

# **Request for Proposal for Assistance on Environmental Assessment**

**Pomelo Connector, LLC &  
Texas Eastern Transmission, LP**

**Pomelo Pipeline Project &  
South Texas Expansion Project**

**January 20, 2017**

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*DISCLAIMER*

THIS IS NOT A FEDERAL PROCUREMENT.

THE FOLLOWING REQUEST FOR PROPOSALS (RFP) WILL RESULT IN A PRIVATE CONTRACT BETWEEN POMELO CONNECTOR, LLC (POMELO) AND A CONTRACTOR, AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. NEITHER THE PROCUREMENT NOR ADMINISTRATION OF THE RESULTING CONTRACT IS SUBJECT TO FEDERAL PROCUREMENT LAWS, REGULATIONS, OR PROTEST PROCEDURES. ANY DISPUTES NOT SETTLED BY THE PARTIES THEMSELVES MUST BE RESOLVED BY A COURT OF COMPETENT JURISDICTION, OR THROUGH ALTERNATIVE DISPUTE RESOLUTION PROCEDURES TO BE DETERMINED BY THE PARTIES AND DESCRIBED IN THE CONTRACT.

QUESTIONS CONCERNING THIS PROCUREMENT SHOULD BE DIRECTED ONLY TO POMELO. POMELO MUST PROVIDE INFORMATION SUPPLIED TO ANY INDIVIDUAL CONTRACTOR TO ALL CONTRACTORS SUBMITTING A LETTER OF INTENT TO RESPOND TO THE RFP.

THE FEDERAL ENERGY REGULATORY COMMISSION STAFF SHOULD NOT BE CONTACTED AND WILL NOT RESPOND TO ANY QUESTIONS CONCERNING THE PROCUREMENT PROCESS.

**HOLD HARMLESS**

The parties agree that the Federal Energy Regulatory Commission and its employees are not liable for any costs or judgments arising from the conduct of this procurement, and administration or supervision of the contract for the environmental services described herein.

**TO:** Prospective Bidder for the Assistance on an Environmental Assessment

**FROM:** Mark Fuqua, Senior Vice President of Commercial and Business Development, Pomelo Connector, LLC

**DATE:** January 20, 2017

**SUBJECT:** Request for Proposal (RFP) to Assist FERC on an Environmental Assessment (EA) for the Pomelo Pipeline Project and the South Texas Expansion Project

Proposal Due Date: by 5 PM, EST, February 1, 2017

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## **1.0 BACKGROUND AND OVERVIEW**

### **1.1 Background**

Pomelo Connector, LLC (Pomelo) is soliciting proposals for assistance to the Staff of the Federal Energy Regulatory Commission (the Commission or FERC) in preparation of an Environmental Assessment (EA) and related documents and services to address the proposed Pomelo Pipeline Project and the South Texas Expansion Project (STEP) of Texas Eastern Transmission, LP (Texas Eastern) as more specifically described in Section 1.2. The EA will cover both the Pomelo Pipeline Project and the STEP. The STEP EA has been substantially prepared by the Staff of the Commission prior to Texas Eastern's recent amendment application filed on December 30, 2016, which introduced minor facility modifications. The Commission will need the assistance of a third-party contractor under an arrangement with Pomelo and Texas Eastern as the Applicants and the Commission as the lead federal agency for the National Environmental Policy Act (NEPA) process. The Commission's Office of Energy Projects (OEP) will be solely responsible for providing technical direction to the third-party contractor during the preparation of the EA and related documents. A contract will be executed pursuant to the third-party contracting procedures set forth in 40 CFR 1506.5(c) and as referenced in the Commission's third-party contracting program announced on February 4 and 9, 1994, and as described in the Commission's Handbook for Using Third Party Contractors to Prepare Environmental

Documents for Natural Gas Facilities and Hydropower Projects updated in August 2016.

As one of the Applicants, Pomelo is soliciting proposals through this RFP for a third-party contractor to provide the services described in section 2.0. The technical and cost proposals will be initially reviewed and evaluated by Pomelo and Texas Eastern who will then submit the proposals to the OEP Staff and file the proposals in the Commission's project dockets as privileged. The OEP Staff will make the final selection of the third-party contractor, based on its independent review of the technical, managerial, personnel, and Organizational Conflict of Interest (OCI) aspects of each proposal. Upon selection, the third-party contractor, Pomelo, Texas Eastern and the Director of OEP will sign a Memorandum of Understanding (MOU) that details the roles and responsibilities of each party and mandatory provisions of the contract (A sample MOU is provided in Appendix G). Pomelo will finalize a contract with and fund the successful contractor for the preparation of the EA and attendant activities, with Texas Eastern as a third-party beneficiary to the contract. Texas Eastern will have a reimbursement agreement in place with Pomelo to cover Texas Eastern's share of the cost of the contract.

Once a third-party contractor is selected, the OEP Staff will direct the activities of the contractor in the preparation and processing of the EA within the scope identified herein. Pomelo and Texas Eastern will have no control over nor direct the activities of the contractor. Appropriate federal cooperating agencies and regulatory agencies in Texas may also be invited and encouraged to participate in the NEPA process.

## **1.2 Overview of the Project**

### **Pomelo Pipeline Project**

In Docket No. CP17-26, Pomelo requests authorization from the Commission to build, own, operate and maintain a 13.56-mile, 30-inch diameter natural gas pipeline, a new compressor station, a new 0.21-mile, 30-inch diameter discharge pipeline and associated above-ground facilities in Nueces County, Texas. The project commences at the proposed Texas Eastern Petronila Compressor Station near Petronila, Texas to an interconnection with an intrastate header system (Nueces Header) to be constructed by Valley Crossing Pipeline, LLC near Agua Dulce, Texas (the Pomelo Pipeline Project). Pomelo will lease all of the capacity on the Pomelo Pipeline Project to Texas Eastern to allow Texas Eastern to provide firm transportation service to the STEP anchor customer, the Comisión

Federal de Electricidad (CFE), from existing Texas Eastern receipt points to the Nueces Header.

The Pomelo Pipeline Project is designed to provide up to 400,000 dekatherms per day (Dth/day) of firm transportation service from the interconnection with Texas Eastern at the proposed Petronila Compressor Station to the Nueces Header. In order to create 400,000 Dth/day of firm capacity on the Pomelo Connector Pipeline, Pomelo will construct a 5,000 HP compressor station near the Pomelo Connector Pipeline's interconnection with the Nueces Header. Pomelo also proposes to construct flow control facilities just downstream of its interconnection with Texas Eastern and meter facilities just upstream of its interconnection with the Nueces Header. The Pomelo Connector Pipeline will operate at a maximum allowable operating pressure of 1,200 psig and will be designed to accommodate bi-directional service. During the term of Texas Eastern's capacity lease on the Pomelo Connector Pipeline, the Pomelo Connector Pipeline will be operated as an extension of Texas Eastern's pipeline system. The Pomelo Connector Pipeline will be operated and maintained by Pomelo or its designated contractor with the necessary experience and qualifications.

Maps of the proposed Pomelo Pipeline Project are included as Appendix E. Any non-jurisdictional facilities potentially associated with the proposal would be identified in Pomelo's application in Docket No. CP17-26-000.

## **STEP**

In Docket Nos. CP15-499-000 and CP15-499-001, Texas Eastern requests authorization from the Commission to construct, install, own, operate and maintain the STEP. All construction for the STEP is to be done within the boundaries of existing Texas Eastern-owned properties and will include the following: installation of an additional 8,400 horsepower (HP) compressor unit, appurtenant facilities, a new interconnection with the Pomelo Pipeline Project, and new gas release measurement equipment and associated enclosure on existing Texas Eastern property at the Petronila Compressor Station in Nueces County, Texas; installation of an additional 8,400 HP compressor unit, piping modifications, appurtenant facilities and new gas coolers at the Blessing Compressor Station in Matagorda County, Texas; modifications to piping for bi-directional flow, upgrades to existing compression facilities to reduce emissions, and new gas release measurement equipment and associated enclosure at the Mont Belvieu Compressor Station in Chambers County, Texas; new gas release measurement equipment and associated enclosure at the Vidor Compressor Station in Orange County, Texas; and modifications to piping at existing launcher and receiver sites along Texas Eastern's Line 16 near the Vidor, Mont Belvieu, and Angleton

(Brazoria County, Texas) Compressor Stations. Texas Eastern, through the STEP, also seeks to acquire, by lease, all of the capacity on Pomelo's proposed Pomelo Pipeline Project in Nueces County, Texas.

The foregoing new facilities, upgrades and modifications will allow Texas Eastern to provide 396,000 Dth/d of new incremental service for CFE, the STEP's anchor shipper, and increase the reliability and flexibility of service for all shippers on this portion of the Texas Eastern system. It will provide CFE with access to additional domestic natural gas supplies and interconnection to a new downstream pipeline.

Maps of the proposed STEP are included as Appendix E. Any non-jurisdictional facilities potentially associated with the proposal would be identified in Texas Eastern's application in Docket No. CP15-499-000, as amended in Docket No. CP15-499-001.

### **1.3 Available Data**

The proposed Pomelo Pipeline Project is presented in detail in Pomelo's Abbreviated Application to the Commission for a Certificate of Public Convenience and Necessity and the proposed STEP is presented in Texas Eastern's Abbreviated Application to the Commission for a Certificate of Public Convenience and Necessity and for Related Authorizations, as amended. Pomelo and Texas Eastern have organized their Exhibits F-I into Environmental Resource Reports (RR), as identified and containing the information listed in the Commission's regulations at 18 CFR 380.12.

Except for portions of the Landowner Line List and the Cultural Resources Report (which were submitted as privileged, and will be provided by the OEP Staff to the successful third-party contractor), the RRs, which Pomelo and Texas Eastern prepared, will be made available to contractors, upon request, prior to the bid deadline. These reports must be reviewed in detail to gain an understanding of the proposed project and the level of available environmental data. This information should be assessed for any required supplemental analysis prior to proposal preparation and submittal.

It is expected that the available data will facilitate the preparation of the EA. Furthermore, absent the minor facility additions included in Texas Eastern's December 30, 2016 Amendment Application, Texas Eastern's May 21, 2015 Application has been extensively reviewed by FERC Staff. In addition, FERC Staff likely will be able to furnish draft EA materials specific to STEP.

Appendix F provides a list of the available background documents. Proposals submitted in response to this RFP should clearly demonstrate an understanding of the extent of the available information. Perceived data gaps and the need for specific supplemental studies to fully comply with the EA requirements should be identified.

## **1.4 Schedule**

Assuming Pomelo and Texas Eastern respond expeditiously and completely to data requests, the schedule (in calendar days) is as follows. However, it should be understood that the ultimate schedule for NEPA will be determined by the OEP Staff, not the applicants. Note that contract deliverables are designated with the symbol “►”.

### **Third-Party Contractor Selection**

- Send out RFP to contractors – January 20, 2017
- Submit questions or requests to Pomelo for information – January 24, 2017
- Pomelo and Texas Eastern provide requested information – January 30, 2017
- Submit proposals to Pomelo by 5:00 p.m. EST – February 1, 2017
- File application proposals with the Commission – February 6, 2017
- OEP selects contractor – the week of February 13, 2017
- Complete MOU with Pomelo, Texas Eastern and OEP and contract negotiations with Pomelo – the week of February 20, 2017

### **EA Preparation**

- Kick-off meeting with OEP Staff – early March 2017
- Submit any draft data requests to applicants to OEP – March 17, 2017 (ongoing)
- Submit draft Notice of Intent and mailing list to OEP – March 17, 2017

- ▶ Arrange and attend any Scoping Meeting(s), if needed – April 2017
- ▶ Submit preliminary draft EA to OEP for cooperating agencies (if needed) – May 2017
- Revise preliminary draft EA to incorporate cooperating agency comments (if needed) – May 2017
- ▶ Submit draft EA to OEP – June 1, 2017
- Submit camera-ready final EA to OEP – June 16, 2017
- OEP issues EA – June 26, 2017
- Assist OEP in responding to public comments on EA

## **1.5 Letter of Intent**

Third-party contractors shall submit a Letter of Intent before January 23, 2017, as an indication of intent to offer a proposal to Pomelo using the contact information listed in Section 3.12. Those submitting a Letter of Intent will receive amendments to this RFP, if any, and copies of any written material sent to others submitting a Letter of Intent as described in Section 1.6. This letter will facilitate the distribution of written information but does not obligate the contractor to submit a proposal.

## **1.6 Distribution of Additional Information**

Written questions and requests for additional information submitted by January 24, 2017 to Pomelo will be answered by Pomelo and Texas Eastern, as applicable. Contractors who submit a Letter of Intent will be provided copies of any answers and other information provided in response to such questions and requests.

All third-party contractors are strongly encouraged to submit questions or request information by January 24, 2017. Telephone calls are not permitted; no questions related to this RFP will be answered in any other way. The answers to all questions and responses to requests for information will be provided to all contractors submitted a Letter of Intent so that all participants have equal access to the responses.



## **2.0 SERVICES REQUIRED**

The selected third-party contractor will be responsible for assisting the OEP Staff in conducting the NEPA review, preparing an EA, and completing related work within the agreed-upon schedule and approved budget. It will be the contractor's responsibility to notify Pomelo if the work effort ultimately required by the OEP staff exceeds the scope of work on which the contract with the contractor is based.

The third-party contractor will be responsible for satisfactory completion of the following tasks:

- 2.1** Preparation of all project-related documents, reports, and notices required by OEP Staff. In addition to paper copies, all materials must be provided to the OEP Staff in Microsoft Word 2010 format, or as otherwise agreed to by the OEP Environmental Project Manager. Any required databases (such as mailing lists) must be Microsoft Excel compatible. The camera-ready EA will be provided as pdf files as specified by the OEP staff in addition to hard copy.
- 2.2** Preparation of notices and presentation materials for any public scoping sessions on the EA. This task will require close coordination with the OEP Environmental Project Manager. Required work will include researching venues, preparing notices, developing materials for meetings, participating in meetings, and preparing reports summarizing the results of the scoping meetings/process and public meetings on the EA. The contractor will prepare a summary of agency scoping comments/issues for subsequent agency review and concurrence. Assume at least one scoping session will be conducted in Corpus Christi, Texas. Please note that based on stakeholder input, OEP staff may determine that a public scoping session is not needed.
- 2.3** Preparation and maintenance of a computerized (sortable database) mailing list of agencies, officials, community/environmental groups, concerned citizens, affected property owners and known interested parties. Pomelo and Texas Eastern will provide the initial agency and affected property owners list.
- 2.4** Characterization of existing environmental conditions, incorporation of issues identified during scoping, assessment of the significance of the potential environmental effects of the proposed project, identification of potential site, route and facility location alternatives, (both locally and regionally) and determination of mitigation necessary to avoid or reduce impacts to acceptable levels for the environmental topics listed in section 2.5 (below). Studies shall take into account both direct, indirect, and cumulative effects of project facility construction, operation and maintenance, upset conditions, and abandonment for all proposed

and alternative project facilities. Special expertise may be needed for areas of non-routine environmental sensitivity (such as marine environments, Clean Air Act General Conformity, air modeling, traffic, visual impacts). The RRs contained in the Commission application and other already available technical data shall be used to the maximum extent practicable. Use of any data not in the public record for the Projects must be approved by the OEP Environmental Project Manager.

**2.5** Assistance of OEP in preparation of an EA to meet the requirements of NEPA, the National Historic Preservation Act, Endangered Species Act, other applicable laws and regulations, any additional requirements of the OEP Staff, and to address any scoping and public meeting issues.

The EA shall include, but not necessarily be limited to, the following sections:<sup>1</sup>

1. Cover Sheet
2. Introduction
3. Description of Proposed Project
4. Alternatives
5. Affected Environment
6. Environmental Consequences (including Cumulative Impacts)
7. Conclusions (including summary of unavoidable significant adverse effects) and Recommendations (mitigation measures, including mitigation monitoring plan)
8. Agencies and Sources Consulted
9. List of Preparers and Contributors
10. References
11. EA Distribution List
12. Index
13. Appendices and Technical Reports (including Essential Fish Habitat Assessment, if appropriate)

The project as proposed by Pomelo and Texas Eastern includes several pipeline route and aboveground facility site location alternatives. In conjunction with the OEP Staff, the third-party contractor will be responsible for identifying and assessing potential alternatives to the proposed projects that are capable of meeting the project's goals and are sufficient to meet the requirements of NEPA, including reducing potentially significant effects associated with the proposed project and fostering informed decision-making. System alternatives to the Pomelo Pipeline Project and the STEP that should be addressed include those

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<sup>1</sup> See 18 CFR 380.7 and 40 CFR 1502.10 for additional guidance.

identified in RR 10. Additional project alternatives may be identified by the OEP Staff.

The Description of the Proposed Project and Alternatives should include, at a minimum, the following subsections:

1. Purpose and Need for the Project
2. Approvals to be sought through Use of the EA
3. Compression Facilities, and Pipeline Route Description, as appropriate
4. Ancillary Facilities
5. General Design Parameters
6. Construction Methods (for Compressor Stations and Pipeline, as applicable) (including Applicants-Proposed Mitigation Measures)
7. Construction Schedule and Work Force
8. Operation and Maintenance Procedures
9. Abandonment Procedures
10. Interrelationships with Other Planned Projects and Nonjurisdictional Facilities
11. Alternatives (including No Action)

The majority of this information is available in the RRs included in the applications made to the Commission. To the extent requested by OEP, the third-party contractor shall review the RRs for accuracy and adequacy to meet the needs of NEPA for the preparation of an EA, and shall prepare a data request(s) to Pomelo or Texas Eastern, as applicable, (routed through the OEP Staff) requesting any other data that may be needed. The EA shall fully address the following resource topics (as applicable):

1. Geology (including mineral resources and geologic hazards)
2. Soils (including erosion control and restoration/revegetation)
3. Water Resources (surface water and groundwater hydrology and quality)
4. Biological Resources (including wildlife, vegetation, wetlands, aquatic biology, essential fish habitat, and threatened and endangered species)
5. Land Use and Recreation
6. Socioeconomics
7. Visual Resources/Aesthetics
8. Air Quality
9. Noise
10. Cultural and Paleontological Resources
11. Public Safety
12. Cumulative Impacts

- 2.6 Prepare supporting maps showing the location of all project facilities and related areas of disturbance, and pertinent resource data. Pomelo and Texas Eastern will be responsible for developing all maps requested by the third-party contractor. The scale of the supporting maps will normally range from 1:24,000 to 1:6,000, depending on the complexity/sensitivity of the resources potentially affected and project specifics.
- 2.7 Maintain ongoing review of potential environmental issues and assessment of adequacy of overall scope of the environmental analysis. The OEP Staff shall be advised immediately of any potential data gaps or analysis shortcomings.
- 2.8 If necessary, arrange with Pomelo and Texas Eastern to participate in inspections of the proposed facility locations (including overflight, as appropriate), with the OEP Staff. This may occur in conjunction with the scoping sessions. (The Commission will reimburse Pomelo and Texas Eastern for all costs associated with OEP Staff participation in overflights.)
- 2.9 Analyze comments filed in Docket Nos. CP15-499 and CP17-26 and on the EA once issued.
- 2.10 Prepare camera-ready copies of the EA and any required notices for submission to the Commission Staff for printing and mailing. For purposes of proposal preparation, assume that the contractor will print and distribute at least twenty-five (25) copies of the preliminary documents to cooperating agencies. (The actual number of preliminary documents needed will be determined based on consideration of cooperating agencies' needs.)
- 2.11 Develop and maintain a formal project management system to allow for weekly or biweekly, as mutually agreed, tracking of schedule and budget status for the prime contractor and any subcontractors.
- 2.12 Prepare a Biological Assessment, if appropriate.
- 2.13 Prepare an Essential Fish Habitat Assessment, if appropriate.
- 2.14 Prepare a General Conformity Determination, if appropriate.

### **3.0 PROPOSAL REQUIREMENTS**

If a contractor provides a Letter of Intent to bid on the RFP, and subsequently does not intend to submit a proposal, the contractor shall notify Pomelo as soon as

possible, but in any event no later than one (1) days prior to the proposal due date. Contractors shall also return all materials to Pomelo and Texas Eastern, as applicable.

Contractors must provide one (1) original and four (4) copies of the technical proposal and cost estimate; Pomelo and Texas Eastern will coordinate distribution, and ultimately the OEP Staff will be provided with one hardcopy and one electronic copy of the proposals. Cost estimates must be submitted in separate sealed envelopes labeled "COST ESTIMATE." The proposal is limited to fifty (50) pages (single-sided, space and a half). All materials should be easily readable. Contractors are responsible for all costs associated with development of their proposals. The proposal should be concise, well organized and contain the following information in the order presented below:

### **3.1 Introduction**

Explain the contractor's understanding of the project and a summary of the contractor's qualifications for this project in one or two pages. Because the projects are located in Texas, qualifications for assessing impacts to the environment of this region of the country should be highlighted.

### **3.2 Technical Approach**

Present both an overall technical approach for the preparation of the EA and the approach proposed for individual technical areas and tasks. Include any recommendations to improve the scope (including rationale) and reflect those recommendations in the cost estimate.

### **3.3 Project Organization and Management Approach**

Describe the proposed project organization, with an organization chart including positions, responsibilities and reporting relationships. The project manager, deputy project manager, environmental resource specialists with responsibility for each resource area, administrative support personnel, and any subcontractor(s) must be identified and their location specified. These key personnel shall not be reassigned within the project or to other projects without prior consultation with the OEP Staff.

Describe the proposed management scheme for the project, with a discussion of where the work will be done and where each key person and subcontractor presently resides. Provide the proposed mechanisms for communication,

reporting, technical direction and control, cost control, schedule control, quality control, quality assurance and control of subcontractors.

### 3.4 Qualifications and Experience

Describe qualifications and prior experience in completing similar NEPA projects, particularly pipeline construction projects or other linear facility projects. Emphasize prior work experience with the Commission as its third-party contractor for the review of natural gas-related projects, Texas state agencies, major relevant construction projects, and the geographical areas of study. Discuss the contractor's familiarity with the specialized issues and requirements of proposed facility construction. Discuss the contractor's understanding of the Commission's environmental requirements for projects under the Natural Gas Act as reflected in Commission's regulations and current policies. Describe the contractor's past record in meeting performance and delivery requirements for similar contracts.

Statements of education, qualifications, and prior experience should be provided not only for the contractor, but also for the key personnel and subcontractors that will be assigned to the project, along with their **specific experience with the type of project under consideration**.

The past, current, and proposed use of small and small disadvantaged owned business enterprises by the contractor should be described.

### 3.5 Project Schedule

Submit a proposed schedule delineating dates for completion of the major work tasks specified in Section 2.5 of this RFP. The selected contractor's proposal must address the completion dates as specified in Section 1.4 of this RFP. Any suggested modifications to this schedule must be presented with reasons for the changes. **Note, however, that the ultimate schedule will be determined by the OEP Staff not the applicants.**

It is important that contractors demonstrate to Pomelo, Texas Eastern and the OEP Staff that ample resources exist to meet the project schedule. If a contractor has multiple EA obligations underway concurrently, it must clearly show separate resources or provide convincing evidence that it can meet the schedule.

### **3.6 References**

List and describe three successfully completed or in-progress projects of a similar nature with the name and phone number of the client's project manager. Additionally, list three client references specifically for the proposed project manager.

### **3.7 Conflicts of Interest and Critical Energy Infrastructure Information**

Identify possible conflicts of interest that may require investigation by the Commission Staff. Include a discussion of all work completed by the contractor for similar work on natural gas-related projects within the last 3 years. Pursuant to 40 CFR 1506.5(c), contractor selection is based on ability and absence of conflicts of interest. The contractor must also submit a Critical Energy Infrastructure Information (CEII) Non-Disclosure Agreement for itself and each subcontractor used.

All proposals must include the following three items:

- Either the Commission's (a) Organizational Conflict of Interest (OCI) Representation Statement, or (b) OCI Disclosure Statement, prepared by a responsible official attesting the contractor and its subcontractor(s) have no financial or other conflicting interest in the outcome of the project, or proposing a mitigation plan if an actual or potential OCI exists. (See Appendix A.)
- The Commission's OCI Questionnaire. (See Appendix B.)
- A Contractor CEII Non-Disclosure Agreement. (See Appendix C.)

Pomelo and Texas Eastern will complete an OCI Certification. (See Appendix D.)

### **3.8 Resumes**

Resumes may be submitted as an attachment to the proposal or as a separate volume. All resumes should be limited to two pages and must include the institution and date of graduation for all academic degrees, as well as a summary of relevant work experience and the specific dates of performance.

### **3.9 Cost Estimate**

Since the specific dates and number of any field teams required are strictly estimates, each contractor shall submit a daily crew billing rate and expense rate sheet. Pomelo will compensate the contractor based upon any actual crews and hours worked, with Texas Eastern reimbursing Pomelo for Texas Eastern's share of the cost of the contract. All preparation and processing of documents, NEPA review, EA submission, and any other costs not associated with the daily crew rate shall be submitted as a fixed-price proposal with an attached cost breakdown that corresponds to the tasks outlined in Section 2.0. Pomelo and Texas Eastern understand that there may be out-of-scope requirements for the completion of this project and any resultant costs will be handled between the contractor and Pomelo under the provisions of the contract.

Any limiting assumptions used to prepare the cost estimate should be clearly specified in the proposal. Also include a rate schedule that will apply to the project for any work beyond the scope stated in this RFP.

Assume that Pomelo and Texas Eastern, through the OEP Staff, will provide the successful contractor with copies of all environmental information filed with the Commission, including base maps, air photos, and computerized mailing lists of agencies, officials, community/environmental groups, concerned citizens, affected property owners and known interested parties at the time that contract negotiations are completed. Pomelo and Texas Eastern will provide any aerial overflights for key contractor and OEP Staff (weather conditions permitting) at OEP Staff's request. (However, the Commission will reimburse Pomelo and Texas Eastern for all costs associated with OEP Staff participation in aerial overflights.)

### **3.10 Available Materials**

Appendix F presents a list of documents available from Pomelo and Texas Eastern that should assist contractors in preparation of their proposals. Please contact Douglas Gibbons, Pomelo's environmental consultant, at [douglas.gibbons@mottmac.com](mailto:douglas.gibbons@mottmac.com) to arrange for review of these documents. Note that Pomelo and Texas Eastern will only entertain questions about this RFP according to the procedures described above.

### **3.11 Sample Memorandum of Understanding (MOU)**

Appendix G to this RFP presents a sample MOU with key provisions that must be included in the awarded contract. Contractors are asked to review this sample MOU and point out any difficulties with contract language in their proposal. The



proposal must indicate the contractor's review of the sample MOU and identify issues which require resolution during negotiations. Issues raised after submittal of the proposal will not be subject to negotiation. The person(s) authorized to negotiate on behalf of the contractor should be identified. Please note the OEP Staff cannot be contacted on any contract negotiations between Pomelo and the contractor.

### **3.12 Addresses**

Submit Letters of Intent, Technical Proposals and Cost Estimates to:

Douglas Gibbons  
Mott MacDonald  
5295 South Commerce Drive  
Suite 500  
Murray, UT 84107  
Email: douglas.gibbons@mottmac.com  
Tel: (801) 571-6522

Technical Proposals and Cost Estimates should be submitted by email to Douglas Gibbons by February 1, 2017 (with the original and four (4) copies of the Technical Proposals and Cost Estimates arriving by overnight courier on February 2, 2017).

## **4.0 SELECTION PROCESS**

Only those proposals submitted by contractors prior to the deadline stated herein will be evaluated. The proposals will be initially reviewed by Pomelo and Texas Eastern, and then all proposals will be submitted to the OEP Staff. The proposals will also be filed on the Commission's project docket in accordance with the Commission's instructions for filing of privileged material.

Pomelo and Texas Eastern will coordinate providing the OEP Staff with one hardcopy and one electronic copy of the contractors' proposals, along with the contractors' OCI statements, CEII non-disclosure agreements, and Pomelo's and Texas Eastern's OCI certification of each contractor. The Commission's Office of General and Administrative Law (GAL) will perform an OCI review of the submitted proposals. OEP Staff will then conduct an independent review of the contracts cleared by GAL and the Director of OEP will make the final selection of the contractor. Lack of an OCI Statement, or the existence of an identifiable OCI (relative to the contractor, its key personnel, or any proposed subcontractor) that

cannot be mitigated to the satisfaction of the Commission's Staff, will be sufficient grounds for proposal rejection.

Once the OEP Staff has notified Pomelo and Texas Eastern of its selection and the MOU is signed, Pomelo will negotiate and fund a contract with the contractor, with Texas Eastern as a third-party beneficiary, including a provision requiring Pomelo's consent to perform work beyond the scope of work in the contract and a provision indemnifying Pomelo and Texas Eastern if the contractor has to have access to any property of either (except to the extent of either of their gross negligence or willful misconduct). Texas Eastern will have a reimbursement agreement in effect for Texas Eastern to reimburse Pomelo for Texas Eastern's share of the cost of the contract. Pomelo will keep the OEP Staff apprised of the negotiations with the contractor. Once the contract has been executed, the contractor will proceed to work solely under the direction and guidance of the OEP Staff. Pursuant to 40 CFR 1506.5(c), the responsible official (i.e., the OEP Staff) "shall furnish guidance and participate in the preparation and shall independently evaluate the EA prior to its approval and take responsibility for its scope and contents."

## APPENDIX A

### COMPLETE EITHER THE REPRESENTATION OR THE DISCLOSURE – NOT BOTH

#### OCI Representation Statement

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, no facts exist relevant to any past, present or currently planned interest or activity (financial, contractual, personal, organizational or otherwise) that relate to the proposed work; and bear on whether I have (or the organization and any of its affiliates has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice; or (2) being given an unfair<sup>2</sup> competitive advantage.

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

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Organization : \_\_\_\_\_

#### OCI Disclosure Statement

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, all relevant facts -- concerning past, present, or currently planned interests or activities (financial, contractual, organizational or otherwise) that relate to the proposed work and bear on whether I have (or the organization has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage—are fully disclosed on the following page(s) and formatted to show:

- For ease of presentation, the OCI information is divided into four parts, indicating whether the possible OCI is: organizational, contractual, financial, or other;
- The company, agency, organization in which I (or my organization) have a past, present, or currently planned interest or activity (financial, contractual, organizational, or otherwise);

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<sup>2</sup> An unfair competitive advantage does not include the normal flow of benefits from the performance of the contract.

- A brief description of the relationship;
- The period of the relationship;
- The extent of the relationship (such as value of financial interest of work; percent of total holdings, total work, etc.); and
- A mitigation plan, if necessary.

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

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Organization : \_\_\_\_\_

## APPENDIX B

Name of Person or Organization: \_\_\_\_\_

### OCI Questionnaire<sup>3</sup>

1. Will you (or your organization) be involved, or have you previously been involved, in the performance of any portion of the project under this solicitation, aside from your organization's proposed work as a third-party contractor?  
☐ No.  
☐ Yes. The portion of the proposed work; the proposed hours and dollar value; and the type of involvement are fully disclosed on the attached pages.
2. What is (are) the major type(s) of business conducted by you (or your organization)? Please reply on the attached pages.
3. Do you (or your organization) have any affiliates?  
☐ No.  
☐ Yes. The name and a description of the major type(s) of business that each affiliate conducts are disclosed on the attached pages.
4. Will any of the following be involved in performing the proposed work under this solicitation: (a) any entities owned or represented by you (or your organization); (b) your organization's Chief Executive or any of its directors; or (c) any affiliates?<sup>4</sup>  
☐ No.  
☐ Yes. A full disclosure and discussion is given in the attached pages.
5. Are you (or your organization) an energy concern?  
☐ No.  
☐ Yes. A full disclosure and discussion is given on the attached pages.
6. Do you (or your organization) have a direct or indirect relationship (financial, organizational, contractual or otherwise) with any business entity (including a

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<sup>3</sup> All questions in the questionnaire apply to parent companies and affiliates as well. Whenever possible, each affiliate should submit a separate questionnaire. However, in the event each affiliate does not submit a separate questionnaire (for instance, to avoid completing a large number of questionnaires), this questionnaire must incorporate information regarding all affiliates.

<sup>4</sup> See Definitions in Chapter 4 (defining affiliates as businesses that directly or indirectly control or have the power to control another, or when a single third party controls or has the power to control both businesses).

parent company, affiliate, or any other business arrangement) that could be affected in any way by the proposed work under this solicitation?

- ☐ No.
- ☐ Yes. List the business entity(ies) showing the nature of your relationship (including the dates of the relationship, and the dollar value of any financial relationship) and how it would be affected by the proposed work under this solicitation.

7. What percentage of your total income for the current and preceding calendar years resulted from arrangements with any of the entities identified in Question 6 above?

%	For the current calendar year:	from	/	/	to	/	/
%	For the preceding calendar year:	from	/	/	to	/	/
%	For the second preceding calendar year:	from	/	/	to	/	/

8. Do you (or your organization) currently have or have you had during the last six years any arrangements (for example, contracts and cooperative agreements) awarded, administered, or funded—wholly or partly—by the Commission or any other federal agency which relates to the proposed Statement of Work?

- ☐ No.
- ☐ Yes. A full disclosure and discussion is given on the attached pages.

9. Do you (or your organization) have or have you ever had any contracts, agreements, special clauses, or other arrangements which prohibit you (or your organization) from proposing work to be performed in this solicitation or any portion thereof?

- ☐ No.
- ☐ Yes. A full disclosure and discussion is given on the attached pages.

10. Do you (or your organization) have any involvement with or interest (direct or indirect) in technologies which are or may be subjects of the contract, or which may be substitutable for such technologies?

- ☐ No.
- ☐ Yes. A full disclosure and discussion is given on the attached pages.

11. Could you (or your organization) in either your private or federal government business pursuits use information acquired in the performance of the proposed work under this solicitation; such as:

- a. Data generated under the contract?
- b. Information concerning Commission plans and programs?
- c. Confidential and proprietary data of others?

- ☐ No.
- ☐ Yes. A full disclosure and discussion is given on the attached pages.

12. Under the proposed work under this solicitation, will you (or your organization) evaluate or inspect your own services or products, or the services or products of any other entity that has a relationship (organizational, financial, or other, such as a client) with you (or your organization)? This could include evaluating or inspecting a competitor's goods and services.

- ☐ No.
- ☐ Yes. A full disclosure and discussion is given on the attached pages.

13. To avoid what you perceive as a possible OCI, do you (or your organization) propose to: exclude portions of the proposed work; employ special clauses; or take other measures?

- ☐ No.
- ☐ Yes. A full discussion is given on the attached pages.
- ☐ No possibility of an OCI is perceived. This answer is briefly justified on the attached pages.

14. What percentage of the revenue reported in this OCI statement is attributable to work as a Commission third-party contractor?

15. Are you (or your organization) performing any function for another company, either currently or in the past 24 months, on a similar project in the same geographic area?

- ☐ No.
- ☐ Yes.

16. If the answer is yes, please list the name(s) of the project(s) and the work being performed.

I hereby certify that I have authority to represent my organization, and that, to the best of my knowledge and belief, the facts and representations presented on the four pages of this questionnaire and on the      pages of the attachment to it are accurate and complete.

**I recognize that OCI is an ongoing obligation requiring annual updating. Should I become aware of any actual or potential OCI during performance of this contract, I will advise the OEP Staff, Pomelo and Texas Eastern and file an amended OCI Statement with the Commission's General and Administrative Law section, Office of General Counsel within 30 days that includes proposed mitigation or explanation why none is needed.**

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

Name : \_\_\_\_\_ Title : \_\_\_\_\_



## APPENDIX C

### CONTRACTOR CEII NON-DISCLOSURE AGREEMENT

On behalf of [*contractor name*], I certify that [*contractor name*] will abide by the following terms with respect to critical energy infrastructure information (CEII) that the company has access to because of its work for the Federal Energy Regulatory Commission:

- Only authorized company employees with a need for the information will be given access to CEII. [*contractor name*] will maintain a list of each employee who is given access to CEII, including a listing of each project for which the employee has been given CEII.
- [*Contractor name*] will not provide CEII to or discuss CEII with anyone outside the company, except that CEII may be discussed with the project's owner, operator, or applicants.
- Any copies made of CEII will be marked as CEII, and treated as CEII.
- CEII will be used only in performance of [*contractor name*]'s work for the Federal Energy Regulatory Commission. When [*contractor name*] has completed work on the project, all CEII will be returned to the Commission.
- I acknowledge that a violation of this agreement may result in negative consequences and could affect [*contractor name*]'s ability to contract with the Commission in the future.

By:\_\_\_\_\_

Title:\_\_\_\_\_

Representing:\_\_\_\_\_

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

**OCI Certification**

I, (*applicants' representative*), am responsible for reviewing proposals received in response to Pomelo's and Texas Eastern's Request for Proposals for assistance on the preparation on an Environmental Assessment and related documents and services for the proposed Pomelo Pipeline Project and STEP.

I have reviewed the proposal of (*contractor name*) for Organizational Conflicts of Interest. I hereby certify that (*contractor name*) has complied with the OCI Representation or OCI Disclosure requirements of the RFP and that there are no real or apparent disqualifying conflicts of interest.

Signature: \_\_\_\_\_

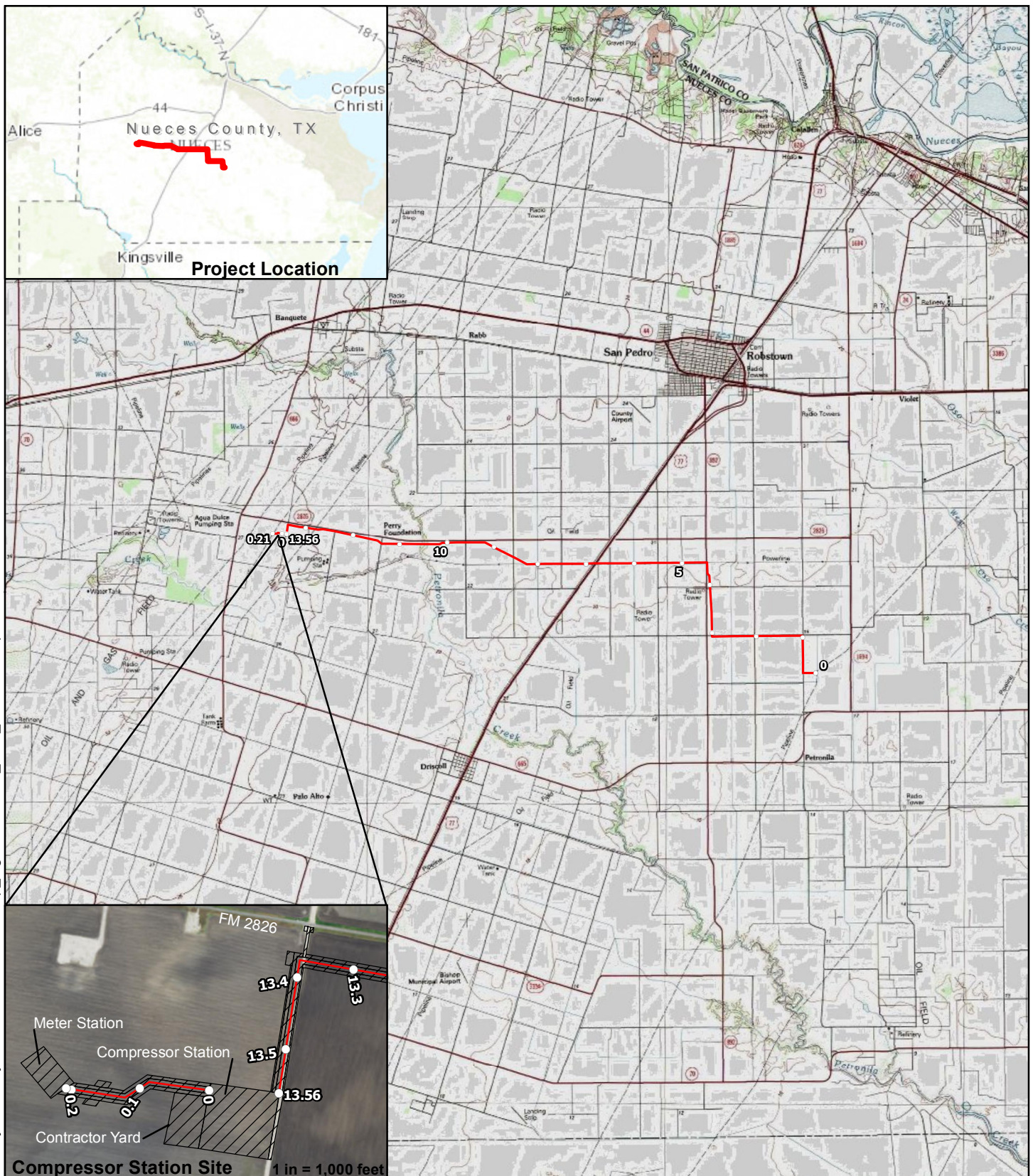
Title: \_\_\_\_\_

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

## **APPENDIX E**

*(Project Overview Map)*

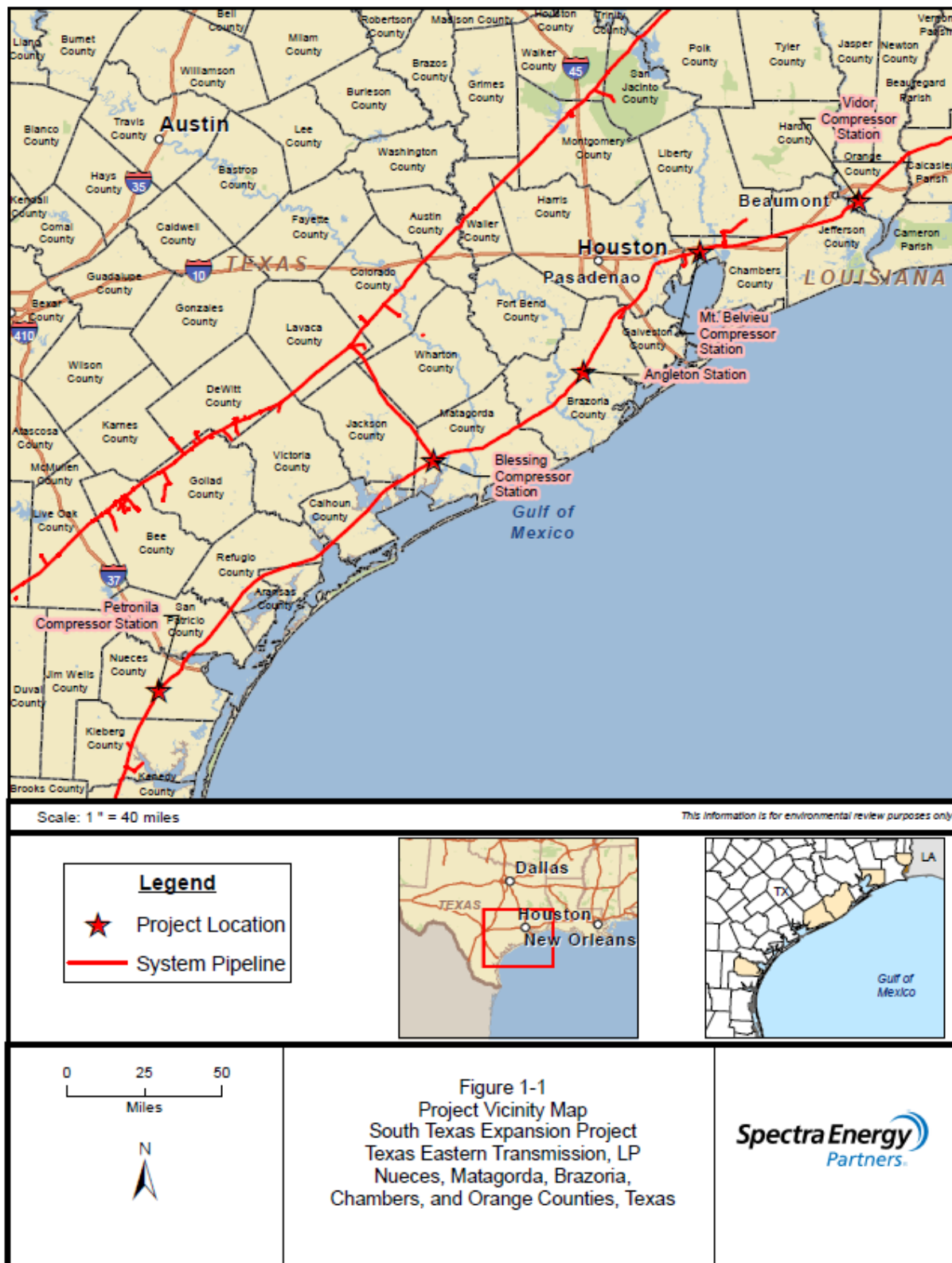
C:\Projects\CanyonMidstream\PomeloMap\_Figures\Pomelo\_8x11\_OverviewMap.mxd  
Date: 12/14/2016 5:26:26 PM



<p><b>Legend</b></p> <p>○ Project Milepost — Proposed Pipeline</p> <p><b>Notes</b></p> <p>Project Location: Begin: Lat. 27.699 Long: -97.632 End: Lat. 27.742 Long: -97.812</p> <p>Source: USGS 1:250k Topographic Quad</p>	<p>Pomelo Connector, LLC</p> <p><b>Pomelo Connector Pipeline Project</b></p> <p>General Overview Map Nueces County, Texas</p> <p>0 7,500 15,000 30,000 Feet</p>	<p><b>Figure 1.1-1</b></p> <p>Project No:375054 Drawn By: JLM Revised By: JLM Date: 12/14/2016</p> <p><b>M</b> MOTT MACDONALD</p> <p>5295 S. Commerce Dr., Ste. 500 Salt Lake City, UT 84107</p> <p><b>ABSOLUTE SCALE:</b> 1:180,000</p> <p><b>REFERENCE SCALE:</b> 1 IN = 15,000 feet</p>
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**Figure 1-1. Project Vicinity Map**



## APPENDIX F

*Appendix F, List of Available Background Documents, might be structured as follows:*

The following background documents are available and should be reviewed by all contractors prior to preparation and submittal of proposals in response to this RFP:

- The Commission Staff's current Wetland and Waterbody Construction and Mitigation Procedures
- The Commission Staff's current Upland Erosion Control, Revegetation, and Maintenance Plan
- 1 set of alignment sheets
- 1 set of quadrangle maps

These documents, as well as Pomelo's and Texas Eastern's applications and any additional supplement filings in the Commission Docket Nos. CP15-499-000, 001 and CP17-26-000, are available for review at:

Texas Eastern's application and amendment in Docket Nos. CP15-499-000, 001 at:

Original filing:

[https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14341103](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14341103)

Amendment filing:

[https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14526581](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14526581)

Pomelo's application in Docket No. CP17-26-000 at:

[https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14525520](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14525520)

***Sample Memorandum of Understanding***

*(The purpose of the MOU is to establish mutual agreement between the applicants, the third-party contractor, and the OEP Staff regarding the roles and responsibilities of each party. Although the language may vary, the concepts as worded below must be incorporated into the MOU and included as mandatory provisions of the finalized contract.)*

**MEMORANDUM OF UNDERSTANDING  
Between the  
FEDERAL ENERGY REGULATORY COMMISSION  
Pomelo Connector, LLC (Pomelo),  
Texas Eastern Transmission, LP (Texas Eastern) and  
the (Contractor's Name)**

- a. **Background.** The Energy Policy of 1992<sup>5</sup> and related regulations provide for the use of third-party contracts to assist agencies in satisfying the requirements of the National Environmental Policy Act (NEPA).<sup>6</sup> In its “Forty Questions” issued in the Federal Register on 23 March 1981, the Council on Environmental Quality indicated the term “third-party contract” referred to contractors paid by the applicants but selected by the agency. 40 CFR 1506.5(c) further stipulates that the contractor must execute a disclosure statement prepared by the agency to avoid any conflict of interest. If the NEPA document is prepared with third-party contract assistance, the responsible agency must participate in the preparation and shall independently evaluate the NEPA document prior to its approval. The agency must also take full responsibility for the scope and contents of the NEPA document.

This Memorandum of Understanding (MOU) defines the roles and obligations of the Federal Energy Regulatory Commission (the Commission), the private entities with a pending application before the Commission (referred to as Applicants), and the independent contractor chosen by the Commission Staff (referred to as Contractor). The contract between Pomelo and the Contractor, with Texas Eastern as a third-party beneficiary, will be executed pursuant to the third-party contracting procedures set forth in 40 CFR 1506.5(c) and as described in the Commission Handbook for using Third-Party Contractors to Prepare Environmental Documents (August 2016).

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<sup>5</sup> 16 U.S.C. 797d.

<sup>6</sup> 24 U.S.C. §§ 4321-4370h (2012).

This MOU defines the roles and obligations of the FERC as the federal agency responsible for the NEPA review; each of the Applicants as the private entity with a planned or pending application before the FERC (referred to as Applicant); and [Contractor] as the independent contractor chosen by FERC staff (referred to as Contractor).

The contract between the Applicant and the Contractor will be executed pursuant to the third-party contracting procedures set forth in 40 CFR 1506.5(c) and as described in the FERC Handbook for using Third-Party Contractors to Prepare Environmental Documents (August 2016).

The FERC staff of the Office of Energy Projects (OEP) will direct the activities of the contractor in the consultation, reviews, preparation, and processing of the documents within the scope of the contract. **The Applicants will not control or direct the activities of the Contractor, except with respect to the processing of invoices.**

**b. Obligations of the Applicants**

The Applicants agree to perform the following tasks:

- I. Certify that the selected Contractor, to the best of its knowledge, has no financial or other interest in the outcome of the project. Specifically, the contract or project provides no unfair competitive advantage to the Contractor.
- II. The Applicants and the Contractor have no relationships that could impair the Contractor's objectivity in performing the contract work.
- III. Affirm that all communications with the Contractor will be restricted to financial components of its contract. Communications on the merits of the Applicants' projects may only be conducted jointly with OEP Staff, subject to any disclosure and ex parte requirements.
- IV. Be solely responsible for all Contractor and subcontractor fees, costs, and expenses.
- V. Retain no rights to the products of the contract.
- VI. Include the Applicants and Contractor roles and obligations outlined in this MOU as mandatory provisions in the contract between Applicants and Contractor.



**c. Obligations of the Contractor (and all subcontractors, as appropriate)**

- I. The Contractor certifies that it has no conflict of interest in performing the work required under the contract and certifies that it has no financial or other interest in the outcome of the Commission's review.
- II. The Contractor certifies that its Organizational Conflict of Interest (OCI) Statement provided to the Commission for review prior to selection is accurate.
- III. The Contractor has a continuing obligation to identify conflicts of interest that may arise because of changes in corporate identity, affiliation, structure, or ownership, or changes to the contract throughout the actual performance period of the work. Therefore, the OCI Statement must be refreshed on an annual basis, at a minimum, and more frequently if the Contractor's business relationships have changed in a manner that affects the previously submitted OCI Statement.
- IV. In the event an OCI is discovered after award, the Contractor certifies that it will immediately notify the OEP Environmental Project Manager and will submit a plan to mitigate the conflict. The mitigation plan will be submitted to the Commission's Office of General Counsel – General and Administrative Law for review and written determination as to whether the plan can be implemented within 30 days of the identification of an OCI.
- V. The Contractor agrees to only communicate with the Applicants on financial issues related to the executed contract, unless OEP Staff is present and subject to any disclosure and ex parte requirements.
- VI. All work performed by the Contractor will be under the direction of and meet any timeframes established by OEP Staff. General duties of the contractor are listed in Chapter 2.4 of the Handbook for Using Third-Party Contractors to Prepare Environmental Documents. These duties are also listed within the sample Request for Proposals included in Chapter 3 of the Handbook.
- VII. The Contractor shall not replace the Project Manager, assistant Project Manager, or other key employee or subcontractor personnel without the prior consultation of the OEP Staff.

**d. Obligations of OEP**

- I. OEP will select the Contractor, based on its independent review of the technical, managerial, personnel, and OCI aspects of each proposal.
- II. OEP will set the schedule for completion of the NEPA document and all associated documents.

- III. OEP will be responsible for providing technical direction to the Contractor throughout the NEPA review process.
- IV. OEP will identify all information necessary to complete its review and will decide on the inclusion or deletion of all material in the NEPA document.
- V. OEP Staff has the right, at any time and in their sole discretion, to have any personnel of the Contractor, or the Contractor's subcontractor, either temporarily or permanently dismissed from the project.

**e. Expiration**

This MOU shall become effective upon signature of all four parties and shall expire following completion of the contracted scope of work as agreed to by the parties to the agreement.

**f. Termination**

This MOU may be terminated prior to expiration with the written consent of all four parties. Each party may initiate termination upon thirty (30) days written notice to the other parties. During the intervening 30 days, the parties agree to actively attempt to resolve any outstanding disputes or disagreements.

**g. Effective Date**

This MOU and any attachments hereto shall become effective upon signature of all four parties.

SIGNATURES OF AGREEMENT

**Federal Energy Regulatory Commission**

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Signature

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Typed Name

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Typed Title

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Date

**Applicant**

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Signature

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Typed Name

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Typed Title

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Date

**Applicant**

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Signature

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Typed Name

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Typed Title

---

Date

**Contractor**

---

Signature

---

Typed Name

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Typed Title

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Date