

**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 AND 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: **South Staples Street from Morgan Avenue to IH 37 BOND 2012 (Project No. E12096)** ("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 C".

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 **\$74,350.00 (Seventy Four Thousand Three Hundred Fifty Dollars and Zero Cents)**. Monthly invoices will be submitted in accordance with Exhibit "D."

4. **INDEMNIFICATION AND HOLD HARMLESS:** The Consultant agrees to indemnify, save harmless and defend the City of Corpus Christi, and its agents, servants, and employees as more fully set forth in Exhibit "B".

5. **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.

6. **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 the "LAB" without the express written consent of the Director of Capital Programs. However, the "LAB" may use standard details that are not specific to this project.

CITY OF CORPUS CHRISTI

J.H. Edmonds, P.E. (Date)
Director of Capital Programs

RECOMMENDED

Curtis A. Rock 7/2/15
Operating Department (Date)

APPROVED

Office of Management (Date)
and Budget

**ROCK ENGINEERING AND TESTING
LABORATORY, INC.**

Curtis A. Rock 6-26-15
Curtis A. Rock (Date)
Business Development Manager
6817 Leopard Street
Corpus Christi, TX 78409
(361) 883-4555 Office
(361) 883-4711 Fax

Project No. <u>E12096</u>
Accounting Unit: <u>3549-051</u>
Account: <u>550920</u>
Activity: <u>E12096013549EXP</u>
Account Category: <u>50920</u>
Fund Name: <u>Street CIP Bond 2012</u>
Encumbrance No. _____

me

APPROVED AS TO LEGAL FORM

Janet Z Kelley 7-7-15
Legal Department (Date)

ATTEST

City Secretary (Date)



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

Thursday, June 11, 2015

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

Attn Jeffrey Edmonds, PE

**SUBJECT: ESTIMATED TESTING BUDGET FOR THE PROPOSED
E12096 South Staples St. Morgan Ave. to IH 37
Corpus Christi, TX
R E T L Proposal Number: P061015B**

Dear Jeffrey Edmonds, PE

Rock Engineering and Testing Laboratory, Inc. (RETL) (TBPE Firm No. 2101) is pleased to submit a proposal for 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 \$74,350.00

This estimate will change and is dependent upon the actual scope of work performed as requested on the project site and will be billed based on the testing requested and 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 15 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.
4817 LEOPARD STREET • CORPUS CHRISTI, TEXAS, 78409
OFFICE: (361) 883-4555 • FAX: (361) 883-4711 • www.rocktesting.com

EXHIBIT B

INSURANCE REQUIREMENTS & INDEMINIFICATION

I. CONSULTANT'S LIABILITY INSURANCE

- A. Consultant must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Consultant must furnish to the City's Risk Manager and Director of Capital Programs. two (2) copies of Certificates of Insurance 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 Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	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 not included in face value of the policy) 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'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employer's Liability	Statutory \$500,000/\$500,000/\$500,000

- C. In the event of accidents of any kind related to this contract, Consultant must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Consultant 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 Consultant will be promptly met. An All States Endorsement shall be required if Consultant is not domiciled in the State of Texas.
- B. Consultant shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Consultant'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. Consultant shall be required to submit a copy of the replacement Certificate of Insurance to City at the address provided below within 10 days of any change made by the Consultant or as requested by the City. Consultant shall pay any costs incurred resulting from said changes. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Consultant agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed 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, cancellation, non-renewal, material change or termination 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 cancellation, non-renewal, material change or termination of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant'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 Consultant'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 Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

- G. Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Consultant'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 contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

INDEMNIFICATION

Consultant shall fully indemnify, hold harmless, and defend the City of Corpus Christi and its officials, officers, agents, employees, volunteers, directors and representatives ("Indemnitee") from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and defense costs, caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by Consultant or its agent, consultant under contract or another entity over which Consultant 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 of Corpus Christi or its employees, to the extent of such negligence.

Consultant must, at City's option, defend Indemnitee and with counsel satisfactory to the City Attorney.

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

TERMS AND CONDITIONS TO 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 his authorized representative, 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 authorized representative 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 his designated representative have authority to transmit instructions, receive information and data, 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 which 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 which, 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 his 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. 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.

ARTICLE 7. INVOICES AND PAYMENT

"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.

ARTICLE 8. EXTENT OF AGREEMENT

- 8.1 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 representative of "CITY" and "LAB". If any conflict occurs between these terms and conditions and this AGREEMENT, these terms and conditions are controlling.
- 8.2 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.
- 8.3 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.

COMPLETE PROJECT NAME

Project No. xxxxxx

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	\$15,117	\$0	\$0	\$0	\$15,117	\$0	\$1,000	\$1,000	\$0	\$1,000	\$1,000	\$0	\$1,000	\$1,000	7%
Design Phase	20,818	0	0	0	20,818	1,000	500	1,500	1,000	500	500	0	1,500	1,500	7%
Bid Phase	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a
Report Phase	14,166	0	0	0	14,166	0	0	0	0	0	0	0	0	0	0%
Construction Phase	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a
Subtotal Basic Services	\$50,101	\$0	\$0	\$0	\$50,101	\$750	\$1,500	\$2,500	\$750	\$1,500	\$1,500	\$0	\$2,500	\$2,500	5%
Additional Services:															
Permitting	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	n/a
Warranty Phase	0	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a
Inspection	9,011	0	0	0	9,011	0	0	0	0	0	0	0	0	0	0%
Platting Survey	29,090	0	0	0	29,090	0	0	0	0	0	0	0	0	0	0%
Reporting	1,294	0	0	0	1,294	0	0	0	0	0	0	0	0	0	0%
O & M Manuals	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0%
SCADA	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0%
Subtotal Additional Services	\$39,395	\$0	\$0	\$0	\$39,395	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0%
Summary of Fees															
Basic Services Fees	\$50,101	\$0	\$0	\$0	\$50,101	\$750	\$1,500	\$2,500	\$750	\$1,500	\$1,500	\$0	\$2,500	\$2,500	5%
Additional Services Fees	39,395	0	0	0	39,395	0	0	0	0	0	0	0	0	0	0%
Total of Fees	\$89,496	\$0	\$0	\$0	\$89,496	\$750	\$1,500	\$2,500	\$750	\$1,500	\$1,500	\$0	\$2,500	\$2,500	3%



City of
Corpus
Christi

SUPPLIER NUMBER _____
TO BE ASSIGNED BY CITY
PURCHASING DIVISION

CITY OF CORPUS CHRISTI DISCLOSURE OF INTEREST

City of Corpus Christi Ordinance 17112, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA". See reverse side for Filing Requirements, Certifications and definitions.

COMPANY NAME: Rock Engineering and Testing Laboratory, Inc.

P. O. BOX: N/A

STREET ADDRESS: 6817 Leopard Street **CITY:** Corpus Christi **ZIP:** 78409

FIRM IS: 1. Corporation 2. Partnership 3. Sole Owner
4. Association 5. Other

DISCLOSURE QUESTIONS

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Department (if known)	Job Title	and	City

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Title

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Board, Commission or Committee

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Consultant

Planning Commission

FILING REQUIREMENTS

If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any City official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, you shall disclose that fact in a signed writing to the City official, employee or body that has been requested to act in the matter, unless the interest of the City official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary. [Ethics Ordinance Section 2-349 (d)]

CERTIFICATION

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas as changes occur.

Certifying Person: Curtis A. Rock **Title:** Business Development Manager

(Type or Print)

Signature of Certifying Person:

Curtis Rock

Date:

2-11-15

DEFINITIONS

- a. "Board member." A member of any board, commission, or committee appointed by the City Council of the City of Corpus Christi, Texas.
- b. "Economic benefit". An action that is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof.
- c. "Employee." Any person employed by the City of Corpus Christi, Texas either on a full or part-time basis, but not as an independent contractor.
- d. "Firm." Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- e. "Official." The Mayor, members of the City Council, City Manager, Deputy City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judges of the City of Corpus Christi, Texas.
- f. "Ownership Interest." Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate, or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture or partnership agreements."
- g. "Consultant." Any person or firm, such as engineers and architects, hired by the City of Corpus Christi for the purpose of professional consultation and recommendation.