

**LEASE WITH SOUTH TEXAS INSTITUTE FOR THE ARTS D/B/A ART MUSEUM OF
SOUTH TEXAS FOR THE ANTONIO E. GARCIA ARTS & EDUCATION CENTER**

THE STATE OF TEXAS §

COUNTY OF NUECES §

WHEREAS, THE CITY OF CORPUS CHRISTI, TEXAS ("City") is the owner of real property located along Agnes Street as described and shown on the attached Exhibit A and

All improvements located or which may be constructed on the above described lots "Improvements", collectively "Facilities"; and

WHEREAS, the South Texas Institute for the Arts d/b/a Art Museum of South Texas (the "Lessee") desires to lease the Facilities to continue its programming efforts at the Antonio E. Garcia Arts & Education Center to benefit the citizens of the City of Corpus Christi;

NOW, THEREFORE, In consideration of the foregoing and the mutual promises herein contained, the City and Lessee agree as follows:

I. USE

The City does hereby lease, let, and demise to Lessee the Facilities, and all Improvements located or to be located thereon for the consideration, and such other consideration as provided by this Lease, of one dollar (\$1.00) per year due and payable on January 1, 2013 and payable on that same date each succeeding year of the Lease, the receipt of which is hereby acknowledged.

II. TERM

The term of this Lease shall be effective sixty-one (61) days after final Council approval and continue for ten (10) years, subject to the provisions concerning termination as stated herein. Thereafter, this Lease shall continue on a month-to-month extension on the same terms and conditions subject to thirty (30) days notice of termination by either party. When the term takes effect, the Facilities shall be deemed continuously leased as of September 5, 2012, under the terms and conditions of the previous lease agreement.

III. PURPOSE

Lessee shall operate the Facilities exclusively for the following purposes, and uses incidental thereto: To further the primary objective of the Act as outlined in 24 CFR 570.200(a)(2) and to serve as a depository of cultural materials and a cultural art center to promote the education, inspiration and aesthetic enrichment of the local and regional culture of all people with emphasis on enriching the low and moderate income residents at all times in accordance with Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) regulations and all local, state, and federal requirements and laws.

IV. FURNISHING BUILDING (FACILITIES)

It is understood that Lessee will be responsible for furnishing and equipping the Facilities and that City has no obligation to furnish nor insure any equipment or furnishings for the Lessee. All personal property furnished by Lessee or donated by others on behalf of Lessee will remain the property of Lessee unless specifically donated to City. Lessee shall be responsible to insure its equipment and furnishings at the Facilities.

It is understood that Community Development Block Grant funding or other funds may occasionally become available to allow for additional improvements at the Facilities. City staff shall coordinate with Lessee prior to construction of any improvements to provide for minimal disruption to Lessee.

V. MAINTENANCE

During each year for the term of this Lease, Lessee will maintain, at its sole expense, the exterior and interior of the Facilities and any other improvements on the property, including without limitation all fixtures connected therewith, all personal property thereon, exterior walks and driveways, and all lawn, vegetation and landscaping, not to exceed Lessee's annual maintenance budget of Five Thousand Dollars (\$5,000.00). Maintenance shall be of such quality as to maintain the Facilities in a first-class condition. However, Lessee is not responsible for any ground conditions related to use prior to the effective date of this agreement.

City shall be responsible for all other maintenance and repairs to the Facilities, subject to availability of City funds through the annual City budget process. However, this provision regarding City maintenance of the Facilities is subject to revision by the City at any time.

Lessee shall obtain, at its own expense, all utility services, garbage collection, janitorial services, and similar services.

VI. INFORMATION, RECORDS, REPORTS AND DOCUMENTATION.

Upon request from City Director of Parks and Recreation, Lessee shall provide City Director or designee with access to documents or other records of Lessee to confirm that Facilities are being used for the purposes intended under Article III Purpose.

VII. INDEMNIFICATION

Lessee agrees that it will indemnify and hold City harmless of, from, and *against* all claims, demands, actions, damages, losses, costs, liabilities, expenses, and judgments, recovered from or asserted against City on account of injury or damage to persons or property to the extent any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by an act or omission, negligence or misconduct on the part of City, its officers, employees, or agents, ("Indemnitees") and on the part of Lessee or any of its agents, servants, employees, contractors, patrons, guests, licensees, or invitees, entering upon the Facilities pursuant to this Lease Agreement with the express or implied *invitation or permission* of Lessee, or when any such injury or damage is the result of a proximate or remote violation by Indemnitees, Lessee, or any of its agents, servants, employees, contractors, patrons, guests, licensees, or invitees of any law, ordinance, or governmental order of any kind, or when any such injury or damage may in any other way arise from or out of the Improvements being constructed at the Facilities herein or out of the use or occupancy of the Improvements to the Facilities or the Facilities themselves by Indemnitees, Lessee, its agents, servants, employees, contractors, patrons, guests, licensees, or invitees, including without limitation, any damages or costs which may occur as a result of: the design of the Improvements to the Facilities, the bidding process, actual construction of the Improvements to the Facilities, administration of the construction contracts by the City or its designee, failure of the Improvements to the Facilities prior to completion and acceptance of the Improvements by City and Lessee jointly, failure of the Improvements of the Facilities to work as designed, failure of the Contractor or manufacturer to honor its warranties or failure to maintain the Improvements to the Facilities or the Facilities themselves.

These terms of indemnification shall be effective whether such injury or damage may result from the sole negligence, contributory negligence, or concurrent negligence of Indemnitees; but not if such damage or injury may result from gross negligence or willful misconduct of Indemnitees.

Lessee covenants and agrees that, in case City shall be made a party to any litigation against Lessee or in any litigation commenced by any party, other than Lessee relating to this Lease Agreement, Lessee shall and will pay all costs and expenses, including reasonable attorney's fees and court costs incurred by or imposed upon City by virtue of such litigation.

VIII. COMPLIANCE WITH LAWS

Lessee agrees that, in operation of the Facilities and all programs offered by Lessee at the Facilities, it will promptly comply with and fulfill all laws, ordinances, regulations and codes of Federal, State, County, City and other governmental agencies applicable to the Facilities and all programs offered by Lessee at the Facilities, and all ordinances or regulations imposed by the City for the correction, prevention and abatement of nuisances or code violations in or connected with the Facilities during the term of this Lease, at Lessee's sole expense and cost.

IX. TERMINATION

Either party may terminate this Lease as of the last day of any month upon thirty (30) days prior written notice, so long as all provisions of this Lease providing responsibilities in the event of termination are complied with.

X. PARKING.

As additional consideration for the Lease, Lessee shall make the parking lots available on the Property available for general public use.

XI. NON-DISCRIMINATION

Lessee shall not discriminate nor permit discrimination against any person or group of person, as to employment and in the provision of services, activities, and programs, on the grounds of race, religion, national origin, sex, physical or mental disability, or age, or in any manner prohibited by law.

XII. BREACH OF LEASE

No assent, express or implied, by the City to any breach of any of Lessee's covenants, agreements, conditions or terms hereof shall be deemed or taken to be a waiver of any succeeding breach of any covenant, agreement, condition or term hereof.

XIII. RIGHT TO ENTER AND INSPECT

The City reserves the right to enter the Facilities at any reasonable time during the term of this Lease for the purpose of inspecting the same in order to determine whether the terms and conditions of this Lease are being observed and carried out, including but not limited to, both exterior and interior maintenance.

XIV. INSURANCE

City shall maintain property insurance on the Facilities. The City's property insurance program provides coverage against perils including; fire, flood, collapse, windstorm and associated elements including wind driven rain and hail. In addition, the City's property insurance program provides coverage from named storms.

Lessee shall acquire and maintain insurance as described on the attached Exhibit B.

XV. DEFAULTS

Upon thirty days prior written notice to Lessee, the City may, at its option, in addition to any other remedy or right hereunder or by law, terminate this Lease upon occurrence of any of the following conditions ("Defaults"), provided that Lessee has not cured the Default prior to termination:

- 1) Failure to operate the Facilities for the purposes set forth in Paragraph III except during the periods necessary for repairs or renovation approved by the City in writing or except as otherwise contemplated by this Lease.
- 2) Failure to maintain Facilities and grounds.
- 3) Failure to abate any nuisance specified in writing by the City within a reasonable time specified in writing by the City.
- 4) Failure to comply with any term of this Lease.
- 5) Failure to have in effect policies of general liability insurance, workers' compensation insurance, and property insurance as required by the City Manager.
- 6) Dissolution of Lessee as a nonprofit corporation.
- 7) Abandonment of the Facilities for thirty (30) days.
- 8) Failure of Lessee to correct any other breach in the performance

or observance of any other covenant or condition of this Lease.

Upon termination of this Lease as herein above provided, or pursuant to statute, or by summary proceedings or otherwise, the City may enter forthwith and resume possession either by summary proceedings, or by action at law or in equity or by force or otherwise, as the City may determine, without being liable in trespass or for any damages. The foregoing rights and remedies given to the City are, and shall be deemed to be, cumulative of any other rights of the City under law, and the exercise of one shall not be deemed to be an election, and the failure of the City at any time to exercise any right or remedy shall not be deemed to operate as a waiver of its right to exercise such right or remedy at any other or future time.

XVI. MODIFICATION

Modifications to this Lease shall not be effective unless signed by a duly authorized representative of all parties hereto. Modifications which do not change the essential scope and purpose of the Lease may be approved on behalf of the City by the City Manager.

XVII. PUBLICATION

Lessee agrees to pay the costs of newspaper publication of this Lease and related ordinance as required by the City Charter.

XVIII. TERMINATION NOTICE

Lessee acknowledges and understands that if it is unable to carry out the terms of this Lease, this Lease is null and void. Lessee agrees to execute a Termination Agreement setting out the reasons for the termination, and in the case of partial termination, the portion of the Lease to be terminated. Either party may terminate this Lease as of the last day of any month upon thirty (30) days prior written notice containing the same information as required in the above described Termination Agreement to the other party. Notice shall be deemed to have been given upon deposit in U. S. Certified Mail properly stamped and addressed for delivery to:

City of Corpus Christi
P. O. Box 977
Corpus Christi, Texas 78469-9277
Attn: Director of Parks and Recreation

South Texas Institute for the Arts
1902 N. Shoreline Blvd.
Corpus Christi, Texas 78401

Attn: Director

XIX. TAXES

Lessee shall pay any ad valorem taxes associated with the Facilities which may be levied during the term of this Lease or any extension hereof. Lessee shall not voluntarily create, cause, or allow to be created, any debts, liens, mortgages, charges, or other encumbrances against the Facilities. Lessee shall from time to time, duly pay and discharge or cause to be discharged or to be paid, when the same becomes due, all taxes, assessments, and other government charges which are lawfully imposed upon the Facilities and which, if unpaid, may by law, become a lien or encumbrance upon such Facilities and thereby impair or otherwise adversely affect the holding of such Facilities for the use set out in this Lease.

XX. GENERAL PROVISIONS

A. No Liability. In no event shall the City be liable for any contracts made by or entered into by Lessee with any other person, firm, corporation, association, or governmental body.

B. Nonassignment. Lessee shall not assign, mortgage, pledge, or transfer this Agreement or any interest in the Facilities without prior written consent of the City.

C. Nonexclusive Services. Nothing herein shall be construed as prohibiting Lessee from entering into contracts with additional parties for the performance of services similar or identical to those enumerated herein, and nothing herein shall be construed as prohibiting Lessee from receiving compensation therefore from such additional parties, provided that all other terms of this Lease are fulfilled.

D. Hours of Operation. Facilities shall be operated so as to be open for use by the general public during all normal hours of operation.

E. Jurisdiction and Validity. If for any reason any section, paragraph, subdivision, clause, phrase, or provision of this Lease shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, work or provision thereof be given full force and effect for its purpose. The laws of the State of Texas shall apply to any dispute arising hereunder. Venue shall lie in Corpus Christi, Nueces County, Texas, where this Lease was entered into and shall be performed.

SIGNED, this ____ day of _____, 2012.

ATTEST:

CITY OF CORPUS CHRISTI

Armando Chapa
City Secretary

Ronald L. Olson
City Manager

SOUTH TEXAS INSTITUTE FOR THE ARTS


Joseph B. Schenk, Director



ANTONIO E. GARCIA EDUCATION CENTER - LEASE TRACT

**STATE OF TEXAS
COUNTY OF NUECES**

BEING a tract of land containing 1.37 Acres (59,570 SQ.FT.) of land out of a portion of Lot 14, Block 4, Lawnview Annex as recorded in Volume 67, Page 86; Lots 2-4 and a portion of Lot 5, Block 5, Lawnview Addition as recorded in Volume A, Page 13; and a portion of Block 9, Home Place Addition as recorded in Volume A, Page 14 of the Map Records of Nueces County, Texas. This 1.37 Acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a Found 5/8" Iron Rod with Plastic Cap stamped "City of Corpus Christi, Texas" at the northeast corner of Lot 15, Block 4, Lawnview Annex as recorded in Volume 67, Page 86 of the Map Records of Nueces County, Texas;

THENCE S88°00'00"W along the north boundary line of said Lot 15, a distance of 137.15' to a Found 5/8" Iron Rod with Plastic Cap stamped "City of Corpus Christi, Texas", being the southwest corner of this tract;

THENCE N02°00'00"W along the easterly right-of-way line of Eighteenth Street a distance of 66.89' to a Found 5/8" Iron Rod with Plastic Cap stamped "City of Corpus Christi, Texas", being an angle point of this tract;

THENCE N09°06'50"W continuing along the easterly right-of-way line of Eighteenth Street a distance of 128.19' to a Found Drill Hole in concrete at the beginning of a circular curve to the right;

THENCE along said curve having a Radius of 10.00', an Arc Length of 16.95', and a Chord of N39°26'35"E a distance of 14.99' to a Found 60D Nail on the southerly side of Agnes Street;

THENCE N88°00'00"E along the southerly side of Agnes Street a distance of 283.31' to a Found Drill Hole, being an angle point of this tract;

THENCE S67°50'45"E continuing along the southerly side of Agnes Street a distance of 7.80' to a Set 5/8" Iron Rod with Plastic Cap stamped "City of Corpus Christi, Texas", being the northeast corner of this tract;

THENCE S02°00'00"E along the easterly side of a 7' wide Alley as shown on plat of the Home Place Addition as recorded in Volume A, Page 14 of the Map Records of Nueces County, Texas, a distance of 202.14' to a Set 5/8" Iron Rod with Plastic Cap stamped "City of Corpus Christi, Texas", being the southeast corner of this tract;

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THENCE S88°00'00"W through said Home Place Addition and Lot 14, Lawnview Annex, a distance of 147.33' to the POINT AND PLACE OF BEGINNING and containing 1.37 Acres of land.

Bearings are with reference to North Boundary Line of Lots 2-5, Block 5, Lawnview Addition as recorded in Volume A, Page 13 of the Map Records of Nueces County, Texas.

**State of Texas
County of Nueces**

I, Russell Ochs, a Registered Professional Land Surveyor for the City of Corpus Christi, hereby certify that the foregoing field notes were prepared by me from a land survey made on the ground under my direction.

This the 7th day of January, 2009.

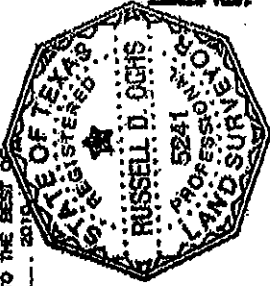
Russell D. Ochs
**Russell D. Ochs
State of Texas License No. 5,241**



STATE OF TEXAS
COUNTY OF NUECES

I, RUSSELL D. OCHS, REGISTERED PROFESSIONAL LAND SURVEYOR FOR THE CITY OF CORPUS CHRISTI, HEREBY CERTIFY THAT THIS MAP WAS PREPARED FROM AN ACTUAL FIELD SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, THIS THE 17th DAY OF JANUARY, 2010.

Russell D. Ochs
RUSSELL D. OCHS R.P.L.S.
TEXAS REGISTRATION NO. 5241



LINE	BEARING	DISTANCE
L1	S 88°00'00" W	137.15
L2	N 02°00'00" W	66.89
L3	N 09°05'50" W	128.19
L4	N 88°00'00" E	283.31
L5	S 67°50'45" E	7.80
L6	S 02°00'00" E	202.14
L7	S 88°00'00" W	147.83
		1.37 ACRES (59,570 SQ. FT.)

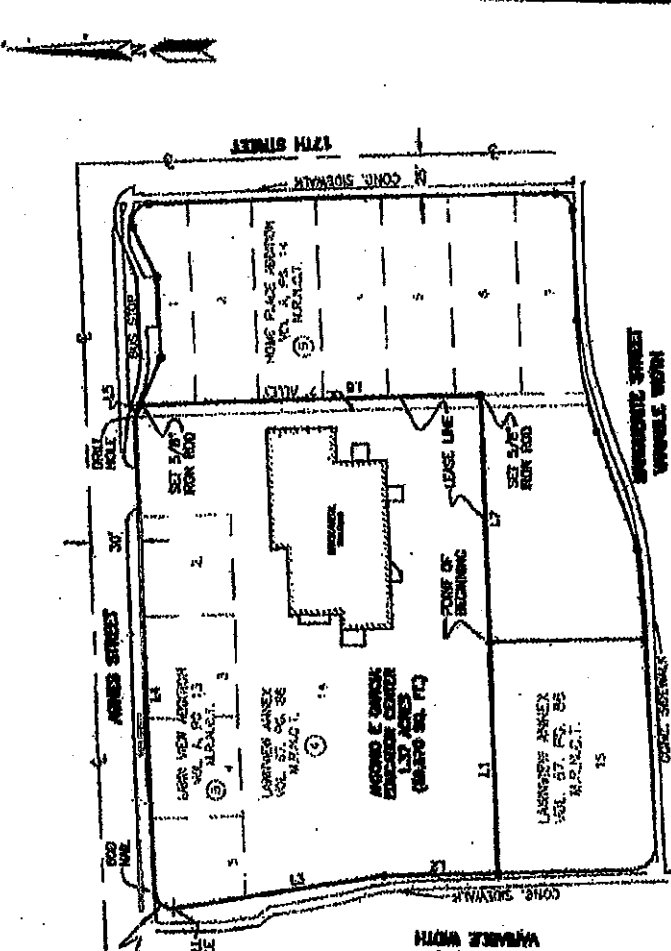
NOTES:

- MAP TO ACCOMPANY FIELD NOTES.
- BEARINGS BASED ON THE NORTH BOUNDARY LINE OF LOTS 2-S, BLOCK 5, EDWARDS ADDITION IN VOLUME A, PAGE 13 OF THE MAP RECORDS OF NUECES COUNTY, TX.
- FOUND 5/8-INCH IRON RODS AT ALL CORNERS UNLESS NOTED OTHERWISE.

ANTONIO E. GARCIA ARTS EDUCATION CENTER

OWNER: CITY OF CORPUS CHRISTI

BEING A TRACT OF LAND CONTAINING 59,570 SQ. FT. (1.37 AC.) CUT OUT OF A PORTION OF LOT 14, BLOCK 4, EDWARDS ANNEX VOL. 52, PG. 76; ONE LOT 2-A, AND A PORTION OF LOT 5, BLOCK 5, EDWARDS ADDITION VOL. 4, PG. 13, AND A PORTION OF BLOCK 5, HOME PLACE ADDITION VOL. 4, PG. 14 OF THE MAP RECORDS OF NUECES COUNTY, TEXAS.



CITY OF CORPUS CHRISTI, TEXAS
Department of Engineering Services
Survey Division 361-826-3551

Drawn By: A. JANEZIC
Checked By: R. OCHS
File: PROJ-EST-GARCIA ARTS EDU-TRACT ADWG

SHEET 1 OF 1

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EXHIBIT B
INSURANCE REQUIREMENTS

I. LESSEE'S LIABILITY INSURANCE

- A. Lessee shall not commence business under this agreement until all insurance required herein has been obtained and approved by the City's Risk Manager or designee.
- B. Lessee shall furnish to the Risk Manager or designee two (2) copies of Certificates of Insurance, with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the Risk Manager or designee. The City must be named as an additional insured for the General Liability and Business Automobile Liability policies, and a waiver of subrogation is required on all applicable policies.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-Day Notice of Cancellation required on all certificates or by policy endorsement(s)	Bodily injury and Property Damage Per Occurrence / aggregate
Commercial General Liability including: 1. Broad Form 2. Premises – Operations 3. Products/Completed Operations Hazard 4. Contractual Liability 5. Broad Form Property Damage 6. Independent Contractors	\$500,000 Per Occurrence \$1,000,000 Aggregate
BUSINESS AUTOMOBILE LIABILITY 1. Owned 2. Hired & Non-owned	\$500,000 Combined Single Limit
WORKERS' COMPENSATION (If Lessee has paid employees.)	WHICH COMPLIES WITH THE TEXAS WORKERS' COMPENSATION ACT AND PARAGRAPH II OF THIS EXHIBIT.
EMPLOYER'S LIABILITY	\$500,000 / \$500,000 / \$500,000
Fine Arts Floater For Any Visiting Art Collection	To cover replacement value of Exhibit
Property Insurance Coverage	To cover permanent collections.

- C. In the event of accidents of any kind related to this project, Lessee shall furnish the Risk Manager with copies of all reports of such accidents within ten (10) days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. If Lessee has paid employees, Lessee must obtain workers' compensation coverage through a licensed insurance company in accordance with Texas law. The contract for coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The coverage provided must be in amounts sufficient to assure that all workers' compensation obligations incurred will be promptly met.
- B. Lessee's financial integrity is of interest to the City; therefore, subject to Lessee's right to maintain reasonable

deductibles in such amounts as are approved by the City, Lessee shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Lessee's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.

- C. The City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Lessee shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Lessee shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Management
P.O. Box 9277
Corpus Christi, TX 78469-9277
(361) 826-4555- Fax #

- D. **Lessee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation policy
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

- E. Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Lessee shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lessee's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

- F. In addition to any other remedies the City may have upon Lessee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Lessee to discontinue sales hereunder, until Lessee demonstrates compliance with the requirements hereof.

- G. Nothing herein contained shall be construed as limiting in any way the extent to which Lessee may be held responsible for payments of damages to persons or property resulting from Lessee's or its subcontractor's performance of the work covered under this agreement.

- H. It is agreed that Lessee's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this agreement.

- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement.