

RESOLUTION NO. 20250225-06

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A CONTRACT FOR FOUNDATION REPAIRS TO THE BUILDING AT 150 SERVICE STREET, NEW BOSTON, TX, UPON THE TAC CENTRAL CAMPUS

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, the building situated on the TexAmericas Central Campus at 150 Service Street, New Boston, Texas is a metal frame building built in the early 1940s, approximately 12,300 square feet in size, and is experiencing settlement of the foundation on the west end of the building; and

WHEREAS, TexAmericas Center has sought, through a competitive process, bids for the project of foundation repairs to 150 Service Street, New Boston, Texas; and

WHEREAS, Aftermath Structural Repair LLC has submitted a satisfactory proposal in the amount of \$119,085.00 and committed to begin the project in a timely fashion.

NOW, THEREFORE, BE IT RESOLVED as follows:

- 1. That TexAmericas Center proceed with foundation repairs by directly contracting with Aftermath Structural Repair LLC in a total amount not to exceed **\$144,000.00**; and
- The Executive Director/CEO of TexAmericas Center shall be and he is hereby authorized to execute contracts with a contractor for the work to be completed in an amount not to exceed \$144,000.00 for foundation repairs to the building at 150 Service Street and make any necessary budget adjustments.

PASSED and APPROVED this 25th day of February, 2025.

Jim Roberts, Chairman of the Board

ATTEST well. Secretary Justin



TEXAMERICAS CENTER CONSTRUCTION CONTRACT

STATE OF TEXAS

COUNTY OF BOWIE

This contract and agreement is entered into by and between TexAmericas Center, hereinafter referred to as "Owner," and Aftermath Structural Repair LLC, hereinafter referred to as "Contractor," as follows:

I. WORK TO BE DONE

The Contractor agrees to provide all labor materials and equipment to do all things necessary to repair the foundation at 150 Service Street, New Boston, Texas on the TexAmericas Center Central Campus in accordance with the Scope of Work prepared by TexAmericas Center, dated January 15, 2025 and Option A & B of the Executive Summary/Proposal prepared by Contractor, which are attached hereto as Exhibit "A" and made a part hereof by reference for all purposes.

II. CONTRACT PRICE

2.01. As a consideration for this agreement, the Owner agrees to pay to Contractor for the construction of the above identified improvements, the sum of \$119,085.00.

2.02. Any changes to the plans and specifications, or work, shall be agreed to in writing only by Change Order executed by Owner and Contractor with an adjustment to the contract price as set forth in the Change Order.

2.03. The Owner shall pay to Contractor, the contract price as follows:

An invoice for 25% of the contract will be submitted to Owner prior to project commencing. The balance will be paid upon completion of the project and receipt of the final invoice from Contractor. All billings shall be submitted for review by TAC Chief Operations Officer.

2.04 Texas Late Payment Clause. Payments of the Contract Price and interest upon late payments shall be made in accordance with the provisions of Chapter 2251 of the Texas Government Code.

III. RETAINAGE

3.01. If the Price, or Price Estimate, at the time of execution of this Contract is \$400,000.00 or more, then during the course of performance of the work under this Contract, Owner shall withhold retainage in accordance with the provisions of Section 2252.032 of the Texas Government Code as follows:

- A. If the total value of the contract is less than Five Million Dollars (\$5,000,000.00) Owner shall withhold retainage in the amount equal to ten percent (10%) of the Contract Price; provided, however, the withheld retainage shall not exceed ten percent (10%) for any item in the bid schedule or schedule of values for the project, including materials and equipment delivered to the site to be installed;
- B. If the total value of the contract is Five Million Dollars (\$5,000,000.00) or more, Owner shall withhold retainage in the amount equal to five percent (5%) of the Contract Price; provided, however, the withheld retainage shall not exceed five percent (5%) for any item in the bid schedule or schedule of values for the project, including materials and equipment delivered to the site to be installed;
- C. Retained funds shall not be deposited or held in an interest bearing account.
- D. The work under this contract shall be considered substantially complete when the following matters are completed and accepted by Owner:
 - 1. The material is installed as specified in the Scope of Work.
- E. Owner may release all or a portion of the retainage for substantially completed portions of the work or for fully completed and accepted portions of the work upon:
 - 1. receipt of waivers of liens by all subcontractors providing materials and/or labor for the substantially completed or fully completed work; and
 - 2. receipt of a waiver of lien by the Contractor for the substantially completed or fully completed work.
- F. Owner may, upon application for final payment and release of retainage by Contractor, withhold retainage if there is a bona fide dispute in accordance with Section 2252.032 of the Texas Government Code.

IV. CONSTRUCTION TIME

4.01. Contractor agrees to build, construct and complete the above-described improvements within <u>60</u> days from the date hereof; provided, however, a reasonable allowance shall be made in the event delays occur because of unseasonably bad weather, strikes or inability to obtain materials and supplies over which the Contractor has no control.

4.02. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified herein, plus any extensions thereof allowed. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER <u>\$0.00</u> for each day that expires after the time specified for Completion until the Work is complete.

V. DELIVERY OF MATERIALS & SUBCONTRACTS

Contractor will have materials used in the construction delivered to the site. TAC is not responsible for lost or stolen materials. Contractor must provide the security necessary to ascertain that the materials remain at the site during their use.

5.01. Contractor may award subcontracts on such work as is not normally performed by Contractor; however, Contractor shall be fully responsible for the workmanship and the materials provided by Subcontractors.

5.02. In making payments to Subcontractors, the Contractor shall not make a final payment to a Subcontractor without receiving in writing a written release of any and all liens from the Subcontractor. In the event a Subcontractor gives notice to the Owner in accordance with the terms of the Texas Property Code that the Subcontractor is claiming a lien upon the improvements and/or property, Owner after receiving notice of the unpaid claim from the Subcontractor may withhold payment to the Contractor in an amount sufficient to cover the unpaid claim of the Subcontractor until the dispute is resolved and Owner is furnished evidence of the settlement of the dispute in writing from both the Contractor and Subcontractor. A list of all subcontractors to perform work on this project shall be submitted to TAC prior to beginning of work.

VI.

PAYMENT AND PERFORMANCE BONDS

6.01. If the amount of this Contract is in excess of \$25,000.00, Contractor agrees to provide a payment bond payable to Owner in the amount of the contract. The bond must be provided prior to any performance of labor or delivery of materials.

6.02. If the amount of this Contract is in excess of \$100,000.00, Contractor agrees to provide a performance bond payable to Owner in the amount of the contract. The bond must be provided prior to any performance or labor or delivery of materials.

6.03. The bonds shall be provided in accordance with the requirements of Chapter 2253 of the Texas Government Code.

VII. HAZARD INSURANCE

Owner agrees to procure and keep in force at all times during the construction of the improvements herein agreed upon sufficient insurance upon the premises, and all materials on the premises against loss or damage by fire and the perils of extended coverage.

VIII.

CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

8.01. The Contractor shall not commence work under this contract until he has obtained all of the insurance required hereunder and such insurance has been approved by the Owner. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. Certificates of insurance shall be provided to Owner evidencing the required coverages.

8.02. The Contractor shall take out and maintain during the life of this contract Statutory Worker's Compensation and Employer's Liability Insurance for all of his employees to be engaged in work on the project under this contract; and in case any such work is subcontracted, the Contractor shall either require the Subcontractors similarly to provide such insurance for all of the Subcontractor's employees to be engaged in such work, or Contractor will cover the employees of Subcontractors under his insurance policy.

8.03. The Contractor shall take out and maintain during the life of this contract such Bodily Injury and Property Damage Liability Insurance as shall protect it and any Subcontractor performing work covered by this contract for claims for damages for personal injury, including accident death, as well as from claims for property damage, which may arise from operations under this contact, whether such operations be by themselves or by Subcontractor or by anyone directly or indirectly employed by Contractor, and the amounts of such insurance shall not be less than:

A.	Bodily Injury	\$500,000.00 for any one person and \$1,000,000.00 for any one accident.
В.	Property Damage	\$100,000.00 for any one accident and \$300,000.00 for all accidents.

8.04. The Contractor shall take out and furnish to the Owner and maintain during the life of this contract, Builder's Risk Insurance in a sufficient amount to cover all materials against theft, loss or damage.

IX.

RECEIPTS AND RELEASES

At completion, Contractor shall furnish Owner proper receipts and releases from any and all materialmen from whom any material is obtained by Contractor for use in said improvements, and from all Subcontractors to the end that no liens may be fixed upon said premises by a materialman or Subcontractor. Owner shall not be obligated to make final payment under the contract until said receipts and releases are furnished.

Х.

RIGHT TO OFFSET

If at any time there should be notice of any lien or claim for labor or materials furnished to Contractor, for which, if established, Owner, or the property, might become liable, though primarily chargeable to Contractor, Owner shall in such case have the right to retain out of any payment or payments then due or to become due on the contract amount such amounts as may be sufficient to completely indemnify Owner against said lien or claim.

XI.

ASSIGNMENT

Part of the consideration and inducement offered to Owner for the execution of this agreement is the personal character, reputation, integrity, experience and ability of Contractor. For this reason, this contract may not be assigned by Contractor. In the event of death, or other disability, which prevents Contractor from personally managing, and participating in, Contractor's performance under this agreement, the Contractor, his personal representatives and successors shall not enter into any new subcontracts or continue construction without the written consent of Owner. As soon as practically possible after the occurrence of such a disabling event, Owner and Contractor, or Contractor's personal representatives or successors, shall meet to determine the action needed to complete construction. If Owner and Contractor have not

been able to agree upon a course of action to complete construction within 15 days after the disabling event, Owner shall have the right to select a new Contractor to complete the construction, or to make demand upon the Performance Bond of Contractor for completion of Contract. In such event, Contractor, or his personal representatives or successors, shall execute such documents as necessary to assign this contract to the new Contractor selected by Owner or to the Surety on the Bond. In such case, Contractor shall be paid the Contractor's fee upon a prorated basis determined by the amount of the construction completed on the date of the disability.

XII. CONTRACT EXECUTED BEFORE PERFORMANCE BEGUN

This contract is executed, acknowledged, and delivered before labor has been performed and before any material has been furnished for the construction of the improvements.

XIII. MISCELLANEOUS

13.01. Owner and Contractor agree to negotiate in good faith in an effort to resolve any dispute related to this agreement that may arise between them during the course of execution of the work. If the dispute cannot be resolved by negotiating, the dispute shall be submitted to mediation before resort to litigation. If the need for mediation arises, a mutually acceptable mediator shall be chosen by the parties to the dispute who shall share the cost of mediation services equally. During the negotiations and/or mediation of any dispute between the Owner and Contractor, execution of the work shall proceed unless the dispute relates to a design specification which prevents continuation of construction. Failure to pay a disputed invoice or charge until resolution of a dispute is not and shall not be a ground to suspend or terminate work.

13.02. It is expressly understood and agreed by and between Owner and Contractor that this agreement shall be governed by and its terms construed under the laws of the State of Texas. Any litigation arising out of this contract shall be filed in the District Court of Bowie County, Texas.

13.03. It is agreed that time shall be of the essence of this agreement and each and every provision hereof.

13.04. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

13.05. In the event either of the respective parties hereto shall default in any of its covenants or obligations and the other party not in default commences legal or equitable action against the defaulting party, the defaulting party agrees to pay all reasonable expenses of litigation, negotiation and appeal, including a reasonable sum for attorney's fees.

XIV. CONTRACTOR AFFIRMATIONS

14.01 <u>FALSE STATEMENTS.</u> Contractor represents and warrants that all statements and information prepared and submitted in response to the solicitation are current, complete, true and accurate. Signing the solicitation with a false statement is a material breach of this Purchase Order and shall void the submitted response or any resulting Purchase Orders, and may result in removal of the Contractor from the Centralized Master Bidder List.

<u>14.02</u> CONFORMANCE. Contractor represents and warrants that all goods and services furnished shall conform in all respects to the terms of this Purchase Order, including any drawings, specifications or standards incorporated herein, and any defect in materials, workmanship and free from such defects in design. In addition, Contractor represents and warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.

<u>14.03</u> FINANCIAL INTERESTS/GIFTS. Contractor 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 this Contract in violation of the Texas Penal Code Chapter 36.

Pursuant to Texas Government Code Chapter 573, Contractor certifies that Contractor knows of no officer or employee of TAC nor any relative within the second degree of consanguinity or affinity of an officer or employee of TAC that has a financial interest in Contractor's company or corporation. Contractor further certifies that no partner, corporation, or unincorporated association which employs, retains or contracts with, or which may employ, retain, or contract with any of the above, has a financial interest in any entity with which Contractor will be dealing on behalf of TAC.

14.04 ANTITRUST AND ASSIGNMENT OF CLAIMS.

- A. Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership or institution represented by Contractor, or anyone acting for such firm, corporation, or institution has: (1) violated the antitrust laws of the State of Texas under the Texas Business and Commerce Code, Chapter 15, or the federal antitrust laws; nor (2) communicated directly or indirectly the solicitation made to any competitor or any other person engaged in such line of business.
- B. Respondence hereby assigns to the State of Texas all of Vendor's rights, title and interest in and to all claims and causes of action Respondence may have under the antitrust laws of Texas or the United States for overcharges associated with this Purchase Order.

14.05 <u>DECEPTIVE TRADE PRACTICE; UNFAIR BUSINESS PRACTICES</u>. Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under the

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

14.06 <u>NO CONFLICTS OF INTEREST.</u> Contractor represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

14.07 <u>PROHIBITION AGAINST BOYCOTTING ISRAEL.</u> Pursuant to Section 2271.002 of the Texas Government Code, Contractor certifies that either (1) it meets an exemption criteria under Section 2271.002; or (2) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification in its Response.

14.08 <u>PROHIBITION AGAINST CONTRACTING WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR</u> <u>FOREIGN TERRORIST ORGANIZATIONS.</u> In accordance with Section 2252.152 of the Texas Government Code, TFC is prohibited from entering into a governmental contract (as defined in Texas Government Code Section 2252.151(3)) with a company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807,051, or 2252.153. If contractor is on the above referenced list the Contract will be considered void or voidable and TFC will not be responsible to pay Contractor for any work performed.

14.09 <u>EXCLUDED PARTIES.</u> Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

14.10 <u>SUSPENSION AND DEBARMENT.</u> Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

14.11 <u>PROHIBITION AGAINST ENERGY COMPANY BOYCOTTS.</u> Pursuant to Texas Government Code Chapter 2274, Contractor certifies that either (1) it meets an exemption criteria under said Chapter; or (2) it does not boycott energy companies and will not boycott energy companies during the term of this contract.

14.12 <u>PROHIBITION AGAINST DISCRIMINATION AGAINST FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS.</u> Pursuant to Texas Government Code Chapter 2274, Contractor certifies that (1) it meets an exemption criteria under said Chapter, or (2) it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Contract against a firearm entity or firearm trade association.

14.13 <u>PROHIBITION AGAINST CONTRACTING WITH CERTAIN FOREIGN ENTITIES RELATING TO CRITICAL</u> <u>INFRASTRUCTURE.</u> Pursuant to the provision of Chapter 113 of the Texas Business and Commerce Code, Contractor certifies that (1) this contract does not relate to critical infrastructure, or if it does relate to critical infrastructure, (2) it is not a company owned by or the majority stock or other ownership interest of the Company is held or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia or other countries designated by the Governor of Texas, or (b) a company or other entity including a governmental entity that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other country designated by the Governor of the State of Texas.

> XV. CONFLICTING TERMS

In the event of a conflict between the terms of this Construction Contract (excluding any Exhibits attached hereto) and the terms of any Exhibits attached hereto, the terms of this Construction Contract (excluding Exhibits) shall control and be the binding agreement of Owner and Contractor.

EXECUTED this the <u>Y</u> day of <u>March</u>, 2025.

OWNER:

TEXAMERICAS CENTER was Not By:

Scott Norton, Executive Director

Owner's Address: TexAmericas Center 107 Chapel Lane New Boston, Texas 75570

CONTRACTOR:

AFTERMATH STRUCTURAL REPAIR LLC

By: t

Travis Bennett, Partner

Contractor's Address: AFTERMATH STRUCTURAL REPAIR LLC 26911 Sea Turtle Lane Magnolia, TX 77355

ATTACHMENTS:

Exhibit "A" - Scope of Work for the Project





TAC RFP No.: RFP25-30-001 Foundation Repairs 150 Service Street, New Boston, Texas January 15, 2025

TexAmericas Center (TAC) is soliciting proposals for Foundation Repairs to the warehouses located on the TAC Central Campus at 150 Service Street in New Boston, Texas. The foundation at the southwest corner of the building has undergone settlement causing interior doors to stick/gap, caused cracks to interior and exterior walls and the sloping of the slab from north to south. The Scope of Work generally includes furnishing ALL labor, materials, equipment, investigation, evaluation and plan preparation (if necessary) to repair and lift the settled slab and foundation.

TAC understands that there are several means and methods for repairing the foundation and leveling the slab. If the method of repair is proprietary and processes are considered Trade Secrets, please note the portions of the proposal that include information to remain confidential.

Exclusions:

1. Reconstruction of electrical system, if required.

Additional Requirements:

The following is a list of additional requirements for this project:

- 1. The successful contractor will be required to execute a standard contractual agreement with TexAmericas Center and provide the proper certificates of insurance.
- 2. All bids shall have a Bid Guarantee in the form of a Bid Bond or Cashiers Check in the amount of 5% of the total bid amount which should be included with the proposal submittal.
- 3. The successful contractor to provide a Payment Bond and a Performance Bond (if required) and shall be included in the bid price.
- 4. The successful contractor to carry workman's comp insurance on this project.

Any questions should be directed to Jeff Whitten, P.E., Executive Vice President/Chief Operations Officer, via e-mail at jeff.whitten@texamericascenter.com



EXECUTIVE SUMMERY/ PROPOSAL

Aftermath has over 20 years of experience with all types of foundation repair. We fill confident that we can accomplish this project. Aftermath has current general liability insurance, workers compensation that covers us and our subcontractors, and a commercial auto policy.

Aftermath will be subcontracting the piles to Ram Jack. We have done many jobs together and they add many years of experience.

- The purpose of this document is to provide a Remedial Foundation Repair Plan for the part of the structure noted in your drawing noting Areas A & B.
- No site-specific geotechnical information was available.
- This is broken up to show Scope and Price for A or B separately and A and B done at the same time.
 - I. SCOPE OF WORK: (See attached Service Plan for Designated Work Areas)

A. Option A or Option B (number of piles is same for each option)

1. (11) Exterior Hydraulically Driven Steel Piles with Remedial Brackets

2. Each pile location will require an approx. 3' x 3' excavation to the bottom of the grade beam.

3. Some piles will require concrete break outs to access pile installation. The break outs will be patched when completed. Patches will be visible.

4. The Driven Piles will be installed to refusal.

5. Lift the structure in the work area as practical with unique manifold system.
6. Interior Polyurethane Injection will take place on 8' centers throughout 740
SQFT. Slab will be lifted to match existing interior column elevation.
7. Estimated time to complete: 2 days

B. Option A & B

1. (22) Exterior Hydraulically Driven Steel Piles with Remedial Brackets 2. Each pile location will require an approx. 3' x 3' excavation to the bottom of the grade beam.

3. Some piles will require concrete break outs to access pile installation. The break outs will be patched when completed. Patches will be visible.
4. The Driven Piles will be installed to refusal.

5. Lift the structure in the work area as practical with unique manifold system.

6. Interior Polyurethane Injection will take place on 8' centers throughout 1480 SQFT. Slab will be lifted to match existing interior column elevation.

7. Estimated time to complete: 7 days

Not Included: Both A or B independently or A & B together
 Disconnections of any electrical equipment if necessary

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- Relocation of any utility lines including water, electric, sanitary sewer, or storm water systems, irrigation, etc. where piles are installed
- Any plumbing test or repair from pile installation or elevation recovery
- Any landscaping after the work is completed

II. PROJECT COST:

The cost of materials, labor, overhead, and normal insurance requirements for the Scopes described above:

A.	Option A or B (11 Piers):	\$36,022.00
	Polyurethane Injection (1500 #'s):	\$19,500.00
	Root Barrier (37.5'):	
	Engineering:	
	Bonding (5%):	\$3,000.00
	Total:	\$66,272.00

В.	Option A & B (22 Piers):	\$62,915.00
	Polyurethane Injection (3,000 #'s):	\$39,000.00
	Root Barrier (75'):	\$7,500.00
	Engineering:	4,000.00
	Bonding (5%):	<u>\$5,670.00</u>
	Total:	4440 005 00

- Balance due 15 days from job completion
- An extra charge of \$195.00/extension for embedment > 42' from grade
- An extra charge of \$200.00 / pile if spread footing are present and must be trimmed back
- An extra charge of \$350.00 ea if concrete construction piers have to be cut
- Any unforeseen circumstances which may hinder progress of job to be charged extra by approved signed Change Order
- Additional mobilization(s) other than (1) budgeted charged extra at \$5,650.00 ea
- Not Included:
 - Any applicable taxes
 - o Performance or Payment Bond

III. WARRANTY:

Driven Piers: Zero downward movement of the helical piles for the life of the structure(s)

Note – no warranty for areas of structure that don't have piles installed Transferable Polyurethane Injection: 3 years warranty provided to the area injected with polyurethane.



