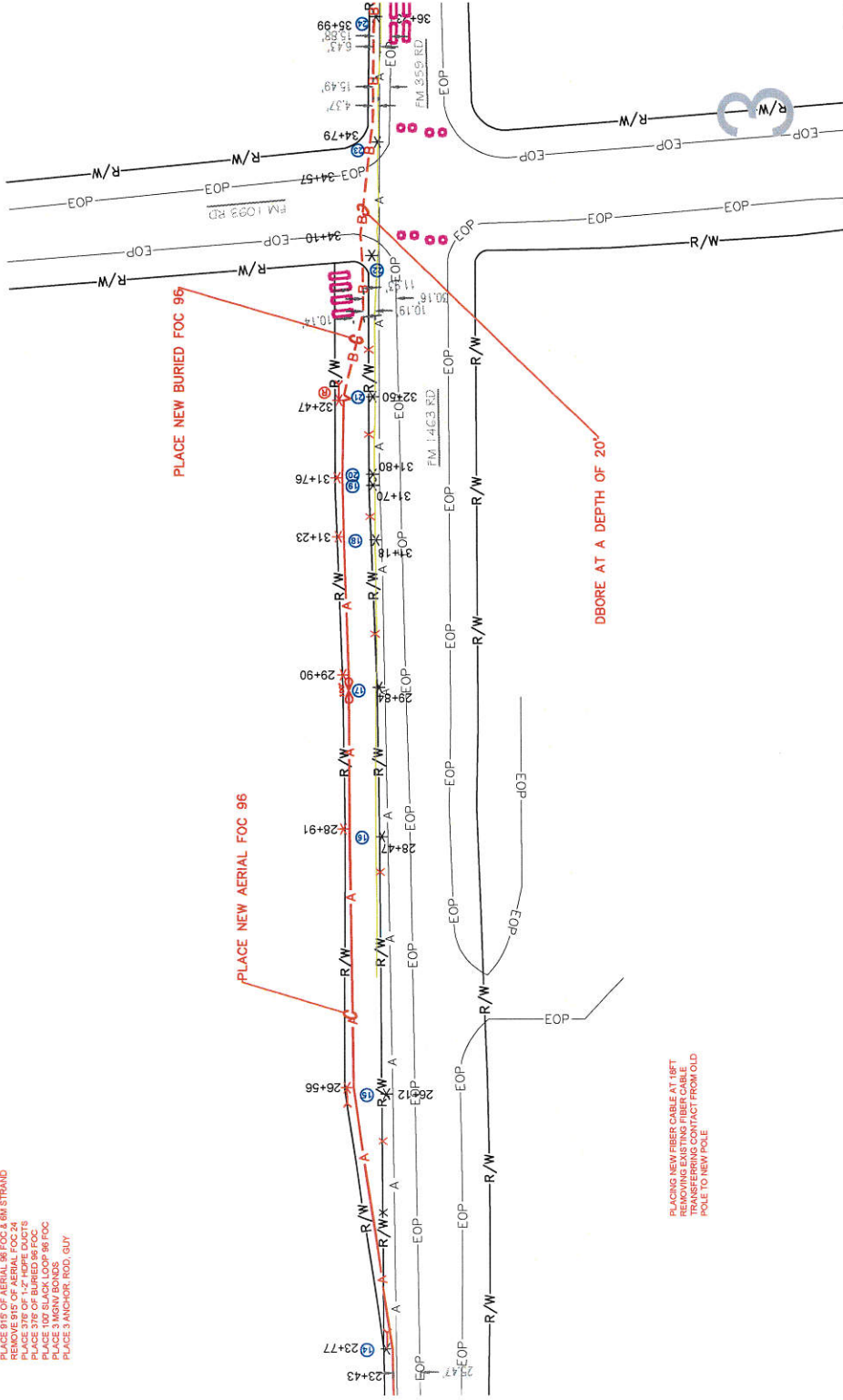


Know what's below.  
Call before you dig.



CONSTRUCTION NOTES

- PLACE 91# OF AERIAL 3# FOC & 6# STRAND
- PLACE 37# OF BURIED 96 FOC
- PLACE 37# OF BURIED 96 FOC
- PLACE 37# OF BURIED 96 FOC
- PLACE 37# OF BURIED 96 FOC
- PLACE 3 ANCHOR ROD, GUY



PLACING NEW FIBER CABLE AT 18FT  
 TRANSFERRING CONTACT FROM OLD  
 POLE TO NEW POLE

**WESTPARK TOLLWAY  
EXTENSION  
TXDOT PERMIT**

**BYERS**  
BYERS ENGINEERING & ARCHITECTURE  
 400 W. UNIVERSITY BLVD.  
 SUITE 100  
 AUSTIN, TEXAS 78705  
 772-666-9999

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**En-Touch**  
En-Touch Engineer  
 WESTPARK PERMIT, Design By BYERS

**DOMINIC OCHOA**  
DATE: 8.8.2017  
 PLAN: 503.004  
 SHEET: 5 OF 6

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**DWG NAME: W017CFB1304**

Know what's below.  
Call before you dig.

SCALE: 1"=100'



# Exhibit B

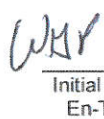
## En-Touch Systems, Inc. Construction Cost Estimate

Job Number: WO15CFB1074  
Community: Ft Bend County  
Section: FM 1093 Road widening  
Contractor: Elite

Project Description:	Westpark Tollway Extension Phase II
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Labor	\$22,339.05
NHPL	\$0.00
Eng/Permits	\$5,159.00
Material	\$32,923.38
<b>Total Cost</b>	<b>\$60,421.43</b>

  
Date: 10/4/17  
Fort Bend County

  
Initial: WHS Date: 8/11/17  
En-Touch Systems

## Exhibit C

# En-Touch Systems, Inc. Schedule of Work and Estimated Dates of Completion.

(As Shown Below)

### Construction Schedule:

**Begin Construction:** November 1, 2017 (Pending Completion of CenterPoint Overhead Relocation)

**Complete Construction:** December 15, 2017 (Based on November 1, 2017 Start Date)

  
Date  
10/4/17  
Fort Bend County

  
Initial  
Date  
8/11/17  
En-Touch Systems

# 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

Certificate Number:  
 2017-267861

Date Filed:  
 10/03/2017

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.  
 entouch systems inc  
 houston, TX United States

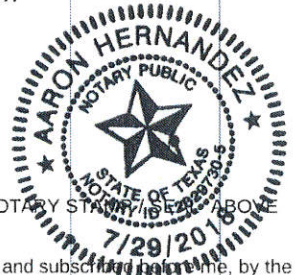
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.  
 Fort Bend County

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.  
 23381  
 Utility Relocation regarding FM 1093/Westpark, Mobility Project No. 748

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

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.



Wesley Pennix  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL ABOVE

Sworn to and subscribed to by the said Wesley Glen Pennix, this the 3<sup>rd</sup> day of October, 2017, to certify which, witness my hand and seal of office.

Aaron Hernandez Signature of officer administering oath  
Aaron Hernandez Printed name of officer administering oath  
Notary Public Title of officer administering oath