

**Memorandum of Cooperation Agreement
Between
Texas Association of African American Chambers of Commerce and the
Texas Parks and Wildlife Department**

This Memorandum of Cooperation Agreement (Memorandum) is made by and between Texas Association of African American Chambers of Commerce (TAAACC), a non-profit organization and Texas Parks and Wildlife Department (TPWD) under the authority granted by Texas Parks and Wildlife Code, Section 11.0171(a)(1)(C), for the purpose of creating a relationship that will encourage and assist the development of participation in contracting opportunities within the State of Texas by Historically Underutilized Businesses (HUBs). TAAACC and TPWD will cooperate in the dissemination of information regarding purchasing procedures and procurement opportunities extended to HUB vendors in an attempt to increase the level of HUB participating on contracting opportunities.

NOW THEREFORE, the TPWD and TAAACC agree to the following:

Outreach Initiatives:

- 1.) TAAACC shall:
 - a. Solicit its respective member chambers in an effort to identify and develop a listing of African American businesses that qualify as HUB firms but are not currently certified by the state.
 - b. Encourage the African American business firms to obtain HUB certification and provide a list of firms to TPWD that obtained certification as a result of Memorandum of Cooperation efforts.
 - c. Promote this initiative by providing ongoing advocacy, publicizing success stories and serving as point of contact for their member chambers. TAAACC will also work with TPWD on generating suggestions and recommendations for improving the process.
 - d. As a sign of good faith and to serve as role models, request that its executive officers (where applicable) go through the HUB certification process for their respective businesses. TPWD would like the opportunity to identify all of the TAAACC executive officers whose businesses are HUB-certified, in an effort to note the success and further promote the HUB certification within the members of their respective chambers.
 - e. Encourage HUB-certified members to conduct more business with TPWD and register on the TPWD website to receive bid opportunity notifications, in an effort to increase business opportunities with African Americans.
 - f. Encourage HUB-certified members to attend TPWD Pre-Bid conferences and other TPWD vendor training opportunities.
 - g. Provide an annual report to TPWD no later than November 1 of each year summarizing its activities related to these efforts during the prior year and related results.

- 2.) TPWD shall:
 - a. Advise TAAACC of existing or potential procurement opportunities.
 - b. Forward weekly procurement listings from the Electronic State Business Daily (ESBD), located at the Texas Comptroller of Public Accounts (CPA) website, to TAAACC. Additionally, TPWD bid opportunities will be compiled and distributed at the various TAAACC participated events.
 - c. Provide informational workshops and presentations to TAAACC regarding the TPWD HUB program and the procurement process to maximize vendors' opportunities to do business with the state.
 - d. Upon request, provide to TAAACC bid award information in accordance with TPWD agency rules and procedures.

- e. Identify representatives/staff for TAAACC to confer with and (if and when appropriate) serve as resources for TAAACC Economic Development Committee related to ongoing HUB Program issues.
 - i. TPWD agrees that TPWD HUB Program Staff and the Purchasing and Contracting Director will be reasonably available to assist TAAACC.
 - ii. TPWD will ensure that TPWD HUB Program staff contact information is listed at the CPA HUB program website, as it is for all state agencies.
- f. Participate in chamber-related functions throughout the state in accordance with its strategies and budget allocation. TPWD will also promote the HUB Mentor-Protégé Agreement Program during the chamber-related functions.
- g. Assist TAAACC with the Annual Conference and Professional Roundtable Discussions by participating on the planning committees, assisting with registration and workshop coordination, as appropriate.
- h. Provide workshops in coordination with TAAACC on "How to do Business with TPWD."
- i. Provide TAAACC information concerning HUB forums. In an effort to coincide with the Calendar of Events listed at the CPA HUB program website, TPWD will forward notifications electronically to TAAACC.

TPWD and TAAACC mutually agree:

- A. The TPWD and TAAACC will furthermore continue to discuss the development of other measurable goals that will assist both entities in improving HUB participation.
- B. All contract awards will be duly made by TPWD and not by TAAACC. TAAACC shall not have any input in or relation to a decision by TPWD to award a solicitation contract.
- C. As necessary, both parties shall meet to discuss areas of improvement that have been identified through these efforts and potential solutions to assist both vendors and TPWD in increasing business opportunities related to the HUB process.

1. Term.

The term of this Agreement shall begin September 1, 2017, and shall terminate on August 31, 2019. Any outstanding reporting obligations shall survive termination of the Agreement.

2. Payment.

TPWD shall pay TAAACC \$10,000 per fiscal year (September 1 – August 31) beginning Fiscal Year 2018 to support the outreach, recruitment, technical assistance and certification awareness activities described herein. Payment shall be due upon receipt of annual report and invoice in accordance with state of Texas Prompt Payment Act.

3. Confidentiality.

Subject to all applicable laws, TAAACC shall not, without the prior written consent of TPWD, disclose to anyone any Confidential Information. Confidential Information shall not include any information that:

- A. is disclosed by TPWD without restriction;
- B. becomes publicly available through no act of TAAACC; or
- C. is rightfully received by TAAACC from a third party.

Upon request by TPWD, TAAACC shall provide access to and/or copies of all records related to this Agreement to TPWD.

4. **Contractor.**

TAAACC throughout this Agreement is and shall be a contractor and not an employee, partner or agent of TPWD. TAAACC shall not be entitled to nor receive any benefit normally provided to TPWD's employees such as, but not limited to, vacation payment, retirement, health care or sick pay. TPWD shall not be responsible for withholding income or other taxes from the payments made to TAAACC. TAAACC shall be solely responsible for filing all returns and paying any income, social security or other tax levied upon or determined with respect to the payments made to TAAACC pursuant to this Agreement.

5. **Controlling Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

6. **Final Agreement.**

This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether written or oral. This Agreement may be amended, supplemented or changed only by an agreement in writing signed by both of the parties.

7. **Notices.**

Any notice required to be given or otherwise given pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent by recognized overnight courier service as follows:

If to TAAACC:

Texas Association of African American Chambers of Commerce
P.O. Box 13064
Austin, TX 78711-3064

If to TPWD:

Texas Parks and Wildlife Department
Attn: Tammy Dunham
4200 Smith School Road
Austin, TX 78744

8. **Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

9. **Audit.**

TAAACC understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, TPWD or any successor agency, to conduct an audit or investigation in connection with those funds. TAAACC further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including providing access to any information the state auditor considers relevant to the investigation or audit. TAAACC shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the TAAACC and the requirement to cooperate is included in any subcontract it awards.

10. Dispute Resolution.

In accordance with Chapter 2261 of the Texas Government Code, the following Schedule of Remedies applies to this Agreement in the event of substandard performance or other failure to conform to the requirements of the Agreement or applicable law. TPWD may:

- i. Reject the substandard performance and request corrections without charge to TPWD.
- ii. Issue a notice of substandard performance or other non-conforming act or omission.
- iii. Request and receive the return of any over payments or inappropriate payments.
- iv. Reject associated reimbursement requests and suspend payments, pending accepted revision of substandard performance or non-conformity. Note: Funds may be retained by TPWD for recovery of administrative costs or returned to funding source as authorized by agreements with the funding source and by state or federal law.
- v. Suspend all or part of the Agreement, pending accepted revision of substandard performance or non-conformity.
- vi. Terminate the Agreement, and demand and receive return of all equipment purchased of contract funds, return of all unexpended funds, and repayment of expended funds.

TPWD may avail itself of any remedy or sanction provided in this Agreement or in law to recover any losses arising from or caused by TAAACC's substandard performance or any non-conformity with the Agreement or the law.

TAAACC shall carry on the Agreement Activities and adhere to the progress schedule during all disputes or disagreements with TPWD unless ordered to stop the Agreement Activities. No Agreement Activities shall be delayed or postponed pending resolution of any disputes or disagreements. Government Code Chapter 2260 shall govern resolution of all disputes as applicable.

11. Termination.

A. This Agreement may be terminated by TPWD as follows:

- i. If TAAACC is unable to provide the Agreement services by reason of temporary or permanent dissolution of the TAAACC;
- ii. Breach or default of any obligation of TAAACC pursuant to Section 6, Confidentiality, of this Agreement.
- iii. Breach or default by TAAACC of any other material obligation in this Agreement, which breach or default is not cured within five (5) days of written notice from TPWD.
- iv. If TAAACC files protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver is commenced by a third party against TAAACC, any of the foregoing of which remains not dismissed for a period of sixty (60) days.

B. TAAACC may terminate this Agreement as follows:

- i. Breach or default of any obligation of TPWD, which breach or default is not cured within five (5) days of written notice from TAAACC.

C. This Agreement is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature, or otherwise made available, to TPWD.

12. Indemnification. TAAACC SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, ITS OFFICERS, AND EMPLOYEES, AND TPWD, ITS OFFICERS, AND EMPLOYEES AND CONTRACTORS, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS,

COSTS, DAMAGES, AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND COURT COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF ORGANIZATION OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF ORGANIZATION IN THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. TAAACC SHALL COORDINATE ITS DEFENSE WITH THE TEXAS ATTORNEY GENERAL AS REQUESTED BY TPWD.

13. 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:
 - All persons employed to perform duties within Texas, during the term of the Contract; and
 - All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.
- B. The Contractor shall provide, upon request of TPWD, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.
- 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.

IN WITNESS WHEREOF, the parties have executed this agreement to be effective September 1, 2017.

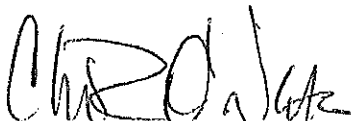
TEXAS PARKS AND WILDLIFE DEPARTMENT



Carter Smith, Executive Director

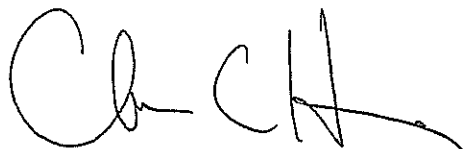
20 March 2017
Date

TEXAS ASSOCIATION OF AFRICAN AMERICAN CHAMBERS OF COMMERCE



Charles O'Neal, President

30 March 2017
Date



Christopher Herring, Chairman

30 March 2017
Date