

**AGREEMENT
for
Construction Materials Testing and Engineering Services**

This AGREEMENT is between the City of Corpus Christi, Texas, a Texas home-rule municipal corporation ("CITY"), acting through its duly authorized City Manager or designee ("City Engineer"), and **ROCK ENGINEERING & TESTING LABORATORY INC.**, a Texas corporation or partnership ("LAB"), acting through its duly authorized representative who is Curtis A. Rock, Business Development Manager, which agree as follows:

1. **DECLARATIONS:** City desires to engage Lab to provide services in connection with City's project, described as follows: Navigation Boulevard from Up River Road to Leopard Street BOND 2012 (Project No. E12090) ("PROJECT").
2. **SCOPE OF WORK:** Lab shall provide services to the Project in accordance with the accompanying Scope of Services and Fee Schedule attached as **Exhibit A** and the Terms and Conditions to Agreement attached as **Exhibit B**.
3. **FEE:** The City agrees to pay the Lab for services provided in accordance with Exhibit "A", Scope of Services and Fee Schedule under this Agreement, a total fee not to exceed \$56,471.00. Monthly invoices will be submitted in accordance with **Exhibit C**.
4. **CITY'S DISCLOSURE OF HAZARDOUS & TOXIC MATERIALS AND CONDITIONS AT THE PROJECT SITE:** To the best of the City's knowledge, based upon currently available information, the only hazardous or toxic materials, as defined by the laws and regulations of the Federal government, the state, and city which exist at the PROJECT SITE are as follows: None.
5. **OWNERSHIP OF DOCUMENTS:** All documents including contract documents (plans and specifications), record drawings, contractor's field data and submittal data will be the sole property of the City and may not be used again by Lab without the express terms written consent of the City Engineer. However, Lab may use standard details that are not specific to this Project.

CITY OF CORPUS CHRISTI

J.H. Edmonds, P. E., (Date)
Director of Engineering Services

RECOMMENDED

Andrew Self 2/3/14
Operating Department (Date)

APPROVED AS TO LEGAL FORM

Assistant City Attorney (Date)

APPROVED

Office of Management (Date)
and Budget

ROCK ENGINEERING & TESTING LABORATORY

Curtis Rock 1-29-16
Curtis A. Rock (Date)
Business Development Manager
6817 Leopard Street
Corpus Christi, TX 78409
(361) 883-4555 Office
(361) 883-4711 Fax

Project Number E12090
Accounting Unit 3549-051
Account 550920
Activity E12090013549EXP
Account Category 50920
Fund Name Street CIP Bond 2012

EXHIBIT A

Scope of Services and Fee Schedule



- GEOTECHNICAL ENGINEERING
- CONSTRUCTION MATERIALS ENGINEERING TESTING
- SOILS • ASPHALT • CONCRETE

Wednesday, January 06, 2016

City of Corpus Christi
1201 Leopard St
Corpus Christi, TX 78401

Attn Jeffrey Edmonds, P.E.

SUBJECT: ESTIMATED TESTING BUDGET FOR THE PROPOSED
E12090 Navigation Blvd - Up River Road to Leopard St. (HMAC)
Corpus Christi, TX
RETL Proposal Number: P010615A

Dear Jeffrey Edmonds, P.E.

Rock Engineering and Testing Laboratory, Inc. (RETL) (TBPE Firm No. 2101) is pleased to be selected to perform the Construction Materials Testing for the above referenced project. The Construction Materials Testing for the proposed construction project is based upon quantities as derived from the Plans made available to RETL as of the date of this proposal.

The estimated testing for this project is **\$56,471.00**

We understand that we have been chosen to provide these services for this publicly funded project. Therefore, by providing cost information we are not in violation of the Texas Professional Services Procurement Act.

The estimated construction materials testing budget is based on a review of the information provided to RETL. An estimated breakdown of field and laboratory testing required is included as an attachment.

Please make note that the actual fees invoiced for this project will be based on the actual testing performed. The total fee assessed will be dependent on the contractor's construction techniques, number of trips made to the jobsite, elapsed time from technician arrival to commencement of testing activities, and any time the technician is required to be on-site but not performing testing activities.

Please be advised that weekend technician time will be invoiced portal to portal at an additional rate of

\$32.00

RETL appreciates your consideration of our firm to assist you during the construction phase of your project. If you agree with this proposal, please sign the attached Laboratory Testing Services Agreement, submit the Distribution List and provide billing information. Please do not hesitate to contact me at (361) 883-4555 extension 415 if you have any questions regarding the proposal or would like to discuss further.

Sincerely,

Pablo Schmitt
Estimator
Rock Engineering and Testing

ROCK ENGINEERING TESTING LABORATORY, INC.
6817 LEOPARD STREET • CORPUS CHRISTI, TEXAS, 78409
OFFICE: (361) 883-4555 • FAX: (361) 883-4711 • www.rocktesting.com

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City of Corpus Christi
 Corpus Christi, TX
 Jeffrey Edmonds, P.E.

01. SOILS

LIFTS/MIN QTYFREQ QTY RATE AMOUNT

A1. SUBGRADE

Driveway Densities

EA - 1 every 2

S486	VEHICLE	1	5	5 trip	\$46.00	\$230.00
S600	IN-PLACE DENSITIES (Min 3) ASTM D6938	1	27	27 ea	\$45.00	\$1,215.00

Laboratory

EA - 1 each material type

S190	MATERIALS SAMPLING CHARGE	1	1	1 ea	\$59.00	\$59.00
S510	PROCTOR - STANDARD ASTM D698	1	1	1 ea	\$222.00	\$222.00

Sidewalk Densities

SF - 1 per 5000 SF

S486	VEHICLE	1	2	2 trip	\$46.00	\$92.00
S600	IN-PLACE DENSITIES (Min 3) ASTM D6938	1	7	7 ea	\$45.00	\$315.00

Street Densities

SY - 1 every 310 SY

S486	VEHICLE	1	8	8 trip	\$46.00	\$368.00
S600	IN-PLACE DENSITIES (Min 3) ASTM D6938	1	98	98 ea	\$45.00	\$4,410.00

A5. BACKFILL

Densities

LF - 1 per 200 LF of each lane/lift

S486	VEHICLE	1	15	15 trip	\$46.00	\$690.00
S600	IN-PLACE DENSITIES (Min 3) ASTM D6938	1	154	154 ea	\$45.00	\$6,930.00

Laboratory

EA - 1 each material type

S190	MATERIALS SAMPLING CHARGE	1	1	1 ea	\$59.00	\$59.00
S510	PROCTOR - STANDARD ASTM D698	1	1	1 ea	\$222.00	\$222.00

01. SOILS SUBTOTAL \$14,812.00

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02. FLEXIBLE BASE

LIFTS/MIN QTYFREQ QTY RATE AMOUNT

A3. FLEX BASE

Densities

SY - 1 every 310 SY

S486	VEHICLE	1	12	12 trip	\$46.00	\$552.00
S600	IN-PLACE DENSITIES (Min 3) ASTM D6938	1	196	196 ea	\$45.00	\$8,820.00

Laboratory

CY - 1 per 3000 CY

S502	ATTERBERG LIMITS/PLASTICITY INDEX (with Aggregate)	1	3	3 ea	\$97.00	\$291.00
S504	GRADATION (Sieve Analysis)	1	3	3 ea	\$97.00	\$291.00
S522	PROCTOR - MODIFIED ASTM D1557	1	3	3 ea	\$261.00	\$783.00
S548	LA ABRASION	1	3	3 ea	\$331.00	\$993.00

EA - 1 each material type

S190	MATERIALS SAMPLING CHARGE	1	1	1 ea	\$59.00	\$59.00
S546	WET BALL MILL	1	1	1 ea	\$331.00	\$331.00
S606	TRIAxIAL	1	1	1 ea	\$743.00	\$743.00
S610	CBR with PROCTOR	1	1	1 ea	\$765.00	\$765.00

02. FLEXIBLE BASE SUBTOTAL \$13,628.00

03. HOTMIX ASPHALT CONCRETE

LIFTS/MIN QTYFREQ QTY RATE AMOUNT

B. ASPHALT

Densities

LF - 1 per 1000 LF of street

S202	ASPHALT CORED IN-PLACE DENSITY	1	2	2 ea	\$102.00	\$204.00
S486	VEHICLE	1	2	2 trip	\$46.00	\$92.00

Laboratory

T - 1 per 500 tons

S105	ASPHALT FULL SERIES	1	22	22 ea	\$635.00	\$13,970.00
S190	MATERIALS SAMPLING CHARGE	1	22	22 ea	\$59.00	\$1,298.00

03. HOTMIX ASPHALT CONCRETE SUBTOTAL \$15,564.00

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04A. CONCRETE (Curb & Gutter)		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
C1. CONCRETE						
Unconfined Compression 7, 14 & 28 days)						
LF - 1 set every 500 LF						
S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	18	72 ea	\$45.00	\$3,240.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	6	6 trip	\$46.00	\$276.00
					04A. CONCRETE (Curb & Gutter) SUBTOTAL	\$3,560.00

04B. CONCRETE (Sidewalks & Curb Ramps)		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
C1. CONCRETE						
Unconfined Compression 7, 14 & 28 days)						
SF - 1 set every 4000 SF						
S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	9	36 ea	\$45.00	\$1,620.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	3	3 trip	\$46.00	\$138.00
					04B. CONCRETE (Sidewalks & Curb Ramps) SUBTOTAL	\$1,802.00

04C. CONCRETE (Driveways)		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
C1. CONCRETE						
Unconfined Compression 7, 14 & 28 days)						
SF - 1 set every 2500 SF						
S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	11	44 ea	\$45.00	\$1,980.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	4	4 trip	\$46.00	\$184.00
					04C. CONCRETE (Driveways) SUBTOTAL	\$2,208.00

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04D. CONCRETE (Curb, Post and Grate Inlets) LIFTS/MIN QTYFREQ QTY RATE AMOUNT

C1. CONCRETE

Unconfined Compression 7, 14 & 28 days)

EA - 1 set every 6 each

S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	6	24 ea	\$45.00	\$1,080.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	2	2 trip	\$46.00	\$92.00

04D. CONCRETE (Curb, Post and Grate Inlets) SUBTOTAL \$1,216.00

04E. CONCRETE (Storm Sewer Manholes) LIFTS/MIN QTYFREQ QTY RATE AMOUNT

C1. CONCRETE

Unconfined Compression 7, 14 & 28 days)

EA - 1 set every 2 each

S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	10	40 ea	\$45.00	\$1,800.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	2	2 trip	\$46.00	\$92.00

04E. CONCRETE (Storm Sewer Manholes) SUBTOTAL \$1,936.00

04F. CONCRETE (Riprap, Aprons & SETs) LIFTS/MIN QTYFREQ QTY RATE AMOUNT

C1. CONCRETE

Unconfined Compression 7, 14 & 28 days)

SF - 1 set every 4000 SF

S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	1	4 ea	\$45.00	\$180.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	1	1 trip	\$46.00	\$46.00

04F. CONCRETE (Riprap, Aprons & SETs) SUBTOTAL \$270.00

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04G. CONCRETE (Manhole Base/Footing)		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
C1. CONCRETE						
Unconfined Compression 7, 14 & 28 days)						
EA - 1 set every 10 each						
S301	CONCRETE CYLINDERS (4" x 8") (Min 4)	4	3	12 ea	\$45.00	\$540.00
S399	CONCRETE CYLINDERS PICK UP FEE	1	1	1 pour	\$44.00	\$44.00
S486	VEHICLE	1	2	2 trip	\$46.00	\$92.00
					04G. CONCRETE (Manhole Base/Footing) SUBTOTAL	\$676.00

05. RIGID PAVEMENT		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
C1. CONCRETE						
SY - 1 set per 2500 SY						
S302	BEAMS (Set of 4)	1	1	1 set	\$232.00	\$232.00
S403	SLUMP	1	1	1 ea	\$15.00	\$15.00
S404	AIR CONTENT	1	1	1 ea	\$15.00	\$15.00
S486	VEHICLE	1	1	1 trip	\$46.00	\$46.00
					05. RIGID PAVEMENT SUBTOTAL	\$308.00

06. LABORATORY		LIFTS/MIN	QTYFREQ	QTY	RATE	AMOUNT
D. MISCELLANEOUS						
Vehicle Material Pick up and Admin Fee						
P119	ADMINISTRATION FEE (1 time per project)	1	1	1 ls	\$77.00	\$77.00
S486	VEHICLE	1	9	9 trip	\$46.00	\$414.00
					06. LABORATORY SUBTOTAL	\$491.00

GRAND TOTAL \$56,471.00

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EXHIBIT B

TERMS AND CONDITIONS TO TESTING AGREEMENT

ARTICLE 1. SERVICES: Lab will:

- 1.1 Provide only those services requested by City Engineer that, in the opinion of Lab, lie within the technical or professional areas of expertise of Lab and which Lab is adequately staffed and equipped to perform.
- 1.2 Perform technical services under the supervision of a licensed professional engineer and in compliance with the basic requirements of the appropriate standards of the American Society for Testing and Materials, where applicable, and other standards designated in writing by the City Engineer.
- 1.3 Promptly submit formal reports (printed and electronic copies) of tests, inspections and services performed indicating, where applicable, compliance with the Project specifications or other contract documents. Such reports must be complete and factual, citing the tests performed, methods employed, values obtained and parts of the structure of the Project area subjected to any testing.
- 1.4 Utilize testing equipment which has been calibrated according to applicable standards and, upon request, submit to the City Engineer or designee documentation of such calibration.

Secure representative samples of those materials that the City's contractor proposes to use which require testing, together with relevant data concerning such materials including the point of origin and supplier.
- 1.5 Consider reports to be confidential and distribute reports only to those persons, organizations or agencies specifically designated in writing by the City Engineer.
- 1.6 Retain records relating to services performed for City for a period of two years following submission of any reports, during which period the records will be made available to the City at all reasonable times.
- 1.7 Pay salaries, wages, expenses, social security taxes, federal and state unemployment taxes and any other similar payroll taxes relating to the services.

ARTICLE 2. CITY RESPONSIBILITIES: City Engineer or designee will:

- 2.1 Provide Lab with all plans, specifications, addenda, change orders, approved shop drawings and other information for the proper performance of services by Lab.
- 2.2 Issue authorization in writing giving Lab free access to the Project site and to all shops or yards where materials are prepared or stored.
- 2.3 Designate in writing those persons or firms which will act as the City's representative with respect to Lab's services to be performed under this Agreement and which must be promptly notified by Lab when it appears that materials tested or inspected are in non-compliance. Only the City Engineer or designee has authority to transmit instructions, receive information and data and/or interpret and define the City's policies and decisions with respect to the Project. Lab acknowledges that certain City representatives may have different types of authority concerning the Project.
- 2.4 Advise Lab sufficiently in advance of any operations so as to allow for assignment of personnel by Lab for completion of the required services. Such advance notice will be in accordance with that established by mutual agreement of the parties.
- 2.5 Direct the Project contractor, either by the Construction Contract or direct written order, to:
 - (a) Stop work at the appropriate times for Lab to perform contracted services;
 - (b) Furnish such labor and all facilities needed by Lab to obtain and handle samples at the Project and to facilitate the specified inspection and tests;

- (c) Provide and maintain for use of Lab adequate space at the Project for safe storage and proper curing of test specimens that must remain on the Project site prior to, during and up to 60 days after testing.

ARTICLE 3. GENERAL CONDITIONS

- 3.1 Lab, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to the Project that, by custom or contract, are vested in the Project architects, design engineers or any other design agencies or authorities.
- 3.2 Lab is not authorized to supervise, alter, relax, enlarge or release any requirement of the Project specifications or other contract documents nor to approve or accept any portion of the work. Lab does not have the right of rejection or the right to stop the work. City Engineer will direct the Project contractor to stop work at appropriate times for Lab to conduct the sampling, testing or inspection of operations covered by the Agreement.

ARTICLE 4. FIELD MONITORING AND TESTING

- 4.1 City and Lab agree that Lab will be on-site to perform inspections for contracted services. The City and Lab also agree that Lab will not assume responsibility for Project contractor's means, methods, techniques, sequences or procedures of construction, and it is understood that the final services provided by Lab will not relieve the Project contractor of its responsibilities for performing the work in accordance with the Project plans and specifications. For the purposes of this Agreement, the word "inspection" is used to mean periodic observation of the work and the conducting of tests by Lab as specified in the Agreement. Continuous monitoring by Lab or its subcontractors does not mean that Lab is approving placement of materials. Inspection is not and should not be construed to be a warranty by Lab to the City or any other party.
- 4.2 Samples collected or tested by Lab remain the property of the City while in the custody of the Lab. Lab will retain the samples for a period of 60 days following the date of submission of any report related to the sample. Following the retention period, Lab will dispose of non-hazardous samples, and return hazardous, acutely toxic or radioactive samples and samples' containers and residues to City. City agrees to accept such samples and samples' containers.

ARTICLE 5. STANDARD OF CARE AND WARRANTY

Services performed by Lab will be conducted in a manner consistent with that level of care and skill ordinarily exercised by reputable members of the profession currently practicing under similar conditions in the same locality. No other warranty either expressed or implied is made or intended by the Agreement or any reports. Lab will not be responsible for the interpretation or use by others of data developed by Lab.

ARTICLE 6. INDEMNIFICATION

Lab shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, employees, or other entity, excluding the engineer or architect or that person's agent, employee or subconsultant, over which the City exercises control ("Indemnitee") from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement or failure to pay a subcontractor or supplier committed by Lab or its agent, Lab under contract or another entity over which Lab exercises control while in the exercise of rights or performance of the duties under this agreement. This indemnification does not apply to any liability resulting from the negligent acts or omissions of the City or its employees, to the extent of such negligence.

Lab shall defend Indemnitee, with counsel satisfactory to the City Attorney, from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court

costs, if the claim is not based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee, the Lab shall reimburse the City's reasonable attorney's fees in proportion to the Lab's liability.

Lab must advise City in writing within 24 hours of any claim or demand against City or Lab known to Lab related to or arising out of Lab's activities under this Agreement.

ARTICLE 7. INVOICES AND PAYMENT

- 7.1 Lab will submit progress invoices to City Engineer monthly and final invoice upon completion of services. Each invoice is due and payable by City within 30 days of receipt and approval to pay by the City Engineer.
- 7.2 All funding obligations of the City under this Agreement are subject to the appropriation of funds in its annual budget.

ARTICLE 8. INSURANCE REQUIREMENTS

- 8.1 Lab must not commence work under this agreement until all required insurance has been obtained and such insurance has been approved by the City. Lab must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- 8.2 Lab must furnish to the Director of Engineering Services with the signed agreement (or amendment) 2 copies of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. **The City must be listed as an additional insured on the General Liability and Auto Liability policies, and a waiver of subrogation is required on all applicable policies. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-written day notice of cancellation, required on all certificates or by applicable policy endorsements	Bodily Injury and Property Damage Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
PROFESSIONAL LIABILITY (Errors and Omissions)	\$1,000,000 Per Claim \$2,000,000 Aggregate (Defense costs must be outside policy limits) If claims made policy, retro date must be prior to inception of agreement, have extended reporting period provisions and identify any

	limitations regarding who is insured.
WORKERS' COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory
Employer's Liability	\$500,000 /\$500,000 /\$500,000

- 8.3 In the event of accidents of any kind related to this agreement, Lab must furnish the City with copies of all reports of any accidents within 10 days of the accident.
- 8.4 Applicable for paid employees, Lab must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Lab will be promptly met. An All States Endorsement shall be required if Lab is not domiciled in the State of Texas.
- 8.5 Lab shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Lab'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. **Lab is required to provide City with renewal Certificates.**
- 8.6 Lab shall be required to submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Lab 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: Engineering Services
P.O. Box 9277
Corpus Christi, TX 78469-9277

- 8.7 **Lab agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- (a) List the City and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations, completed operation and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation policy and professional liability/Errors & Omissions policy;
 - (b) 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;
 - (c) Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - (d) 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.
- 8.8 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Lab shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lab'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.

- 8.9 In addition to any other remedies the City may have upon Lab'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 Lab to remove the exhibit hereunder, and/or withhold any payment(s) if any, which become due to Lab hereunder until Lab demonstrates compliance with the requirements hereof.
- 8.10 Nothing herein contained shall be construed as limiting in any way the extent to which Lab may be held responsible for payments of damages to persons or property resulting from Lab's or its subcontractor's performance of the work covered under this agreement.
- 8.11 It is agreed that Lab'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.
- 8.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement.

ARTICLE 9. TERMINATION OF AGREEMENT

The City may, at any time, with or without cause, terminate this Agreement upon seven days written notice to Lab at the address of record. Lab will be compensated for services performed up to termination.

ARTICLE 10. CONTROLLING LAW

This Agreement is governed by the laws of the State of Texas without regard to its conflicts of laws. Venue for legal proceedings lie exclusively in Nueces County, Texas.

ARTICLE 11. DISCLOSURE OF INTERESTS

- 11.1 Lab agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the Disclosure of Interests form as part of this Agreement, if required.
- 11.2 Lab agrees to comply with section 2252.908 of the Texas Government Code and complete Form 1295 Certificate of Interested Parties as part of this Agreement, if required. For more information, please review the information on the Texas Ethics Commission website at <https://www.ethics.state.tx.us>.
- 11.3 Lab agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City of Corpus Christi City Secretary's Office, if required. For more information and to determine if you need to file a Form CIQ, please review the information on the City Secretary's website at <http://www.cctexas.com/government/city-secretary/conflict-disclosure/index>.

ARTICLE 12. CLAIMS

- 12.1 Claims arising from this Agreement shall be made in writing, sworn to and signed by an authorized representative. The responsibility to substantiate a claim rests with the party making the claim.
- 12.2 All negotiations pursuant to this Article are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

ARTICLE 13. EXTENT OF AGREEMENT

- 13.1 This Agreement, including Exhibit "A" and these Terms and Conditions, represents the entire Agreement between City and Lab and supersedes all prior negotiation, representations or agreements, written or oral. This Agreement may be amended only by a written instrument signed by duly authorized representatives of City and Lab. If any conflict occurs between these Terms and Conditions and any other part of this Agreement, these Terms and Conditions are controlling.

- 13.2 In the event that any one or more of the provisions contained in this Agreement are for any reason held invalid, illegal or unenforceable in any respect, the remaining terms will be in full effect and this Agreement will be construed as if the invalid or unenforceable matters were never included in this Agreement. No waiver of any default will be a waiver of any future default.
- 13.3 Neither party will assign this Agreement without the express written approval of the other, but Lab may subcontract laboratory procedures as Lab deems necessary to meet the obligations of this Agreement.

ARTICLE 14. SAFETY

City and Lab agree that, in accordance with the generally accepted construction practice, the Project's general contractor will be solely and completely responsible for working conditions on the Project, including safety of all persons and property during the performance of the work and for compliance with all municipal, state and federal laws, rules and regulations, including OSHA. The duty of Lab in providing services is not, therefore, to include any review of, or responsibility for, the adequacy of the Project's general contractor's safety measures in, on or near the Project site.

EXHIBIT C

Monthly Invoices

Sample form for:
Payment Request
Revised 07/27/00

COMPLETE PROJECT NAME
Project No. XXXX
Invoice No. 12345
Invoice Date:

	Contract	Amd No. 1	Amd No. 2	Total Contract	Amount Invoiced	Previous Invoice	Total Invoice	Percent Complete
Basic Services:								
Preliminary Phase	\$1,000	\$0	\$0	\$1,000	\$0	\$1,000	\$1,000	100%
Design Phase	2,000	1,000	0	3,000	1,000	500	1,500	50%
Bid Phase	500	0	250	750	0	0	0	0%
Construction Phase	2,500	0	1,000	3,500	0	0	0	0%
Subtotal Basic Services	\$6,000	\$1,000	\$1,250	\$8,250	\$750	\$1,500	\$2,500	30%
Additional Services:								
Permitting	\$2,000	\$0	\$0	\$2,000	\$500	\$0	\$500	25%
Warranty Phase	0	1,120	0	1,120	0	0	0	0%
Inspection	0	0	1,627	1,627	0	0	0	0%
Platting Survey	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0%
O & M Manuals	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0%
SCADA	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0%
Subtotal Additional Services	\$2,000	\$1,120	\$1,627	\$4,747	\$500	\$0	\$500	11%
Summary of Fees								
Basic Services Fees	\$6,000	\$1,000	\$1,250	\$8,250	\$750	\$1,500	\$2,500	30%
Additional Services Fees	2,000	1,120	1,627	4,747	500	0	500	11%
Total of Fees	\$8,000	\$2,120	\$2,877	\$12,997	\$1,250	\$1,500	\$3,000	23%