PROFESSIONAL SERVICES AGREEMENT
between
TEXAS A&M UNIVERSITY
and
DP-NXA CONSULTANTS, LLC

This Professional Services Agreement ("Agreement") between Texas A&M University, a member of The Texas A&M University System ("TAMUS"), an agency of the State of Texas ("University"), and DP-NXA Consultants, LLC, ("Provider"), is made and entered into as of the date of the last party to sign.

This Agreement is for the provision of professional services outlined in the Scope of Work. Provider represents to having the knowledge, ability, skills and resources to provide such services in accordance with the terms and requirements of this Agreement. To any extent required under the Scope of Work, Provider represents that any part of the performance required to be performed by a professional having state licensure in good standing will be performed by such licensed professional.

University and Provider hereby agree as follows:

1. SCOPE OF WORK

A. The scope of the work ("Basic Services" or "Work") is as set forth below:

   Project 1 – Agronomy Road Substation
     ➢ Replace 138kV Breaker Current Transformers
       • This project will provide the design to replace undersized current transformers on existing 138kV circuit breakers at the Agronomy Road substation.
     ➢ 138kV Switch Replacement
       • This project will provide the design to replace the isolation switches at T1-T6 transformers in the Agronomy Road substation.
     ➢ Replace 138kV Oil Circuit Breaker 1304
       • This project will provide the design to replace the 138kV oil circuit breaker with an SF6 breaker. Engineering services will include the review of existing specifications for bid packages for both equipment and construction.

   Project 2 – Underground Ductbanks
     ➢ Convert Feeder 6 to Underground Service
       • This project will provide the design for the installation of ductbank from PMH H12
to Hensel Switch, new manholes and switch to provide isolation of landscaping complex. This project will also provide the design to convert landscaping service to low voltage.

- Convert WW Feeder to Underground Service
  - This project will provide the design for the installation of ductbank from Dollar to F&B Road and isolation switch.

- Complete Research Park Electrical Loop
  - This project will provide the design for the installation of ductbank from Enterprise Substation, west and south, to the George Bush Library.

- Convert Reed House feeder to underground
  - This project will provide the design to replace the section of the overhead line that feeds Reed House with an underground feeder.

**Project 3 – Critical Motor Protective Relay Upgrades**

- This project will replace antiquated motor protective schemes. This project will include installation drawings, relaying specification and programming.

**Project 4 – Distributive Automation System Expansion**

- Distributive Automation System Expansion Main Campus.
  - This project will expand the existing distributive automation system to include Feeders 1, 2, 3, 4, 5, 7, 12, 15, 17, 21, 22, 23, and 24. Coordinated site drawings will be developed for the installation and proper placement of RTU’s, fault indicators, etc.

- Distributive Automation System Expansion West Campus.
  - This project will expand the existing distributive automation system to include Feeders PP, WW, GB, WC, MS, EP, AG, AP, and RP Coordinated site drawings will be developed for the installation and proper placement of RTU’s, fault indicators, etc.

**Project 5 – Emergency Generator Platforms and Ladders**

- This project will provide the design for the installation of platforms and ladders at emergency generators to provide safe working environs.

**Project 6 – Replace Feeder Cable**

- Upgrade Feeder 7
  - This project will provide the design to replace aged and undersized sections of 15kV Feeder 7 with 500MCM copper cable.
➢ Upgrade Feeder 9
  • This project will provide the design to replace aged and undersized sections of 15kV Feeder 9 with 500MCM copper cable.

➢ Upgrade Feeder 10
  • This project will provide the design to replace aged and undersized sections of 15kV Feeder 10 with 500MCM copper cable.

Project 7 – Horticulture Switchgear Replacement
  ➢ This project will provide the design to replace the outdoor switchgear (medium voltage switch and transformer, low voltage breaker and bus duct).

Project 8 – Motor Control Center Monitoring
  ➢ Motor Control Center Monitoring CUP and SUP3
    • This project will provide the design for the installation of motor control center monitoring equipment and integration into Ovation at the CUP and SUP3.
  ➢ Motor Control Center Monitoring SUP1 and SUP2
    • This project will provide the design for the installation of motor control center monitoring equipment and integration into Ovation at the SUP1 and SUP2

Project 9 – Site Reactive Power Control
  ➢ This project will provide the design to maintain overall site power factor by controlling individual 12.5kV capacitor banks at the 138kV substation, as well as the MVAR output of the generation at the CUP through the Emerson Ovation and SEL SCADA systems.

Project 10 – Automate Fast Load-Shedding
  ➢ This project will support the installation of the Schweitzer design for fast load shedding and automated zero voltage start.

Project 11 – 138kV Transformer Monitoring
  ➢ 138kV Transformer Monitoring T3-T4
    • This project will provide the design to support the installation of online Dissolved Gas Analyzer and data monitoring for transformer T3 and T4.
  ➢ 138kV Transformer Monitoring T5-T6
    • This project will provide the design to support the installation of online Dissolved Gas Analyzer and data monitoring for transformer T5 and T6
Project 12 – Convert Sections of AP Feeder to Underground

- This project will provide an engineering study that evaluates the strategy for converting sections of the Airport feeder overhead to underground and installation of fully relayed switches throughout the remaining sections of this circuit. Once the study has been evaluated by the Utilities & Energy Services team a decision will be made and a design will be provided to support the agreed upon solution.

Project 13 – Underground Switch Upgrade

- This project will provide a design to replace selected medium voltage distribution switches to remediate short circuit current exceedances.

Project 14 – Electrical Vault Sump Pumps

- This project will provide the design to support the installation of sump pumps at selected manholes and vaults to eliminate the need to manually pump out vaults.

OTHER SERVICES

- “Other Services” include any services requested by University to be performed by Provider which are not specifically included in Project 1 through Project 14, above. The Other Services may include, but are not limited to, pre-bid assistance, project meetings, periodic site visits for the purpose of observing, in general, the progress of the construction work, other construction phase assistance and support, and punch list reviews.

- To the extent that Provider is retained to perform Other Services during the construction phase of the project, the Provider shall not have control over, charge of, or responsibility for the construction means, methods, techniques or procedures, or for safety precautions and programs in connection with the project, nor shall the Provider be responsible for any contractor’s failure to perform its work in accordance with the requirements of the design documents and specifications issued hereunder.

- To the extent that Provider is requested by University to perform evaluations of the construction work, Provider shall visit the site to become generally familiar with the progress and quality of the portion of the construction work completed, and will determine, in general, if the construction work observed is being performed in a manner indicating that the construction work, when fully completed, will be in accordance with the design and specifications issued by Provider pursuant to this Agreement. However, the parties agree that Provider shall not be required to make exhaustive or continuous on-site inspections to check the quality or the quantity of the construction work.

B. The Work and the time for performance thereof is as set forth above and in the appendices attached hereto and made a part hereof for all purposes including the HUB subcontracting plan and any reports required thereunder. The appendices are as follows:
Appendix A: Texas A&M RFQ 17-0017 CAMPUS ELECTRICAL SYSTEMS IMPROVEMENTS

Appendix B: DP-NXA, LLC RFQ Response

Appendix C: DP-NXA, LLC Pricing Schedule

Upon execution of this Agreement, all services previously performed by Provider on behalf of University and included in the description of the Work, shall become part of the Work and shall be subject to the terms and conditions hereof.

C. University shall take reasonable precautions to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Provider for use in the Work under this Agreement (the “University Supplied Information”). Provider shall be entitled to rely on the accuracy and completeness of the University Supplied Information. Provider shall use reasonable efforts to verify the accuracy and suitability of any information supplied to Provider by University, or any other party, that Provider uses for the Work. The Parties recognize that the “reasonable efforts” to be utilized by Provider will be limited to general site observations and GPR studies. Provider assumes no responsibility for site conditions which are not actually revealed or encountered through its reasonable effort to verify the accuracy and suitability of the University Supplied Information. Provider shall identify to the University in writing any such documents or data of which Provider becomes aware that, in Provider’s professional opinion, are unsuitable, improper, or inaccurate in connection with the purposes for which such documents or data are furnished. University does not warrant the accuracy or suitability of such documents or data as are furnished unless Provider advises University in writing that, in Provider’s professional opinion, such documents or data are unsuitable, improper or inaccurate and University confirms in writing that it wishes Provider to proceed in accordance with the documents or data as originally given.

D. Provider agrees and acknowledges that University is entering into this Agreement in reliance on Provider’s represented professional abilities with respect to performing the services, duties, and obligations under this Agreement. Provider shall perform its services in accordance with the usual and customary professional standards of care, skill and diligence consistent with its industry and like firms in Texas that provide professional services for projects that are similar in size, scope, and budget to the Project (the “Standard of Care”). Subject to this Standard of Care, Provider shall interpret and apply applicable national, federal, state, and municipal laws, regulations, codes, ordinances, and orders in effect at the time the services are provided. There are no obligations, commitments, or impediments of any kind known to the Provider that will limit or prevent performance by Provider of its services. Provider shall not be responsible for the contractor’s means, methods, techniques and sequences of any construction activity nor for the safety of any other party during the performance of the Work or during the construction phase as the responsibility for site safety shall be borne by the contractor.
E. Provider shall allocate adequate time, personnel, internal administration, supervision, and resources as necessary to perform its services in an expeditious and economical manner consistent with the interests of the University. Provider’s Principal(s) responsible for managing the Work is identified in Section 8 and, while employed by Provider, shall not be changed without the prior written approval of the University.

F. University’s approval or acceptance of Provider’s services shall not relieve Provider of any of its professional duties nor release Provider from any liability for negligent delivery of such services because University is, at all times, relying upon Provider’s skill and knowledge in performing Provider’s services. University shall have the right to reject any of Provider’s services due to any material errors or omissions in any deliverables prepared by Provider or its consultants. Upon notice of any such errors or omissions, Provider shall promptly provide any and all services necessary to correct or remedy the error or omissions in the deliverables prepared by Provider at no additional cost to the University. Provider’s obligation to correct its errors and omissions in the deliverables prepared by Provider is in addition to, and not in substitution for, any other remedy for defective services which University may have at law or in equity, or both.

2. TIME FOR COMMENCEMENT AND COMPLETION

It is understood that time is of the essence in the Work to be performed under this Agreement and that Provider shall complete all authorized Work in accordance with the time for performance described for the Work, and in a minimum of time consistent with the highest customs, standards, and practices of Provider’s business or profession. Work is to commence upon the issuance of a Notice to Proceed issued by the University and be completed within One Hundred Seventy (170) days of the issuance of the Notice to Proceed.

3. PAYMENT TERMS AND MAXIMUM CONTRACT SUM

A. For the satisfactory performance of the Basic Services, University shall pay Provider Six Hundred Seventy Three Thousand, Seven Hundred Dollars ($673,700.00). For the satisfactory performance of Other Services, the cost of which shall be based on a Time and Materials (T&M) basis commensurate with the rates included in Appendix C, University shall pay Provider the amount charged by Provider for its Other Services. Provider shall perform such Other Services reasonably requested by University until such time that the total amount charged for Other Services is $220,675.00 (Two Hundred Twenty Thousand, Six Hundred Seventy Five Dollars) (the “University’s Other Services Budget”).

B. Payments of the amount due to Provider will be provided by University upon receipt of an invoice which details the date of service, description of work performed, billing rate as set forth in Appendix C, and provides supporting documentation for reimbursable expenses relating to Work requested by University, if any. Invoices for Basic Services shall be submitted to the University by Provider consistent with the schedule set forth below.
<table>
<thead>
<tr>
<th>Milestone</th>
<th>Milestone Payment %</th>
<th>Milestone Amount</th>
<th>Cumulative Payment %</th>
<th>Cumulative Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kick-Off Meeting &amp; site investigations</td>
<td>20%</td>
<td>$134,740</td>
<td>20%</td>
<td>$137,740</td>
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<tr>
<td>50% CDs Packages Submitted</td>
<td>20%</td>
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<td>40%</td>
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<tr>
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<td>100%</td>
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</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
<td><strong>$673,700</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The final invoice will be submitted no later than thirty (30) days following submittal of the DP-NXA approved CD Packages.

The invoice must be signed by the Provider and submitted to University at the address specified in Section 8 below. Payment for travel related expenses shall be in accordance with State of Texas Travel Guidelines.

Invoices regarding “Other Services” shall be submitted by Provider to the University on a monthly basis.

C. University makes no representations regarding the amount or type of services, if any, that Provider will be asked to provide to University during the term(s) of this Agreement. It is expressly understood that the University is under no obligation to request any services from Provider and no minimum amount of work is required or contemplated under this Agreement. All service requests will be made by the University on an as-needed basis, subject to future agreement on the scope of the work and the fee.

4. DEFAULT AND TERMINATION

A. In the event of substantial failure by a party hereunder to perform in accordance with the terms hereof, the other party may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure provided that the defaulting party fails to identify a plan to correct or remedy such substantial failure in performance and begins such
correction or remediation within the fifteen (15) day period, and said failure is through no fault of the terminating party.

B. University may, without cause, terminate this Agreement at any time upon giving thirty (30) days advance notice to Provider. Upon termination pursuant to this paragraph, Provider shall be entitled to payment of such amount as shall compensate Provider for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement, provided Provider shall have delivered to University a final report describing the work completed to the date of termination. University shall not be required to reimburse Provider for any services performed or expenses incurred after the date of termination notice.

5. UNIVERSITY FACILITIES

University will provide Provider with office space, as needed, to carry out Provider’s duties under this Agreement. Any non-consumable items provided by University will remain University property at the termination of this Agreement unless otherwise agreed in writing. Provider and its employees will be permitted access to and use of the allocated office space, but University reserves the right to enter the premises to conduct University business, as may be reasonably necessary or for health and safety purposes.

6. INSURANCE

Provider shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to University. By requiring such minimum insurance, University shall not be deemed or construed to have assessed the risk that may be applicable to Provider under this Agreement. Provider shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Provider is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to University at least ten days before the effective date of the cancellation.

**Insurance:**

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. <strong>Worker’s Compensation</strong></td>
<td></td>
</tr>
<tr>
<td>Statutory Benefits (Coverage A)</td>
<td>Statutory</td>
</tr>
</tbody>
</table>
Employers Liability (Coverage B)  $1,000,000 Each Accident
$1,000,000 Disease/Employee
$1,000,000 Disease/Policy Limit

Workers’ Compensation policy must include under Item 3.A. on the information page of the workers’ compensation policy the state in which work is to be performed for University. Workers’ compensation insurance is required, and no “alternative” forms of insurance will be permitted

B. Automobile Liability
Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than $1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

C. Commercial General Liability
Each Occurrence Limit  $1,000,000
General Aggregate Limit  $2,000,000
Products / Completed Operations  $1,000,000
Personal / Advertising Injury  $1,000,000
Damage to rented Premises  $300,000
Medical Payments  $5,000

The required commercial general liability policy will be issued on a form that insures Provider’s or its subcontractors’ liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

Additional Endorsements
The Auto and Commercial General Liability Polices shall name The Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and Texas A&M University as additional insured’s.

D. Architect/Engineer Professional Liability (Errors & Omissions)
Provider shall maintain Professional Liability in the amount of $1,000,000 each claim/$2,000,000 aggregate covering wrongful acts, errors and/or omissions, including design errors of Provider for damages sustained by reason of or in the course of performance of this Agreement for three (3) years after the Work is substantially complete.

E. Provider will deliver to University:
Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Provider under this Agreement. Additional evidence of insurance will be provided on a Texas Department of
Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

**All insurance policies**, with the exception of worker’s compensation, employer’s liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and Texas A&M University as Additional Insureds up to the actual liability limits of the policies maintained by Provider. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

**All insurance policies** will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and Texas A&M University. No policy will be canceled without unconditional written notice to University at least ten days before the effective date of the cancellation. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to University ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this section.

Any deductible or self-insured retention must be declared to and approved by University prior to the performance of any Work by Provider under this Agreement. Provider is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following University contact:

Department of Contract Administration  
Texas A&M University  
1182 TAMU  
College Station, Texas 77843-1182  
Facsimile: (979) 862-7130  
Email: contracts@tamu.edu

The insurance coverage required by this Agreement will be kept in force until all Work has been fully performed and accepted by University in writing.
7. OWNERSHIP AND USE OF DOCUMENTS

All documents prepared by the Provider under this Agreement, and the ideas and designs contained therein, shall be property of the University. Provider shall be permitted to retain copies, including reproducible copies, of all documents prepared by the Provider for information and reference in connection with the Work.

8. NOTICES

Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonably means and will be effective when actually received. University and Provider can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

University: Texas A&M University
Procurement Services
1477 TAMU
College Station, TX 77843-1477
ATTN: Clyde Oberg, Assistant Director
Telephone: (979) 845-1042
Fax: (979) 845-5129
Email: co@tamu.edu

Provider: Greg Graves
Senior Project Manager
DP-NXA, LLC
6100 Western Place, Suite 500
Ft. Worth, TX 76107
Telephone: (817) 763-8274
Fax: (817) 763-8276
Email: greggraves@dpengineering.com

9. PUBLIC INFORMATION

A. Provider acknowledges that University is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

B. Upon University’s written request, Provider will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to University in a non-proprietary format.
acceptable to University. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which University has a right of access.

C. Provider acknowledges that University may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

10. CONFLICT OF INTEREST

By executing and/or accepting this Agreement, Provider and each person signing on behalf of Provider certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of TAMUS or TAMUS Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by University or TAMUS, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

11. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by University and Provider to attempt to resolve any claim for breach of contract made by Provider that cannot be resolved in the ordinary course of business. Provider shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of Texas A&M University, who shall examine Provider’s claim and any counterclaim and negotiate with Provider in an effort to resolve the claim.

12. HUB SUBCONTRACTING

It is the policy of the State of Texas, the Texas Procurement and Support Services and TAMUS to encourage the use of Historically Underutilized Businesses (HUBs) in our prime contracts, subcontractors and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in TAMUS contracting and purchasing. The Provider having been awarded this Agreement in part by complying with the Historically Underutilized Business (HUB) Certification Program, Chapter 111, Subchapter B, 1 T.A.C., shall continue to comply with the program and its accepted HUB Subcontracting Plan.

Provider agrees on allocating work to subcontractors (consultants) as listed (or indicated) on their HUB Subcontracting Plan, in accordance with TAMUS policy on HUBs. No changes to the HUB Subcontracting Plan may be made unless approved in writing by University. While this Agreement is in effect and until the expiration of one year after completion, University may require information from Provider, and may conduct audits, to assure that the HUB Subcontracting Plan is followed.
13. MISCELLANEOUS

A. Provider agrees to indemnify and hold harmless University from any claim, damage, liability, expense or loss to the extent such claim, damage, liability, expense or loss is caused by Provider’s negligent or intentional acts or omissions in performance under this Agreement.

B. Provider shall not assign this Agreement without the prior written consent of University. Provider may enter into subcontracts with other providers to perform all or a portion of the Work however, the subcontracting of any or all of the Work shall not relieve the Provider of any of its obligations under this Agreement.

C. Provider shall be an independent contractor, and neither Provider nor any employee of Provider shall be deemed to be an agent or employee of University. As an independent contractor, Provider will be solely responsible for determining the means and methods for performing the services described. Provider shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of University relative to conduct on its premises.

D. This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.

E. The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against University shall be in the county in which the primary office of the chief executive officer of University is located.

F. If Provider is a taxable entity subject to the Texas Franchise Tax (Chapter 171, Texas Tax Code), then Provider certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that Provider is exempt from the payment of franchise (margin) taxes.

G. University may request a consultant to perform a criminal background check on any employee and/or representative of Provider who conducts business pursuant to this Agreement on the campus of University.

H. Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
I. Pursuant to Section 2252.903, Texas Government Code, Provider agrees that any payments owing to Provider under this Agreement may be applied directly toward certain debts or delinquencies that Provider owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

J. Provider expressly acknowledges that University is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by University of its right to claim such exemptions, privileges, and immunities as may be provided by law.

K. Provider acknowledges and understands that Section 2252.901, Texas Government Code, prohibits University from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If Provider is an individual, by signing this Agreement, Provider certifies that Section 2252.901, Texas Government Code, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.

L. Performance by University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, University will issue written notice to Provider and University may terminate this Agreement without further duty or obligation hereunder. Provider acknowledges that appropriation of funds is beyond the control of University.

M. Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date indicated below their signatures.

Texas A&M University                                      DP-NXA Consultants, LLC

Jerry R. Strawser                                         Nipat Attavit
Executive Vice President and CFO                         Principal DP-NXA Consultants, LLC

Date: 05/16/17                                             Date: 5/18/17