



SERVICE AGREEMENT NO. 3927
CONTRACT FOR PROFESSIONAL SERVICES

FOR PROJECT 21007 SOLID WASTE FACILITY COMPLEX BUILDING PARKING AND SITE

The City of Corpus Christi, a Texas home rule municipal corporation, P.O. Box 9277, Corpus Christi, Nueces County, Texas 78469-9277 (City) acting through its duly authorized City Manager or Designee (Director) and Stearns, Conrad, and Schmidt consulting engineers, Inc. dba **SCS Engineers** , 3900 Kilroy Airport Way Suite 100, Long Beach CA 90806 (Consultant), hereby agree as follows:

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ARTICLE I – SCOPE OF SERVICES

1.1 City and Consultant agree that the services provided are properly described in the Scope of Services, which is incorporated herein and attached to this Agreement as **Exhibit A**. The Scope of Services shall include all associated services required for Consultant to provide such Services, pursuant to this Agreement, and any and all Services that would normally be required by law or common due diligence in accordance with the standard of care defined in Article XIII of this Agreement. The approved Scope of Services defines the services to be performed by Consultant under this Agreement. Consultant will perform the Services in accordance with **Exhibit A** and with Consultant's response to the Request for Qualifications related to this project, which response is incorporated by reference into this Agreement as if set out here in its entirety.

1.2 Consultant shall follow City Codes and Standards effective at the time of the execution of the contract. At review milestones, the Consultant and City will review the progress of the plans to ensure that City Codes and Standards are followed unless specifically and explicitly excluded from doing so in the approved Scope of Services attached as **Exhibit A**. A request made by either party to deviate from City standards after the contract is executed must be in writing.

1.3 Consultant shall provide labor, equipment and transportation necessary to complete all services agreed to hereunder in a timely manner throughout the term of the Agreement. Persons retained by Consultant to perform work pursuant to this Agreement shall be employees or subconsultants of Consultant. Upon request, Consultant must provide City with a list of all subconsultants that includes the services performed by subconsultant and the % of work performed by subconsultant (in dollars). Changes in Consultant's proposed team as specified in the SOQ or Scope of Services must be agreed to by the City in writing.

1.4 Consultant shall not begin work on any phase/task authorized under this Agreement until they are briefed on the scope of the Project and are notified in writing to proceed. If the scope of the Project changes, either Consultant or City may request a review of the changes with an appropriate adjustment in compensation.

1.5 Consultant will provide monthly status updates (project progress or delays) in the format requested by the City with each monthly invoice.

1.6 For design services, Consultant agrees to render the professional services necessary for the advancement of the Project through Final Completion of the Construction Contract. Consultant acknowledges and accepts its responsibilities, as defined and described in City's General Conditions for Construction Contracts, excerpt attached as **Exhibit D**.

1.6.1 The Consultant agrees to serve as the City's Designer as defined in the General Conditions and will consult and advise the City on matters related to the Consultant's Scope of Services during the performance of the Consultant's services.

1.6.2 The Consultant agrees to prepare plans, specification, bid and contract documents and to analyze bids and evaluate the documents submitted by bidders.

1.6.3 The Consultant agrees to assist the City in evaluating the qualifications of the prospective contractors, subcontractors and suppliers.

1.7 For projects that require subsurface utility investigation:

1.7.1 The Consultant agrees to prepare and submit to the City prior to the 60% submittal a signed and sealed report identifying all utilities within the project area at the Quality Level specified in **Exhibits A** and **A-1**. It is assumed that all utilities will be identified using Quality Level A exploratory excavation unless stated otherwise.

1.7.2 Utilities that should be identified include but are not limited to utilities owned by the City, local franchises, electric companies, communication companies, private pipeline companies and 3rd party owners/operators.

1.8 For project with potential utility conflicts:

1.8.1 The Consultant agrees to coordinate the verification and resolution of all potential utility conflicts.

1.8.2 The Consultant agrees to prepare and submit a monthly Utility Coordination Matrix to the City.

1.9 The Consultant agrees to complete the Scope of Services in accordance with the approved project schedule and budget as defined in **Exhibit A**, including completing the work in phases defined therein.

1.10 The Consultant agrees to conduct all communication through and perform all project-related functions utilizing the City's project management system known as e-Builder. This includes all correspondence, submittals, payment requests and processing, contract amendments and construction phase activities.

ARTICLE II – QUALITY CONTROL

2.1 The Consultant agrees to perform quality assurance-quality control/constructability reviews (QCP Review). The City reserves the right to retain a separate consultant to perform additional QCP services for the City.

2.2 The Consultant will perform QCP Reviews at intervals during the Project to ensure deliverables satisfy applicable industry quality standards and meet the requirements of the Project scope. Based on the findings of the QCP Review, the Consultant must reconcile the Project Scope and the Opinion of Probable Cost (OPC), as needed.

2.3 Final construction documents that do not meet City standards in effect at the time of the execution of this Agreement may be rejected. If final construction documents are found not to be in compliance with this Agreement, Consultant will not be compensated for having to resubmit documents.

ARTICLE III – COMPENSATION

3.1 The Compensation for all services (Basic and Additional) included in this Agreement and in the Scope of Services for this Agreement shall not exceed **\$ 295,571.00**

3.2 The Consultant's fee will be on a lump sum or time and materials (T&M) basis as detailed in **Exhibit A** and will be full and total compensation for all services and for all expenses incurred in performing these services. Consultant shall submit a Rate Schedule with their proposal.

3.3 The Consultant agrees to complete the Scope of Services in accordance with the approved project schedule and budget as defined in **Exhibit A**, including completing the work in phases defined therein.

3.4 The Director of Engineering Services may request the Consultant to undertake additional services or tasks provided that no increase in fee is required. Services or tasks requiring an increase of fee will be mutually agreed and evidenced in writing as an amendment to this contract. Consultant shall notify the City within three (3) days of notice if tasks requested requires an additional fee.

3.5 Monthly invoices will be submitted in accordance with the Payment Request as shown in **Exhibit B**. Each invoice will include the Consultant's estimate of the proportion of the contracted services completed at the time

of billing. For work performed on a T&M Basis, the invoice shall include documentation that shows who worked on the Project, the number of hours that each individual worked, the applicable rates from the Rate Schedule and any reimbursable expenses associated with the work. City will make prompt monthly payments in response to Consultant's monthly invoices in compliance with the Texas Prompt Payment Act.

3.6 Principals may only bill at the agreed hourly rate for Principals (as defined in the Rate Schedule) when acting in that capacity. Principals acting in the capacity of staff must bill at applicable staff rates.

3.7 Consultant certifies that title to all services covered by a Payment Request shall pass to City no later than the time of payment. Consultant further certifies that, upon submittal of a Payment Request, all services for which Payment Requests have been previously issued and payments received from City shall, to the best of Consultant's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of Consultant or other persons or entities making a claim by reason of having provided labor or services relating to this Agreement. **Consultant shall indemnify and hold City harmless from any liens, claims, security interests or encumbrances filed by anyone claiming by, through or under the items covered by payments made by City to Consultant.**

3.8 The final payment due hereunder shall not be paid until all reports, data and documents have been submitted, received, accepted and approved by City. Final billing shall indicate "Final Bill – no additional compensation is due to Consultant."

3.9 City may withhold compensation to such extent as may be necessary, in City's opinion, to protect City from damage or loss for which Consultant is responsible, because of:

3.9.1 delays in the performance of Consultant's work;

3.9.2 failure of Consultant to make payments to subconsultants or vendors for labor, materials or equipment;

3.9.3 damage to City; or

3.9.4 persistent failure by Consultant to carry out the performance of its services in accordance with this Agreement.

3.10 When the above reasons for withholding are removed or remedied by Consultant, compensation of the amount withheld shall be made within 30 days. City shall not be deemed in default by reason of withholding compensation as provided under this Agreement.

3.11 In the event of any dispute(s) between the Parties regarding the amount properly compensable for any phase or as final compensation or regarding any amount that may be withheld by City, Consultant shall be required to make a claim pursuant to and in accordance with the terms of this Agreement and follow the procedures provided herein for the resolution of such dispute. In the event Consultant does not initiate and follow the claims procedures as required by the terms of this Agreement, any such claim shall be waived.

3.12 Request of final compensation by Consultant shall constitute a waiver of claims except those previously made in writing and identified by Consultant as unsettled at the time of final Payment Request.

3.13 All funding obligations of the City under this Agreement are subject to the appropriation of funds in its annual budget. The City may direct the Consultant to suspend work pending receipt and appropriation of funds. The right to suspend work under this provision does not relieve the City of its obligation to make payments in accordance with section 3.5 above for services provided up to the date of suspension.

ARTICLE IV – TIME AND PERIOD OF SERVICE

- 4.1 This Agreement shall be effective upon the signature of the City Manager or designee (Effective Date).
- 4.2 The Consultant agrees to begin work on those authorized Services for this contract upon receipt of the Notice to Proceed from the Contracts and Procurement Department. Work will not begin on any phase or any Additional Services until requested in writing by the Consultant and written authorization is provided by the Director of Engineering Services.
- 4.3 Time is of the essence for this Agreement. Consultant shall perform and complete its obligations under this Agreement in a prompt and continuous manner so as to not delay the Work for the Project, in accordance with the schedules approved by City. The Consultant and City are aware that many factors may affect the Consultant's ability to complete the services to be provided under this agreement. The Consultant must notify the City within ten business days of becoming aware of a factor that may affect the Consultant's ability to complete the services hereunder.
- 4.4 City shall perform its obligations of review and approval in a prompt and continuous manner so as to not delay the project.
- 4.5 This Agreement shall remain in force for a period which may reasonably be required for completion of the Project, including any extra work and any required extensions thereto, unless terminated as provided for in this Agreement. For construction design services, "completion of the Project" refers to acceptance by the City of the construction phase of the Project, i.e., Final Completion.

ARTICLE V – OPINIONS OF COST

- 5.1 The Opinion of Probable Cost (OPC) is computed by the Consultant and includes the total cost for construction of the Project.
- 5.2 The OPC does not include the cost of the land, rights-of-way or other costs which are the responsibility of the City.
- 5.3 Since Consultant has no control over a construction contractor's cost of labor, materials or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant's opinions of probable Project Cost or Construction Cost provided herein are to be made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as a design professional familiar with the construction industry, but Consultant cannot and does not guarantee proposals, bids or the construction cost shall not vary from the OPC prepared by Consultant.

ARTICLE VI – INSURANCE REQUIREMENTS

- 6.1 Consultant must not commence work under this Agreement 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.
- 6.2 Insurance Requirements are shown in **EXHIBIT C**.

ARTICLE VII – INDEMNIFICATION

Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials,

officers, agents, employees, 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 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 or its employees, to the extent of such negligence.

Consultant 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 Indemnitee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnitee, the Consultant shall reimburse the City's reasonable attorney's fees in proportion to the Consultant's liability.

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.

ARTICLE VIII – TERMINATION OF AGREEMENT

8.1 By Consultant:

8.1.1 The City reserves the right to suspend this Agreement at the end of any phase for the convenience of the City by issuing a written and signed Notice of Suspension. The Consultant may terminate this Agreement for convenience in the event such suspension extends for a period beyond 120 calendar days by delivering a Notice of Termination to the City.

8.1.2 The Consultant must follow the Termination Procedure outlined in this Agreement.

8.2 By City:

8.2.1 The City may terminate this agreement for convenience upon seven days written notice to the Consultant at the address of record.

8.2.2 The City may terminate this agreement for cause upon ten days written notice to the Consultant. If Consultant begins, within three days of receipt of such notice, to correct its failure and proceeds to diligently cure such failure within the ten days, the agreement will not terminate. If the Consultant again fails to perform under this agreement, the City may terminate the agreement for cause upon seven days written notice to the Consultant with no additional cure period. If the City terminates for cause, the City may reject any and all proposals submitted by Consultant for up to two years.

8.3 Termination Procedure

8.3.1 Upon receipt of a Notice of Termination and prior to the effective date of termination, unless the notice otherwise directs or Consultant takes action to cure a failure to perform under the cure period, Consultant shall immediately begin the phase-out and discontinuance of all services in connection with the performance of this Agreement. Within 30 calendar days after receipt of the Notice of Termination, unless Consultant has successfully cured a failure to perform, Consultant shall submit a statement

showing in detail the services performed under this Agreement prior to the effective date of termination. City retains the option to grant an extension to the time period for submittal of such statement.

8.3.2 Consultant shall submit all completed and/or partially completed work under this Agreement, including but not limited to specifications, designs, plans and exhibits.

8.3.3 Upon receipt of documents described in the Termination Procedure and absent any reason why City may be compelled to withhold fees, Consultant will be compensated for its services based upon a Time & Materials calculation or Consultant and City's estimate of the proportion of the total services actually completed at the time of termination. There will be no compensation for anticipated profits on services not completed.

8.3.4 Consultant acknowledges that City is a public entity and has a duty to document the expenditure of public funds. The failure of Consultant to comply with the submittal of the statement and documents, as required above, shall constitute a waiver by Consultant of any and all rights or claims to payment for services performed under this Agreement.

ARTICLE IX – RIGHT OF REVIEW AND AUDIT

9.1 Consultant grants City, or its designees, the right to audit, examine or inspect, at City's election, all of Consultant's records relating to the performance of the Work under this Agreement, during the term of this Agreement and retention period herein. The audit, examination or inspection may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Consultant agrees to retain its records for a minimum of four years following termination of the Agreement, unless there is an ongoing dispute under this Agreement, then such retention period shall extend until final resolution of the dispute.

9.2 Consultant's records include any and all information, materials and data of every kind and character generated as a result of and relevant to the Work under this Agreement (Consultant's Records). Examples include billings, books, general ledger, cost ledgers, invoices, production sheets, documents, correspondence, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, and any and all other agreements, sources of information and matters that may, in City's and Consultant's reasonable judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.

9.3 City agrees that it shall exercise the right to audit, examine or inspect Consultant's Records only during Consultant's regular business hours. Consultant agrees to allow City's designee access to all of Consultant's Records, Consultant's facilities and Consultant's current employees, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Consultant also agrees to provide adequate and appropriate work space necessary to City or its designees to conduct such audits, inspections or examinations.

9.4 Consultant shall include this audit clause in any subcontractor, supplier or vendor contract.

ARTICLE X – OWNER REMEDIES

10.1 The City and Consultant agree that in the event the City suffers actual damages, the City may elect to pursue its actual damages and any other remedy allowed by law. This includes but is not limited to:

10.1.1 Failure of the Consultant to make adequate progress and endanger timely and successful completion of the Project, which includes failure of subconsultants to meet contractual obligations;

10.1.2 Failure of the Consultant to design in compliance with the laws of the City, State and/or federal governments, such that subsequent compliance costs exceed expenditures that would have been involved had services been properly executed by the Consultant.

10.1.3 Losses are incurred because of errors and/or omissions in the design, working drawings, specifications or other documents prepared by the Consultant to the extent that the financial losses are greater than the City would have originally paid had there not been errors and/or omissions in the documents.

10.2 When the City incurs non-value added work costs for change orders due to design errors and/or omissions, the City will send the Consultant a letter that includes:

- (1) Summary of facts with supporting documentation;
- (2) Instructions for Consultant to revise design documents, if appropriate, at Consultant's expense;
- (3) Calculation of non-value added work costs incurred by the City; and
- (4) Deadline for Consultant's response.

10.3 The Consultant may be required to revise bid documents and re-advertise the Project at the Consultant's sole cost if, in the City's judgment, the Consultant generates excessive addenda, either in terms of the nature of the revision or the actual number of changes due to the Consultant's errors or omissions.

10.4 The City may withhold or nullify the whole or part of any payment as detailed in Article III.

ARTICLE XI – CONSULTANT REMEDIES

11.1 If Consultant is delayed due to uncontrollable circumstances, such as strikes, riots, acts of God, national emergency, epidemics, acts of the public enemy, governmental restrictions, laws or regulations or any other causes beyond Consultant's and City's reasonable control, an extension of the Project schedule in an amount equal to the time lost due to such delay shall be Consultant's sole and exclusive remedy. The revised schedule should be approved in writing with a documented reason for granting the extension.

11.2 The City agrees that the Consultant is not responsible for damages arising from any cause beyond Consultant's reasonable control.

11.3 If Consultant requests a remedy for a condition not specified above, Consultant must file a Claim as provided in this Agreement.

ARTICLE XII – CLAIMS AND DISPUTE RESOLUTION

12.1 Filing of Claims

12.1.1 Claims arising from the circumstances identified in this Agreement or other occurrences or events, shall be made by Written Notice delivered by the party making the Claim to the other party within 21 calendar days after the start of the occurrence or event giving rise to the Claim and stating the general nature of the Claim.

12.1.2 Every Claim of Consultant, whether for additional compensation, additional time or other relief, shall be signed and sworn to by a person authorized to bind the Consultant by his/her signature, verifying the truth and accuracy of the Claim.

12.1.3 The responsibility to substantiate a claim rests with the party making the Claim.

12.1.4 Within 30 calendar days of receipt of notice and supporting documentation, City will meet to discuss the request, after which an offer of settlement or a notification of no settlement offer will be sent to Consultant. If Consultant is not satisfied with the proposal presented, Consultant will have 30 calendar days in which to (i) submit additional supporting data requested by the City, (ii) modify the initial request for remedy or (iii) request Mediation.

12.1.5 Pending final resolution of a claim, except as otherwise agreed in writing, Consultant shall proceed diligently with performance of the Agreement, and City shall continue to make payments in accordance with this Agreement.

12.2 Mediation

12.2.1 All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

12.2.2 Before invoking mediation, the Parties agree that they shall first try to resolve any dispute arising out of or related to this Agreement through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects. This step shall be a condition precedent to the use of mediation. If the parties' senior management representatives cannot resolve the dispute within 30 calendar days after a Party delivers a written notice of such dispute, then the Parties shall proceed with the mediation process contained herein.

12.2.2.1 In the event that City or Consultant shall contend that the other has committed a material breach of this Agreement, the Party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

12.2.2.2 Request for mediation shall be in writing, and shall request that the mediation commence no less than 30 or more than 90 calendar days following the date of the request, except upon agreement of both parties.

12.2.2.3 In the event City and Consultant are unable to agree to a date for the mediation or to the identity of the mediator or mediators within 30 calendar days of the request for mediation, all conditions precedent in this Article shall be deemed to have occurred.

12.2.2.4 The parties shall share the mediator's fee. Venue for mediation shall be Nueces County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. No provision of this Agreement shall waive any immunity or defense. No provision of this Agreement is a consent to suit.

12.3 In calculating the amount of any Claim or any measure of damages for breach of contract, the following standards shall apply both to claims by Consultant and to claims by City:

12.3.1 In no event shall either Party be liable, whether in contract or tort or otherwise, to the other Party for loss of profits, delay damages or for any special incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever;

12.3.2 Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong for which the other Party is claimed to be responsible.

12.4 In case of litigation between the parties, Consultant and City agree that neither party shall be responsible for payment of attorney's fees pursuant to any law or other provision for payment of attorneys' fees. Both Parties expressly waive any claim to attorney's fees should litigation result from any dispute between the parties to this

Agreement.

12.5 In case of litigation between the parties, Consultant and City agree that they have knowingly waived and do hereby waive the right to trial by jury and have instead agreed, in the event of any litigation arising out of or connected to this Agreement, to proceed with a trial before the court, unless both parties subsequently agree otherwise in writing.

12.6 No Waiver of Governmental Immunity. **This Agreement is to perform a governmental function solely for the public benefit. Nothing in this Agreement shall be construed to waive City's governmental immunity from lawsuit, which immunity is expressly retained to the extent it is not clearly and unambiguously waived by state law.**

ARTICLE XIII – MISCELLANEOUS PROVISIONS

13.1 Assignability. Neither party will assign, transfer or delegate any of its obligations or duties under this Agreement contract to any other person and/or party without the prior written consent of the other party, except for routine duties delegated to personnel of the Consultant staff. This includes subcontracts entered into for services under this Agreement. If the Consultant is a partnership or joint venture, then in the event of the termination of the partnership or joint venture, this contract will inure to the individual benefit of such partner or partners as the City may designate. No part of the Consultant fee may be assigned in advance of receipt by the Consultant without written consent of the City.

The City will not pay the fees of expert or technical assistance and consultants unless such employment, including the rate of compensation, has been approved in writing by the City.

13.2 Provisions Required by Law. Each applicable provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were physically included herein.

13.3 Public Information. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Consultant agrees that the contract can be terminated if the Consultant knowingly or intentionally fails to comply with a requirement of that subchapter.

13.4 Standard of Care. Services provided by Consultant under this Agreement shall be performed with the professional skill and care ordinarily provided by competent licensed professionals practicing under the same or similar circumstances and professional license; and performed as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

13.5 Licensing. Consultant shall be represented by personnel with appropriate licensure, registration and/or certification(s) at meetings of any official nature concerning the Project, including scope meetings, review meetings, pre-bid meetings and preconstruction meetings.

13.6 Independent Contractor. The relationship between the City and Consultant under this Agreement shall be that of independent contractor. City may explain to Consultant the City's goals and objectives in regard to the services to be performed by Consultant, but the City shall not direct Consultant on how or in what manner these goals and objectives are to be met.

13.7 Entire Agreement. This Agreement represents the entire and integrated Agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both the City and Consultant.

13.8 No Third Party Beneficiaries. Nothing in this Agreement can be construed to create rights in any entity other than the City and Consultant. Neither the City nor Consultant intends to create third party beneficiaries by entering into this Agreement.

13.9 Disclosure of Interest. Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form.

13.10 Certificate of Interested Parties. For contracts greater than \$50,000, Consultant agrees to comply with Texas Government Code section 2252.908 and complete Form 1295 Certificate of Interested Parties as part of this agreement. Form 1295 must be electronically filed with the Texas Ethics Commission at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The form must then be printed, signed and filed with the City. For more information, please review the Texas Ethics Commission Rules at <https://www.ethics.state.tx.us/legal/ch46.html>.

13.11 Conflict of Interest. Consultant agrees, in compliance with Chapter 176 of the Texas Local Government Code, to complete and file Form CIQ with the City Secretary's Office. 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>.

13.11 Title VI Assurance. The Consultant shall prohibit discrimination in employment based upon race, color, religion, national origin, gender, disability or age.

13.12 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 lies exclusively in Nueces County, Texas. Cases must be filed and tried in Nueces County and cannot be removed from Nueces County.

13.13 Severability. If, for any reason, any one or more Articles and/or paragraphs of this Agreement are held invalid or unenforceable, such invalidity or unenforceability shall not affect, impair or invalidate the remaining Articles and/or paragraphs of this Agreement but shall be confined in its effect to the specific Article, sentences, clauses or parts of this Agreement held invalid or unenforceable, and the invalidity or unenforceability of any Article, sentence, clause or parts of this Agreement, in any one or more instance, shall not affect or prejudice in any way the validity of this Agreement in any other instance.

13.14 Conflict Resolution Between Documents. Consultant hereby agrees and acknowledges if anything contained in the Consultant-prepared **Exhibit A**, Consultant's Scope of Services, the Consultant's response to the Request for Qualifications related to this project, or in any other document prepared by Consultant and included herein, is in conflict with Articles I-XIII of this Agreement (Articles), the Articles shall take precedence and control to resolve said conflict.

[Signature Page Follows]

October 1, 2021 revised October 8, 2021
Proposal No. 160008221

Ms. Jennifer Rodriguez
1201 Leopard St.
First Floor
Corpus Christi, TX 78401

Subject: Revised Proposed Scope of Services
Phase 1 - Transfer Station Permitting and Conceptual Facility Design Services
City Project Number 21007 – Solid Waste Facility Complex
Bond 2020 Facilities and Parks & 2021 CIP Projects
RFQ No. 3409

Dear Ms. Rodriguez:

Attached is our revised proposal for the subject RFQ for the Solid Waste Facility Complex. Per our discussions with City staff, this scope is the first phase of the overall work and includes the critical path items of the solid waste permitting for the transfer station and the conceptual design of the overall facility.

The complete project will involve the final design for bidding and construction purposes, bid support services, and construction-phase services. At this time, however, the conceptual layout must be prepared and approved as part of Phase 1 so that a scope for the detailed design, bid and construction-phase services can be reliably developed to reflect the level of effort needed. Also, as discussed the solid waste permitting and approval for the transfer station is a long-lead item that should be commenced early in the overall process. The transfer station permitting does not require a detailed transfer station layout and, as such, is included with our Phase 1 services as well.

We look forward to working together on this important project for the City. Please do not hesitate to contact Jeff Reed, P.E., Vice President, at the address below, at (817) 358-6159, or at JeffReed@SCSEngineers.com with any questions or if you require any additional information. Jeff will serve as the SCS team's primary contact with the City for these services.

Sincerely,



Michael A. Kalish, P.E., LEED AP
Vice President
SCS Engineers
TBPE #F-3407



Jeffrey K. Reed, P.E.
Vice President/Texas Engineering Offices Director
SCS Engineers

Attachment

Solid Waste Facility Complex- Prof. Engineering Services
Bond 2020 Facilities/Parks & 2021 CIP Projects – RFQ 3409

Proposal for Preliminary Phase – Phase 1 Transfer Station Permitting and Conceptual Facility Design Services

City Project Number 21007 – Solid Waste Facility
Complex



CITY OF CORPUS CHRISTI

P. O. Box 9277

Corpus Christi, Texas 78469-9277

(361) 826-3500



SCS ENGINEERS

Proposal No. 160008221 | May 2021
Revision 2 October 2021

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Corpus Christi, Texas 78411
(361) 814-9900

12651 Briar Forest Drive, Suite 205
Houston, Texas 77077
(281) 293-8494

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Appendix A – Fee Schedule

BACKGROUND

The City of Corpus Christi Engineering and Solid Waste Services Department have a vision of creating a unified campus (Facility) to serve the needs of the Solid Waste Department. This Facility, to be located on an 89.64-acre (per land title survey provided) property adjacent to the J.C. Elliott Landfill/Transfer Station, will include: a composting facility, a transfer station, an administration building, and a fleet services facility that will include both parking infrastructure and a fueling facility. A composting operation has been designated for the western portion of the property, and development of that operation is being accomplished through a separate project. This overall project, as identified in the RFQ 3409, will include the remaining three components and will occupy portions of the eastern side of the property.



Mock Layout of Solid Waste Facilities
(from 8/18/20 Solid Waste Services Presentation)

Each of these three components is an important part of the City's vision for the new Solid Waste Department complex and each will bring its own challenges to permitting, design and development. It will be important to determine the best fit for these facilities within the useable limits of the property as well as to optimize the functionality of all of the complementary infrastructure and operations.

There will be many siting criteria to take into consideration when determining the ideal layout for the Facility. Some of these are: traffic flow, including attention to public accessibility; floodplain issues; Texas Department of Transportation (TxDOT) driveway location restrictions; visual screening; stormwater

detention requirements; and Naval Air Station Corpus Christi Joint Land Use Study considerations; among others. The SCS Project Team has extensive experience in leading clients through the process of addressing various site restrictions posed by a specific location in order to bring a project's vision to reality. An additional value provided by us is that Hanson, as part of the SCS Team, will also be involved with the composting facility project and will be performing a constraints analysis on the entire property to examine many of the concerns mentioned above.

This proposal covers the first portion of our overall services for this work, which we have labelled as Preliminary Phase – Phase 1. For this portion of the work we will prepare a transfer station permit or registration application for review and approval from the Texas Commission on Environmental Quality (TCEQ). A second task of this phase is included to prepare the conceptual layout of the Facility considering: the entrance location, traffic considerations, truck queuing at the gate, scale details, the conceptual building layout for the transfer station/administration building, fueling area, maintenance area for hauling vehicles, and potential site obstacles including: floodplains, wetlands, easements, pipelines, Cabaniss Airfield proximity concerns, and powerlines.

The ultimate Scope of Services authorized under this contract will encompass not only the Scope of Services described as Phase 1 services as follows, but will also eventually encompass detailed design of the transfer station, administrative building, maintenance and fueling areas, truck parking, entrance and exits to the property for construction, bid assistance and construction-phase services as part of Phase 2. At this time, however, the conceptual layout must be prepared and approved as part of Phase

1 so that a scope for the Phase 2 services can be reliably developed to reflect the level of effort needed. As we approach completion of Phase 1, as described herein, we will provide a Scope of Services, fee estimate, project schedule, and list of deliverables associated with Phase 2 for review and approval by the City.

TASK 1 – NEW TRANSFER STATION APPLICATION

Task 1 of the Phase 1 services is for the preparation of a Type V permit or registration application for a new Municipal Solid Waste (MSW) transfer station for the City's submittal to TCEQ depending on the permitting strategy developed and discussed with the TCEQ. Whether the application is a permit or a registration, the components within either application described in this subtask are the same.

The permitting mechanism is an important consideration in any new or expanded existing MSW facility, whether landfill or transfer station. For a transfer station, a new facility can be registered or permitted. The single most significant difference between a registration and a permit is a registration is not subject to a contested case hearing. A contested case hearing can jeopardize a viable project or extend the time from months to years for TCEQ approval. In many instances, a registration can provide the shortest pathway to regulatory approval. A new transfer station can be registered if it meets certain criteria, such as being located within the permit boundary of an existing landfill under 30 TAC 330.9(b)(4).

Adjacent to the new transfer station property is the existing J.C. Elliott Landfill. In order to take advantage of the above registration criteria, the landfill permit boundary would need to be expanded to incorporate the land upon which the new transfer station will be located. Expanding the landfill permit boundary would require a notice modification of the landfill permit under 30 TAC 305.70(k)(7).

It is recommended a meeting with TCEQ at the outset of the project be conducted to discuss the above plan. If the TCEQ concurs, the landfill permit will require a modification in addition to the new transfer station registration. If this strategy is not employed, the permit option exists. The new transfer station application would be for a permit. This would potentially subject the application to a contested case hearing process.

Lastly, there is no viable mechanism to amend the existing transfer station. Since this is a new building in a new location on different property, the TCEQ would consider this a new facility and it will be assigned a new permit or registration number.

This application will primarily incorporate the acceptance of municipal solid waste, including solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. MSW transfer stations may also accept industrial solid waste, defined as solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operation. This task assumes that regulated hazardous wastes and radioactive wastes will not be accepted except for hazardous wastes from conditionally exempt small quantity generators, and that special wastes may be accepted.

The conceptual layout for the entrance, traffic patterns and transfer station building for use in the application will be developed in Task 2.

The application will include the following:

- **Submittal Letter**

- **TCEQ Core Data Forms**
- **TCEQ Type V Facility Checklist**
- **TCEQ Part I Form**
 - Adjacent landowner list and map (1/4-mile radius)
- **Part I/II in accordance with 30 TAC 330.59 and 330.61 (Parts I and II are typically combined):**
 - Supplemental Technical Report
 - Existing Conditions Summary
 - Waste Acceptance Plan
 - Impact on Surrounding Area
 - Transportation Study (desktop road volume study, assumes no roadway upgrades or other design and notifications necessary)
 - Geology and Soils Statement (no borings or studies proposed)
 - Groundwater and Surface Water Study (conduct regional based desktop search for hydrogeologic and surface water information, no additional studies proposed)
 - Abandoned Oil and Water Wells Study (conduct desktop search for oil and water well information)
 - Floodplains and Wetlands Statement (Proposal assumes no Floodplain; Wetlands investigation provided by others under separate contract)
 - Endangered or Threatened Species (provided by others under separate contract)
 - Historical Commission Review (a letter request for review only, no studies proposed)
 - Council of Governments and Local Government Review Request
 - Location Restrictions (Subchapter M)
 - Easements, Buffer Zones (50 feet) and Rights-of-Way
 - Airport Safety
 - Floodplains
 - Groundwater (Edwards Aquifer, Not Applicable)
 - Endangered or Threatened Species
 - Wetlands
 - Fault Areas
 - Seismic Impact Zones
 - Unstable Areas
 - Coastal Areas
 - Type I and IV Landfill Permit Issuance Prohibited (Not Applicable)
 - Legal Description and drawing (legal description and drawing for TS permit boundary provided by others under separate contract)
 - Applicant's Statement
 - Property Owners Affidavit
 - Applicant's Appointment and Legal Authority
 - Engineer's Appointment
 - Evidence of Competency
 - Adjacent and Potentially Affected Landowners
 - Figures, Including
 - General Location Map
 - County Highway Map
 - Topographic Map
 - Land Use Map
 - Aerial Photograph (obtained from Google Earth)
 - Landowner Map
 - Airport Map

- Floodplain Map
- Geology Map
- Seismic Impact Zone Map
- Facility Layout Maps (Conceptual level layouts developed in Task 2)
- Permit Related Correspondence, Including
 - TxDOT
 - Texas Historical Commission
 - TCEQ Water Quality
 - Federal Aviation Agency
 - Local Council of Government
 - U.S. Corps of Engineers
 - Texas Parks and Wildlife
 - U.S. Fish and Wildlife
- **Part III in accordance with 30 TAC 330.63:**
 - Site Development Plan:
 - Introduction
 - Solid Waste Data
 - Facility Access
 - Facility Waste Movement and Design
 - Facility Sanitation
 - Water Pollution Control
 - Endangered Species Protection
 - Surface Water Drainage Report
 - Flood Control Analyses
 - Waste Management Unit Design
 - Geology Report (not required per TCEQ)
 - Groundwater Sampling and Analysis Plan (not required per TCEQ)
 - Landfill Gas Management Plan (not required per TCEQ)
 - Closure Plan
 - Post-Closure Plan (not required per TCEQ)
 - Cost Estimate for Closure and Post-Closure Care (Subchapter L)
 - Attachment 1, Site Layout Plan:**
 - Facility Design Features (2 drawings)
 - Schematics with Flow Chart
 - Attachment 2, Surface Water Drainage Plan**
 - Attachment 3, Closure Plan**
 - Attachment 4, Cost Estimate for Closure**
- **Part IV:**
 - Site Operating Plan**
 - Prepare Operating Plan to conform to 30 TAC 330 Subchapter E, Operational Standards for Municipal Solid Waste Storage and Processing Units regulations, including:
 - Waste Acceptance and Analysis
 - Facility Generated Waste
 - Contaminated Water Management
 - Storage Requirements
 - Approved Containers
 - Citizen's Collection Stations
 - Requirements for Stationary Compactors
 - Pre-Operation Notice

- Recordkeeping and Reporting Requirements
- Fire Protection
- Access Control
- Unloading of Waste
- Spill Prevention Control
- Operating Hours
- Facility Sign
- Control of Windblown Material and Litter
- Materials Along the Route to the Facility
- Facility Access Roads
- Noise Pollution and Visual Screening
- Overloading and Breakdown
- Sanitation
- Ventilation and Air Pollution Control
- Health and Safety
- Employee Sanitation Facilities

SCS will require a site boundary description and topographic map for the entire property. We understand this will be prepared separately by others under a separate contract. In addition, we'll require a metes and bounds description and boundary map for the transfer station permit or registration boundary signed and sealed by a Registered Land Surveyor. We understand this will be prepared separately by others under a separate contract. The transfer station vehicle routing, and building layout, design and details will be developed in close collaboration with the City. The application will include schematic, conceptual plans and details.

We will provide draft applications for review at two milestones; one at 60% and one at 90%. For each draft, we will prepare 2 draft copies of the new transfer station application package for the City's review and comment. Upon receipt of the City's comments to the 90% draft, we will finalize the application and submit 7 copies of the permit application: 2 copies for the City, 4 copies for the TCEQ, and 1 copy for the City to locate at a publicly accessible location for review and copying by the public (i.e.: a local library or City Hall).

Our fee includes one in-person or Zoom meeting with the City and TCEQ at initiation of the project to inform TCEQ of the project and discuss strategy for permitting/registering the new transfer station. Additionally, we have also included three meetings in this subtask, one at the beginning of this task as a kickoff (in conjunction with the Task 2 services), one at 60% and another at or near the 90% complete stage.

We will prepare a scanned .pdf file of the permit application and will post the files on SCS's State Required Posting web site.

Subtask 1.1 Deliverables:

1. 60 and 90% Draft Permit Applications for review by the City
2. Permit Application for Administrative Review by TCEQ
3. Permit Application for Technical Review by TCEQ

TASK 2 - CONCEPTUAL FACILITY LAYOUTS

Task 2 covers the preparation of the conceptual facility layouts. We have three subconsultants that will be working with us on this project. Hanson will provide civil design services, SNT will be performing architectural services for the office building, and Tait will provide the layout details regarding the fueling facility.

Hanson will work in collaboration with SCS, the City, and the other subconsultants to develop a conceptual facility layout that incorporates each of the components that will be a part of the complex, including an enclosed transfer station, an administration building, and a fleet services facility that includes parking infrastructure, minor vehicle maintenance capabilities, and a fueling station for gasoline, diesel and CNG fuels. Hanson will prepare two draft conceptual layouts, and prepare a final conceptual layout based upon the preferred draft option. Hanson will prepare a preliminary stormwater management plan for the final conceptual layout that will address hydraulics and hydrology, stormwater quality, and stormwater detention. Hanson will also prepare a basic cut/fill analysis of the proposed site incorporating the proposed building components and stormwater management channels and ponds.

SNT will provide architectural services in support of the conceptual facility and will establish the administration building's organizational layout and room adjacencies. The intent of the administration building design services will be to establish public spaces, work group zones, building access points and the type of support spaces needed for an efficient solution to meet the City's needs. Coordination with the adjacent transfer station building will be made.

Tait will serve as the fueling systems designer for the Solid Waste Facility Complex conceptual design. They will collaborate with the City and SCS team members to develop conceptual designs for a fueling facility that will include liquid fuels (gasoline, diesel) and CNG. Liquid fueling facility considerations will include AST versus UST for fuel storage, storage tank capacity, dispenser locations and configurations, and canopy locations and configurations, among others. Tait will utilize a subconsultant, Morris & Associates, to provide the CNG conceptual design.

Each of the subconsultants will work under the direction of SCS. This work will be performed as further described in the subtasks below.

SUBTASK 2.1 - PROJECT KICKOFF, DATA AND OPERATIONS REVIEW

For this second task, we will start the conceptual layout design by attending a project kickoff meeting with the City's project team and relevant stakeholders (concurrently with the transfer station permitting kickoff meeting). During this meeting the variety of services that are desired to be incorporated into the concept plan will be established. Prior to and following this meeting a request for data and reports that will be used to evaluate and size the desired facilities will be provided. In conjunction with this meeting, a site evaluation will be performed to obtain input on planned operations and desired improvements. At the completion of field activities, two conceptual plans will be developed locating the various uses within the Facility.

SUBTASK 2.2 - CONCEPT PLAN DEVELOPMENT

The development of both conceptual plans will take into account the information we obtain from site personnel, our observations of site operations, and the information/options presented in the project kickoff meeting. Up to two different concepts will be developed for the following Facility uses:

- Transfer station;
- Compost facility;
- Recycling/public drop-off facility;
- Maintenance shop;
- Administrative building;
- Scales and scalehouse;
- Fueling facility (both compressed natural gas and diesel); and
- Employee and equipment parking.

As an example for this portion of our work, a conceptual Administrative building layout will be prepared for review and comment by the City. Based on initial discussions on staff occupancy and amenities, the conceptual layout will establish the building's organizational layout and adjacencies desired in a final design. An approved concept layout will provide direction to the design team for developing a detailed design in Phase 2 of this overall project. The administration building design will take into consideration daily and post-event operations supporting administrative and field operations staff. Support spaces will include typical office environment spaces conducive for an efficient yet flexible design for future modifications as building use may change for future services needed by the Solid Waste Department.

We understand that multiple review sessions of the draft concept plans will be necessary to narrow down the project to a final concept plan. Based on our conversations, we have assumed that two draft plans will be provided for review and comment. We will make the appropriate revisions and narrow these down to a single site concept. Once the final concept has been developed, a summary report that documents this concept will be prepared.

Deliverables:

1. Draft Conceptual Layout(s) – up to two concepts
2. Final Conceptual Layout

SUBTASK 2.3 - SUMMARY REPORT

The summary report, which will be prepared for the final conceptual layout, will establish the basis-of-design. This report will document the different areas of work, the basic assumptions of each feature, and the decisions that were made in the previous tasks. This report will be used in Phase 2 of the overall project to develop the construction/bidding documents and will be updated throughout the project as decisions are made and changes to the design occur.

Deliverable:

1. Summary Report for Final Conceptual Layout

TASK 3 – ADDITIONAL SERVICES TASKS

The following additional services tasks must be authorized by the City prior to the work commencement. These Task 3 subtasks, if separately approved by the City, are proposed to be conducted and billed on a time and material basis.

SUBTASK 3.1 – ADDRESS TCEQ ADMINISTRATIVE AND TECHNICAL REVIEW COMMENTS REGARDING NEW TRANSFER STATION APPLICATION

This subtask includes the fee for addressing TCEQ administrative and technical Notice of Deficiency (NOD) review comments on the new transfer station application. This includes preparing a scanned .pdf file of any revisions or responses regarding the application and posting the file on SCS's State Required Posting website. *Since the complexity and scope of the TCEQ's comments are difficult to estimate, staff time is included in this subtask for typical level of comments.*

Subtask 3.1 Deliverables:

1. Prepare an Administrative Review comment response(s) letter and application revisions to TCEQ.
2. Prepare a Technical Review comment response(s) letter and application revisions to TCEQ.

SUBTASK 3.2 – TCEQ NEWSPAPER NOTICES ASSISTANCE

This subtask is included to assist the City with their preparation of, publishing of, and certification of newspaper notices of the administrative and technical approval of the new transfer station application. When TCEQ issues their administrative approval of the permit application, they will require the City to publish a notice in the local newspaper. This may include an alternative language publication. Additionally, a second publication will be required when TCEQ issues their technical approval of the permit application. Our proposed fee assumes that any fees for newspaper publications will be paid directly by the City. *SCS understands the City will complete this subtask, but SCS has included staff time in this proposal for minor assistance.*

Subtask 3.2 Deliverables:

1. Assist City with their preparation of an Administratively Complete notice package. Provide Notice language to City for publication in newspapers
2. Assist City with their preparation of a Technically Complete notice package. Provide notice language to City for publication in newspapers

SUBTASK 3.3 – PUBLIC AND COG MEETINGS ASSISTANCE

This task is for assisting the City with the preparation of a potential public meeting associated with the project. During the pandemic, public meetings have been held over Zoom calls versus in person. It is unknown at this time which would be required by the TCEQ. *Since the nature of the issues are difficult to estimate, this subtask includes limited staff time in this proposal for presentation assistance.* If needed, we have assumed one team member will provide backing support to the City at a public meeting.

In addition, a presentation regarding the project is sometimes requested by the Council of Governments (or subcommittees thereof) for a transfer station permit application. *This subtask includes limited staff time for presentation assistance and attendance.* If needed, we have assumed

one team member will provide backing support to the City at a COG meeting.

Subtask 3.3 Deliverables:

1. Assist City with public meeting and COG presentation
2. Attend public meeting and COG meeting

SCHEDULE AND FEE

We will initiate work immediately upon receipt of notice-to-proceed from the City. Our first meetings will be scheduled to conduct a site visit within the first 2 weeks of notice-to-proceed depending on the City’s availability. A proposed schedule for the work for key tasks is proposed below in bullet format followed by a graph.

- Task 1 can be completed within 9 months from notice-to-proceed pending completion of services from others, assuming a Floodplain Analysis, TxDOT driveway permit and traffic analysis and/or a wetlands permit is not needed.
- Additional Services Subtasks 3.1 through 3.3 are anticipated to be completed as needed, but that they would follow the completion of Task 1.
- The initial draft conceptual layout(s) will be submitted within 6 weeks of the project kickoff meeting. Upon selection of the conceptual layout of the entire Facility, the conceptual transfer station layout and building plan will be incorporated in the Task 1 new TS application. Task 2 is anticipated to be completed within 3 weeks of receipt of final City comments on the draft conceptual plans and the receipt of all information needed to refine the information into one, final conceptual layout.

		MONTHS																	
TASK		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
1. New Transfer Station Application		■	■	■	■	■	■	■	■	■									
2. Conceptual Facility Layouts	Initial Draft	■	■																
	City Comments			■	■	■													
	Final Layout					■	■	■											
3. Additional Services (Tasks 3.1-3.3)											■	■	■	■	■	■	■	■	■

Regarding our proposed fees, Table 1 below shows the proposed fees for the base tasks presented in this proposal. Table 2 shows the potential additional services for City authorization as the need arises. All tasks and subtasks are proposed on a time-and-materials, not-to-exceed fee basis. A copy of our proposed fee schedule is included in Appendix A.

Table 1 - Preliminary Phase - Phase 1 Proposed Fees by Task – Base Services

Task #	Task Name	2021 Fee	2022 Fee
1	New Transfer Station Application	\$32,500	\$97,590
2	Conceptual Facility Layouts	\$106,881	0
Total		\$139,381.00	\$97,590.00

Table 2 - Preliminary Phase - Phase 1 Proposed Fees by Task – Potential Additional Services

Task #	Task Name	2021 Fee	2022 Fee
3.1	Address TCEQ Comments Regarding New TS Application	0	\$41,150
3.2	TCEQ Newspaper Notices Assistance	0	\$4,320
3.3	Public and COG Meetings Assistance	0	\$13,130
Total		\$0.00	\$58,600.00

Total Project Fee (Base and Additional Services) - \$295,571

ASSUMPTIONS

We have developed the Scope of Work based on our understanding of the project. The following is a list of assumptions used in the development of the scope of work, schedule and fees for the Phase 1 services:

- Survey Services. Others will provide a ground topographic survey with a map, boundary survey, and metes-and-bounds description for the transfer station permit/registration boundary, an adjacent landowner map and list within ¼ mile of the permit boundary, and drainage, pipelines, and utility easement map within the permit/registration boundary. Others will prepare the ground survey and prepare a topographic map in AutoCad format. Others will utilize a registered survey firm in Texas for this work that has significant experience completing these surveys for solid waste facilities, who will prepare the other surveys and maps. These drawings and lists will need to be included in the permit application. This scope of work is not included in this scope of work but can be included in the next phase of services for this contract.
- Traffic and Access Road Assessment. Traffic study proposed for Task 1 is for transfer station permitting/registration only and is a limited traffic count study. Road upgrades or additional traffic studies, such as Traffic Impact Analyses, and driveway permits are not included in this scope of work but can be included in the next phase of services for this contract. In addition, any traffic study needed for other entrances/exits to property, unrelated to the transfer station, is not included in this scope of work but can be included in the next phase of services for this contract.
- Wetlands Permitting. Any scope of services related to wetlands is provided by others. However, if needed, SCS could provide a fee estimate for wetlands and waters of the US delineation, coordination with USACE and meetings with USACE, preparation of an individual permit or assist the City with mitigation. If required by USACE, we also can prepare a pre-construction notification (PCN) for submittal of a Section 404 Nationwide Permit application to the USACE to be included in the next phase of services.
- Endangered Species. Permitting and mitigation of potential endangered species located on the property is not included in this scope of services. However, if requested by the City, SCS could provide a fee estimate for endangered species habitat survey, agency coordination with Texas Parks and Wildlife and US Fish and Wildlife Service.
- Bird studies are not included in this phase of services.
- Flood Plain Study or CLOMR. This proposal assumes these services will not be needed for the transfer station permit application. However, if the buildings or other critical facilities on the property are located in the 100-year floodplain, we could prepare a CLOMR to remove said facilities from the floodplain under a separate scope of services included in the next phase of services for this contract.

- Preparation of other permit applications or approvals that may be required for the facilities is not included (e.g., TPDES Stormwater Notice of Intent, Stormwater Pollution Prevention Plan required after issuance of MSW permit, Air Permits).
- Newspaper publishing will be the responsibility of the City, and newspaper fees will be paid directly by the City.
- The City will lead a potential public meeting and/or council of governments (COG) meeting for the new transfer station application.
- Preparation for and participation in a Public Hearing for a Permit Application is not included. If required, our project team has significant experience in preparing for and serving as expert witnesses at various legal proceedings, including contested case hearings for solid waste facilities in Texas.
- Changes resulting from new regulations. Our team will monitor the evolution of state rules in an effort to avoid an impact on this application.
- Construction drawings or technical specifications other than the conceptual drawings are not included.
- It is assumed that the City will provide certain items, including: legal description and metes-and-bounds survey showing easements, rights-of-way, etc., for the entire property and evidence of financial assurance.
- In the course of interagency review of the permit application, certain agencies may request additional information that requires further study. Given the uncertainty of the need for such additional studies, such studies (e.g., historical, archaeological, land use, etc.) are not included in the proposal.
- This property is located in Nueces County. As such, pursuing re-zoning, platting or other local land use approval is not included in this scope of services.
- Any permit modifications/amendments contemplated for the adjacent landfill is not included in this scope of work.

Technical Assumptions

- Easements and right of ways will be provided by the City for the entire 89.64-acre property.
- We will designate a permanent benchmark for the transfer station in the application documents. However, the benchmark will not be installed until the construction phase of this contract in Phase 2.
- We understand that a constraints analysis, which would identify potential location restriction items of concern is being prepared for the property and will be provided by others. This information will serve as a basis for the layouts and potential impacts to certain facilities.
- The City wishes to utilize the existing inbound scales at the existing transfer station site, but upgrade the scalehouse for the new transfer station.
- A waterline and sanitary sewer will be provided for the transfer station building, administration building, and scalehouse.
- The City requests one inbound and outbound scale with ample passing lanes.
- Anticipate a maximum of 2,000 tons per day, or as the waste intake and building can ultimately support, for the permit application.

- The transfer station will include two loading tunnels at a minimum.
- The transfer station will include a reinforced concrete floor.
- The City wishes to consider a permitting mechanism to potentially expand the permit boundary of the adjacent closed landfill to incorporate the new transfer station boundary as a landfill permit modification and pursue the new transfer station application as a registration.

Appendix A Fee Schedule

SCS ENGINEERS

SCS ENGINEERS FEE SCHEDULE

(Effective April 1, 2021 through March 31, 2022)

Labor Category	Rate/Hour (\$)
Business Unit Director	235
Project Advisor.....	225
Satellite Office Manager	225
Project Director II.....	215
Project Director I.....	200
Project Manager II.....	180
Project Manager I.....	170
CQA Manager.....	165
Project Professional III	165
Project Professional II	140
Project Professional I	135
Staff Professional III.....	125
Staff Professional II.....	120
Staff Professional I.....	115
Associate Staff Professional.....	100
CAD Designer.....	130
CAD Draftsperson.....	85
Office Service Manager.....	110
Secretarial/Clerical	75
Sr. Technician.....	105
Technician.....	95
CQA Technician.....	75

1. The hourly rates are effective through March 31, 2022. Work performed thereafter on new tasks is subject to a new Fee Schedule issued for the period beginning April 1, 2022. Consistent with federal regulations, a factor of 150% will be applied to overtime hours for field personnel.
2. The above rates include salary, overhead, administration, and profit. Other direct expenses, such as analyses of air, water and soil samples, reproduction, travel, subsistence, subcontractors, long distance telephone, computers, etc., are billed at actual cost plus 15 percent. Vehicle mileage is billed at \$0.66 per mile for autos and \$0.76 per mile for company trucks. Daily rates apply on long-term projects.
3. Invoices will be prepared monthly for work in progress unless otherwise agreed. Invoices are due and payable upon receipt.
4. Payment of SCS Invoices for services performed will not be contingent upon the client's receipt of payment from other parties, unless otherwise agreed. Client agrees to pay legal costs, including attorney's fees, incurred by SCS in collecting any amount past due and owing on client's account.
5. For special situations, such as expert court testimony and limited consultation, hourly rates for principals of the firm will be on an individually-negotiated basis.

COMPLETE PROJECT NAME

Project No. XXXX

Invoice No. 12345

Invoice Date 01/01/2017

	Contract		Amd No. 1		Amd No. 2		Total Contract		Current Invoice	Previous Invoice	Total Invoice	Remaining Balance	Percent Complete
Basic Services:													
Preliminary Phase	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,000.00	\$1,000.00	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00	100.0%
Design Phase	\$2,000.00	\$1,000.00	\$0.00	\$0.00	\$0.00	\$3,000.00	\$3,000.00	\$1,000.00	\$500.00	\$1,500.00	\$1,500.00	\$1,500.00	50.0%
Bid Phase	\$500.00	\$0.00	\$0.00	\$250.00	\$0.00	\$750.00	\$750.00	\$0.00	\$0.00	\$0.00	\$0.00	\$750.00	0.0%
Construction Phase	\$2,500.00	\$0.00	\$0.00	\$1,000.00	\$0.00	\$3,500.00	\$3,500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,500.00	0.0%
Subtotal Basic Services	\$6,000.00	\$1,000.00	\$1,000.00	\$1,250.00	\$0.00	\$8,250.00	\$8,250.00	\$1,000.00	\$1,500.00	\$2,500.00	\$2,500.00	\$5,750.00	30.3%
Additional Services:													
Permitting	\$2,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,000.00	\$2,000.00	\$500.00	\$0.00	\$500.00	\$500.00	\$1,500.00	25.0%
Warranty Phase	\$0.00	\$1,120.00	\$0.00	\$0.00	\$0.00	\$1,120.00	\$1,120.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,120.00	0.0%
Inspection	\$0.00	\$0.00	\$0.00	\$1,627.00	\$0.00	\$1,627.00	\$1,627.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,627.00	0.0%
Platting Survey	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
O & M Manuals	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
SCADA	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Subtotal Additional Services	\$2,000.00	\$1,120.00	\$1,120.00	\$1,627.00	\$0.00	\$4,747.00	\$4,747.00	\$500.00	\$0.00	\$500.00	\$500.00	\$4,247.00	10.5%
Summary of Fees:													
Basic Services Fees	\$6,000.00	\$1,000.00	\$1,000.00	\$1,250.00	\$0.00	\$8,250.00	\$8,250.00	\$1,000.00	\$1,500.00	\$2,500.00	\$2,500.00	\$5,750.00	30.3%
Additional Services Fees	\$2,000.00	\$1,120.00	\$1,120.00	\$1,627.00	\$0.00	\$4,747.00	\$4,747.00	\$500.00	\$0.00	\$500.00	\$500.00	\$4,247.00	10.5%
Total of Fees	\$8,000.00	\$2,120.00	\$2,120.00	\$2,877.00	\$0.00	\$12,997.00	\$12,997.00	\$1,500.00	\$1,500.00	\$3,000.00	\$3,000.00	\$9,997.00	23.1%

Notes:

A PURCHASE ORDER NUMBER MUST BE INCLUDED ON ALL INVOICES AND INVOICE CORRESPONDENCE. FAILURE TO COMPLY WILL RESULT IN DELAYED PAYMENT OF INVOICES.

If needed, update this sample form based on the contract requirements.

If applicable, refer to the contract for information on what to include with time and materials (T&M).

EXHIBIT C

Insurance Requirements

1.1 Consultant must not commence work under this agreement until all required insurance 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.

1.2 Consultant must furnish to the Director of Engineering Services with the signed agreement a copy 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	\$500,000 Combined Single Limit
PROFESSIONAL LIABILITY (Errors and Omissions)	\$1,000,000 Per Claim If claims made policy, retro date must

	be prior to inception of agreement, have 3-year reporting period provisions and identify any limitations regarding who is insured.
--	--

1.3 In the event of accidents of any kind related to this agreement, Consultant must furnish the City with copies of all reports of any accidents within 10 days of the accident.

1.4 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, with the exception of professional liability, which may be on a per claims made 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. **Consultant is required to provide City with renewal Certificates.**

1.5 Consultant is 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. Consultant 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

1.6 **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:**

1.6.1 List the City and its officers, officials, employees 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 professional liability/Errors & Omissions policy;

1.6.2 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;

1.6.3 Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation or non-renewal of coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

1.7 Within five (5) calendar days of a suspension, cancellation or non-renewal 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.

1.8 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 remove the exhibit hereunder, and/or withhold any payment(s) if any, which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

1.9 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 agreement.

1.10 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 agreement.

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

Excerpt from FORM 00 72 00 GENERAL CONDITIONS for Construction Projects related to design services

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

- A. Terms with initial capital letters, including the term’s singular and plural forms, have the meanings indicated in this paragraph wherever used in the Bidding Requirements or Contract Documents. In addition to the terms specifically defined, terms with initial capital letters in the Contract Documents may include references to identified articles and paragraphs, and the titles of other documents or forms.
1. Addenda - Documents issued prior to the receipt of Bids which clarify or modify the Bidding Requirements or the proposed Contract Documents.
 2. Agreement - The document executed between Owner and Contractor covering the Work.
 3. Alternative Dispute Resolution - The process by which a disputed Claim may be settled as an alternative to litigation, if Owner and Contractor cannot reach an agreement between themselves.
 4. Application for Payment - The forms used by Contractor to request payments from Owner and the supporting documentation required by the Contract Documents.
 5. Award Date – The date the City Council of the City of Corpus Christi (City) authorizes the City Manager or designee to execute the Contract on behalf of the City.
 6. Bid - The documents submitted by a Bidder to establish the proposed Contract Price and Contract Times and provide other information and certifications as required by the Bidding Requirements.
 7. Bidding Documents - The Bidding Requirements, the proposed Contract Documents, and Addenda.
 8. Bidder - An individual or entity that submits a Bid to Owner.
 9. Bidding Requirements - The Invitation for Bids, Instructions to Bidders, Bid Security, Bid Form and attachments, and required certifications.
 10. Bid Security - The financial security in the form of a bid bond provided by Bidder at the time the Bid is submitted and held by Owner until the Agreement is executed and the evidence of insurance and Bonds required by the Contract Documents are provided. A cashier’s check, certified check, money order or bank draft from any State or National Bank will also be acceptable.
 11. Bonds - Performance Bond, Payment Bond, Maintenance Bond, and other Surety instruments executed by Surety. When in singular form, refers to individual instrument.
 12. Change Order - A document issued on or after the Effective Date of the Contract and signed by Owner and Contractor which modifies the Work, Contract Price, Contract Times, or terms and conditions of the Contract.
 13. Change Proposal - A document submitted by Contractor in accordance with the requirements of the Contract Documents:
 - a. Requesting an adjustment in Contract Price or Contract Times;

- b. Contesting an initial decision concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents;
 - c. Challenging a set-off against payment due; or
 - d. Seeking a Modification with respect to the terms of the Contract.
14. City Engineer - The Corpus Christi City Engineer and/or his designated representative as identified at the preconstruction conference or in the Notice to Proceed.
15. Claim - A demand or assertion by Owner or Contractor submitted in accordance with the requirements of the Contract Documents. A demand for money or services by an entity other than the Owner or Contractor is not a Claim.
16. Constituent of Concern - Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous wastes, and substances, products, wastes, or other materials that are or become listed, regulated, or addressed pursuant to:
- a. The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”);
 - b. The Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.;
 - c. The Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”);
 - d. The Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.;
 - e. The Clean Water Act, 33 U.S.C. §§1251 et seq.;
 - f. The Clean Air Act, 42 U.S.C. §§7401 et seq.; or
 - g. Any other Laws or Regulations regulating, relating to, or imposing liability or standards of conduct concerning hazardous, toxic, or dangerous waste, substance, or material.
17. Contract - The entire integrated set of documents concerning the Work and describing the relationship between the Owner and Contractor.
18. Contract Amendment - A document issued on or after the Effective Date of the Contract and signed by Owner and Contractor which:
- a. Authorizes new phases of the Work and establishes the Contract Price, Contract Times, or terms and conditions of the Contract for the new phase of Work; or
 - b. Modifies the terms and conditions of the Contract, but does not make changes in the Work.
19. Contract Documents - Those items designated as Contract Documents in the Agreement.
20. Contract Price - The monetary amount stated in the Agreement and as adjusted by Modifications, and increases or decreases in unit price quantities, if any, that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
21. Contract Times - The number of days or the dates by which Contractor must:
- a. Achieve specified Milestones;

- b. Achieve Substantial Completion; and
 - c. Complete the Work.
22. Contractor - The individual or entity with which Owner has contracted for performance of the Work.
23. Contractor's Team - Contractor and Subcontractors, Suppliers, individuals, or entities directly or indirectly employed or retained by them to perform part of the Work or anyone for whose acts they may be liable.
24. Cost of the Work - The sum of costs incurred for the proper performance of the Work as allowed by Article 15.
25. Defective - When applied to Work, refers to Work that is unsatisfactory, faulty, or deficient in that it:
- a. Does not conform to the Contract Documents;
 - b. Does not meet the requirements of applicable inspections, reference standards, tests, or approvals referred to in the Contract Documents; or
 - c. Has been damaged or stolen prior to OAR's recommendation of final payment unless responsibility for the protection of the Work has been assumed by Owner at Substantial Completion in accordance with Paragraphs 17.12 or 17.13.
26. **Designer** - The individuals or entity named as **Designer** in the Agreement and the subconsultants, individuals, or entities directly or indirectly employed or retained by **Designer** to provide design or other technical services to the Owner. **Designer** has responsibility for engineering or architectural design and technical issues related to the Contract Documents. **Designers** are Licensed Professional Engineers, Registered Architects or Registered Landscape Architects qualified to practice their profession in the State of Texas.
27. Drawings - The part of the Contract that graphically shows the scope, extent, and character of the Work. Shop Drawings and other Contractor documents are not Drawings.
28. Effective Date of the Contract - The date indicated in the Agreement on which the City Manager or designee has signed the Contract.
29. Field Order - A document issued by OAR or **Designer** requiring changes in the Work that do not change the Contract Price or the Contract Times.
30. Hazardous Environmental Condition - The presence of Constituents of Concern at the Site in quantities or circumstances that may present a danger to persons or property exposed to Constituents of Concern. The presence of Constituents of Concern at the Site necessary for the execution of the Work or to be incorporated in the Work is not a Hazardous Environmental Condition provided these Constituents of Concern are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract.
31. Indemnified Costs - All costs, losses, damages, and legal or other dispute resolution costs resulting from claims or demands against Owner's Indemnitees. These costs include fees for engineers, architects, attorneys, and other professionals.

32. Laws and Regulations; Laws or Regulations - Applicable laws, statutes, rules, regulations, ordinances, codes, and orders of governmental bodies, agencies, authorities, and courts having jurisdiction over the Project.
33. Liens - Charges, security interests, or encumbrances upon Contract related funds, real property, or personal property.
34. Milestone - A principal event in the performance of the Work that Contractor is required by Contract to complete by a specified date or within a specified period of time.
35. Modification - Change made to the Contract Documents by one of the following methods:
 - a. Contract Amendment;
 - b. Change Order;
 - c. Field Order; or
 - d. Work Change Directive.
36. Notice of Award - The notice of Owner's intent to enter into a contract with the Selected Bidder.
37. Notice to Proceed - A notice to Contractor of the Contract Times and the date Work is to begin.
38. Owner - The City of Corpus Christi (City), a Texas home-rule municipal corporation and political subdivision organized under the laws of the State of Texas, acting by and through its duly authorized City Manager and his designee, the City Engineer (the Director of Engineering Services), and the City's officers, employees, agents, or representatives, authorized to administer design and construction of the Project.
39. Owner's Authorized Representative or OAR - The individual or entity named as OAR in the Agreement and the consultants, subconsultants, individuals, or entities directly or indirectly employed or retained by them to provide construction management services to the Owner. The OAR may be an employee of the Owner.
40. Owner's Indemnitees - Each member of the OPT and their officers, directors, members, partners, employees, agents, consultants, and subcontractors.
41. Owner's Project Team or OPT - The Owner, Owner's Authorized Representative, Resident Project Representative, **Designer**, and the consultants, subconsultants, individuals, or entities directly or indirectly employed or retained by them to provide services to the Owner.
42. Partial Occupancy or Use - Use by Owner of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.
43. Progress Schedule - A schedule prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times. The Progress Schedule must be a Critical Path Method (CPM) Schedule.
44. Project - The total undertaking to be accomplished for Owner under the Contract Documents.

45. Resident Project Representative or RPR - The authorized representative of OPT assigned to assist OAR at the Site. As used herein, the term Resident Project Representative includes assistants and field staff of the OAR.
46. Samples - Physical examples of materials, equipment, or workmanship representing some portion of the Work that are used to establish the standards for that portion of the Work.
47. Schedule of Documents - A schedule of required documents, prepared, and maintained by Contractor.
48. Schedule of Values - A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for Contractor's Applications for Payment.
49. Selected Bidder - The Bidder to which Owner intends to award the Contract.
50. Shop Drawings - All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
51. Site - Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed. The Site includes rights-of-way, easements, and other lands furnished by Owner which are designated for use by the Contractor.
52. Specifications - The part of the Contract that describes the requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
53. Subcontractor - An individual or entity having a direct contract with Contractor or with other Subcontractors or Suppliers for the performance of a part of the Work.
54. Substantial Completion - The point where the Work or a specified part of the Work is sufficiently complete to be used for its intended purpose in accordance with the Contract Documents.
55. Supplementary Conditions - The part of the Contract that amends or supplements the General Conditions.
56. Supplier - A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with Subcontractors or other Suppliers to furnish materials or equipment to be incorporated in the Work.
57. Technical Data - Those items expressly identified as Technical Data in the Supplementary Conditions with respect to either:
 - a. Subsurface conditions at the Site;
 - b. Physical conditions relating to existing surface or subsurface structures at the Site, except Underground Facilities; or
 - c. Hazardous Environmental Conditions at the Site.
58. Underground Facilities - All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, other similar facilities or appurtenances, and encasements containing these facilities which are used to convey electricity, gases,

steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

- 59. Unit Price Work - Work to be paid for on the basis of unit prices.
- 60. Work - The construction of the Project or its component parts as required by the Contract Documents.
- 61. Work Change Directive - A directive issued to Contractor on or after the Effective Date of the Contract ordering an addition, deletion, or revision in the Work. The Work Change Directive serves as a memorandum of understanding regarding the directive until a Change Order can be issued.

1.02 Terminology

- A. The words and terms discussed in this Paragraph 1.02 are not defined, but when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. It is understood that the cost for performing Work is included in the Contract Price and no additional compensation is to be paid by Owner unless specifically stated otherwise in the Contract Documents. Expressions including or similar to “at no additional cost to Owner,” “at Contractor’s expense,” or similar words mean that the Contractor is to perform or provide specified operation of Work without an increase in the Contract Price.
- C. The terms “day” or “calendar day” mean a calendar day of 24 hours measured from midnight to the next midnight.
- D. The meaning and intent of certain terms or adjectives are described as follows:
 - 1. The terms “as allowed,” “as approved,” “as ordered,” “as directed,” or similar terms in the Contract Documents indicate an exercise of professional judgment by the OPT.
 - 2. Adjectives including or similar to “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or similar adjectives are used to describe a determination of OPT regarding the Work.
 - 3. Any exercise of professional judgment by the OPT will be made solely to evaluate the Work for general compliance with the Contract Documents unless there is a specific statement in the Contract Documents indicating otherwise.
 - 4. The use of these or similar terms or adjectives does not assign a duty or give OPT authority to supervise or direct the performance of the Work, or assign a duty or give authority to the OPT to undertake responsibilities contrary to the provisions of Articles 9 or 10 or other provisions of the Contract Documents.
- E. The use of the words “furnish,” “install,” “perform,” and “provide” have the following meanings when used in connection with services, materials, or equipment:
 - 1. Furnish means to supply and deliver the specified services, materials, or equipment to the Site or other specified location ready for use or installation.
 - 2. Install means to complete construction or assembly of the specified services, materials, or equipment so they are ready for their intended use.

3. Perform or provide means to furnish and install specified services, materials, or equipment, complete and ready for their intended use.
 4. Perform or provide the specified services, materials, or equipment complete and ready for intended use if the Contract Documents require specific services, materials, or equipment, but do not expressly use the words “furnish,” “install,” “perform,” or “provide.”
- F. Contract Documents are written in modified brief style:
1. Requirements apply to all Work of the same kind, class, and type even though the word “all” is not stated.
 2. Simple imperative sentence structure is used which places a verb as the first word in the sentence. It is understood that the words “furnish,” “install,” “perform,” “provide,” or similar words include the meaning of the phrase “The Contractor shall...” before these words.
 3. Unless specifically stated that action is to be taken by the OPT or others, it is understood that the action described is a requirement of the Contractor.
- G. Words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with this recognized meaning unless stated otherwise in the Contract Documents.
- H. Written documents are required where reference is made to notices, reports, approvals, consents, documents, statements, instructions, opinions or other types of communications required by the Contract Documents. Approval and consent documents must be received by Contractor prior to the action or decision for which approval or consent is given. These may be made in printed or electronic format through the OPT’s project management information system or other electronic media as required by the Contract Documents or approved by the OAR.
- I. Giving notice as required by the Contract Documents may be by printed or electronic media using a method that requires acknowledgment of the receipt of that notice.

ARTICLE 2 – PRELIMINARY MATTERS

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Intent

- B. Provide equipment that is functionally complete as described in the Contract Documents. The Drawings and Specifications do not indicate or describe all of the Work required to complete the installation of products purchased by the Owner or Contractor. Additional details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the **Designer** through the OAR.

3.02 Reference Standards

Comply with applicable construction industry standards, whether referenced or not.

1. Standards referenced in the Contract Documents govern over standards not referenced but recognized as applicable in the construction industry.

2. Comply with the requirements of the Contract Documents if they produce a higher quality of Work than the applicable construction industry standards.
3. **Designer** determines whether a code or standard is applicable, which of several are applicable, or if the Contract Documents produce a higher quality of Work.

3.03 Reporting and Resolving Discrepancies

3.04 Interpretation of the Contract Documents

Submit questions regarding the design of the Project described in the Contract Documents to the OAR immediately after those questions arise. OAR is to request an interpretation of the Contract Documents from the **Designer**. **Designer** is to respond to these questions by providing an interpretation of the Contract Documents. OAR will coordinate the response of the OPT to Contractor.

- C. OPT may initiate a Modification to the Contract Documents through the OAR if a response to the question indicates that a change in the Contract Documents is required. Contractor may appeal **Designer's** or OAR's interpretation by submitting a Change Proposal.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 Availability of Lands

5.02 Use of Site and Other Areas

5.03 Subsurface and Physical Conditions

5.04 Differing Subsurface or Physical Conditions

OAR is to notify the OPT after receiving notice of a differing subsurface or physical condition from the Contractor. **Designer** is to:

1. Promptly review the subsurface or physical condition;
 2. Determine the necessity of OPT's obtaining additional exploration or tests with respect to the subsurface or physical condition;
 3. Determine if the subsurface or physical condition falls within one or more of the differing Site condition categories in Paragraph 5.04.A;
 4. Prepare recommendations to OPT regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question;
 5. Determine the need for changes in the Drawings or Specifications; and
 6. Advise OPT of **Designer's** findings, conclusions, and recommendations.
- C. OAR is to issue a statement to Contractor regarding the subsurface or physical condition in question and recommend action as appropriate after review of **Designer's** findings, conclusions, and recommendations.

5.05 Underground Facilities

The **Designer** is to take the following action after receiving notice from the OAR:

1. Promptly review the Underground Facility and conclude whether the Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy;
 2. Prepare recommendations to OPT regarding the Contractor's resumption of Work in connection with this Underground Facility;
 3. Determine the extent to which a change is required in the Drawings or Specifications to document the consequences of the existence or location of the Underground Facility; and
 4. Advise OAR of **Designer's** findings, conclusions, and recommendations and provide revised Drawings and Specifications if required.
- D. OAR is to issue a statement to Contractor regarding the Underground Facility in question and recommend action as appropriate after review of **Designer's** findings, conclusions, and recommendations.

ARTICLE 6 – BONDS AND INSURANCE

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

ARTICLE 8 – OTHER WORK AT THE SITE

ARTICLE 9 – OWNER'S AND OPT'S RESPONSIBILITIES

9.01 Communications to Contractor

- A. OPT issues communications to Contractor through OAR except as otherwise provided in the Contract Documents.

9.02 Replacement of Owner's Project Team Members

- A. Owner may replace members of the OPT at its discretion.

9.03 Furnish Data

- A. OPT is to furnish the data required of OPT under the Contract Documents.

9.04 Pay When Due

9.05 Lands and Easements; Reports and Tests

- A. Owner's duties with respect to providing lands and easements are described in Paragraph 5.01. OPT will make copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site available to Contractor in accordance with Paragraph 5.03.

- 9.06 Insurance
- 9.07 Modifications
- 9.08 Inspections, Tests, and Approvals
 - A. OPT's responsibility with respect to certain inspections, tests, and approvals are described in Paragraph 16.02.
- 9.09 Limitations on OPT's Responsibilities
 - A. The OPT does not supervise, direct, or have control or authority over, and is not responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or related safety precautions and programs, or for failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. OPT is not responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 Undisclosed Hazardous Environmental Condition
 - A. OPT's responsibility for undisclosed Hazardous Environmental Conditions is described in Paragraph 5.06.
- 9.11 Compliance with Safety Program
 - A. Contractor is to inform the OPT of its safety programs and OPT is to comply with the specific applicable requirements of this program.

ARTICLE 10 – OAR'S AND DESIGNER'S STATUS DURING CONSTRUCTION

- 10.01 Owner's Representative
 - A. OAR is Owner's representative. The duties and responsibilities and the limitations of authority of OAR as Owner's representative are described in the Contract Documents.
- 10.02 Visits to Site
 - A. **Designer** is to make periodic visits to the Site to observe the progress and quality of the Work. **Designer** is to determine, in general, if the Work is proceeding in accordance with the Contract Documents based on observations made during these visits. **Designer** is not required to make exhaustive or continuous inspections to check the quality or quantity of the Work. **Designer** is to inform the OPT of issues or concerns and OAR is to work with Contractor to address these issues or concerns. **Designer**'s visits and observations are subject to the limitations on **Designer**'s authority and responsibility described in Paragraphs 9.09 and 10.07.
 - B. OAR is to observe the Work to check the quality and quantity of Work, implement Owner's quality assurance program, and administer the Contract as Owner's representative as described in the Contract Documents. OAR's visits and observations are subject to the limitations on OAR's authority and responsibility described in Paragraphs 9.09 and 10.07.

10.03 Resident Project Representatives

- A. Resident Project Representatives assist OAR in observing the progress and quality of the Work at the Site. The limitations on Resident Project Representatives' authority and responsibility are described in Paragraphs 9.09 and 10.07.

10.04 Rejecting Defective Work

- A. OPT has the authority to reject Work in accordance with Article 16. OAR is to issue a Defective Work Notice to Contractor and document when Defective Work has been corrected or accepted in accordance with Article 16.

10.05 Shop Drawings, Modifications and Payments

- A. **Designer's** authority related to Shop Drawings and Samples are described in the Contract Documents.
- B. **Designer's** authority related to design calculations and design drawings submitted in response to a delegation of professional design services are described in Paragraph 7.15.
- C. OAR and **Designer's** authority related to Modifications is described in Article 11.
- D. OAR's authority related to Applications for Payment is described in Articles 15 and 17.

10.06 Decisions on Requirements of Contract Documents and Acceptability of Work

- A. OAR is to render decisions regarding non-technical or contractual / administrative requirements of the Contract Documents and will coordinate the response of the OPT to Contractor.
- B. **Designer** is to render decisions regarding the conformance of the Work to the requirements of the Contract Documents. **Designer** will render a decision to either correct the Defective Work, or accept the Work under the provisions of Paragraph 16.04, if Work does not conform to the Contract Documents. OAR will coordinate the response of the OPT to Contractor.
- C. OAR will issue a Request for a Change Proposal if a Modification is required. OAR will provide documentation for changes related to the non-technical or contractual / administrative requirements of the Contract Documents. **Designer** will provide documentation if design related changes are required.
- D. Contractor may appeal **Designer's** decision by submitting a Change Proposal if Contractor does not agree with the **Designer's** decision.

10.07 Limitations on OAR's and **Designer's** Authority and Responsibilities

- A. OPT is not responsible for the acts or omissions of Contractor's Team. No actions or failure to act, or decisions made in good faith to exercise or not exercise the authority or responsibility available under the Contract Documents creates a duty in contract, tort, or otherwise of the OPT to the Contractor or members of the Contractor's Team.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

ARTICLE 12 – CHANGE MANAGEMENT

12.01 Requests for Change Proposal

- A. **Designer** will initiate Modifications by issuing a Request for a Change Proposal (RCP).
1. **Designer** will prepare a description of proposed Modifications.
 2. **Designer** will issue the Request for a Change Proposal form to Contractor. A number will be assigned to the Request for a Change Proposal when issued.
 3. Return a Change Proposal in accordance with Paragraph 12.02 to the **Designer** for evaluation by the OPT.

12.02 Change Proposals

- A. Submit a Change Proposal (CP) to the **Designer** for Contractor initiated changes in the Contract Documents or in response to a Request for Change Proposal.
1. Use the Change Proposal form provided.
 2. Assign a number to the Change Proposal when issued.
 3. Include with the Change Proposal:
 - a. A complete description of the proposed Modification if Contractor initiated or proposed changes to the OPT's description of the proposed Modification.
 - b. The reason the Modification is requested, if not in response to a Request for a Change Proposal.
 - c. A detailed breakdown of the cost of the change if the Modification requires a change in Contract Price. The itemized breakdown is to include:
 - 1) List of materials and equipment to be installed;
 - 2) Man hours for labor by classification;
 - 3) Equipment used in construction;
 - 4) Consumable supplies, fuels, and materials;
 - 5) Royalties and patent fees;
 - 6) Bonds and insurance;
 - 7) Overhead and profit;
 - 8) Field office costs;
 - 9) Home office cost; and
 - 10) Other items of cost.
 - d. Provide the level of detail outlined in the paragraph above for each Subcontractor or Supplier actually performing the Work if Work is to be provided by a Subcontractor or Supplier. Indicate appropriate Contractor mark-ups for Work

provided through Subcontractors and Suppliers. Provide the level of detail outline in the paragraph above for self-performed Work.

- e. Submit Change Proposals that comply with Article 15 for Cost of Work.
 - f. Provide a revised schedule. Show the effect of the change on the Project Schedule and the Contract Times.
- B. Submit a Change Proposal to the **Designer** to request a Field Order.
 - C. A Change Proposal is required for all substitutions or deviations from the Contract Documents.
 - D. Request changes to products in accordance with Article 25.

12.03 **Designer** Will Evaluate Request for Modification

- A. **Designer** will issue a Modification per Article 11 if the Change Proposal is acceptable to the Owner. **Designer** will issue a Change Order or Contract Amendment for any changes in Contract Price or Contract Times.
 - 1. Change Orders and Contract Amendments will be sent to the Contractor for execution with a copy to the Owner recommending approval. A Work Change Directive may be issued if Work needs to progress before the Change Order or Contract Amendment can be authorized by the Owner.
 - 2. Work Change Directives, Change Orders, and Contract Amendments can only be approved by the Owner.
 - a. Work performed on the Change Proposal prior to receiving a Work Change Directive or approval of the Change Order or Contract Amendment is performed at the Contractor's risk.
 - b. No payment will be made for Work on Change Orders or Contract Amendments until approved by the Owner.
- B. The Contractor may be informed that the Request for a Change Proposal is not approved and construction is to proceed in accordance with the Contract Documents.

ARTICLE 13 – CLAIMS

13.01 Claims

13.02 Claims Process

- A. Claims must be initiated by written notice. Notice must conspicuously state that it is a notice of a Claim in the subject line or first sentence. Notice must also list the date of first occurrence of the claimed event.
- B. Claims by Contractor must be in writing and delivered to the Owner, **Designer** and the OAR within 7 days:
 - 1. After the start of the event giving rise to the Claim; or
 - 2. After a final decision on a Change Proposal has been made.

- C. Claims by Contractor that are not received within the time period provided by section 13.02(B) are waived. Owner may choose to deny such Claims without a formal review. Any Claims by Contractor that are not brought within 90 days following the termination of the Contract are waived and shall be automatically deemed denied.
- D. Claims by Owner must be submitted by written notice to Contractor.
- E. The responsibility to substantiate a Claim rests with the entity making the Claim. Claims must contain sufficient detail to allow the other party to fully review the Claim.
 - 1. Claims seeking an adjustment of Contract Price must include the Contractor's job cost report. Provide additional documentation as requested by OAR.
 - 2. Claims seeking an adjustment of Contract Time must include native schedule files in Primavera or MS Project digital format. Provide additional documentation as requested by OAR.
- F. Contractor must certify that the Claim is made in good faith, that the supporting data is accurate and complete, and that to the best of Contractor's knowledge and belief, the relief requested accurately reflects the full compensation to which Contractor is entitled.
- G. Claims by Contractor against Owner and Claims by Owner against Contractor, including those alleging an error or omission by **Designer** but excluding those arising under Section 7.12, shall be referred initially to **Designer** for consideration and recommendation to Owner.
- H. **Designer** may review a Claim by Contractor within 30 days of receipt of the Claim and take one or more of the following actions:
 - 1. Request additional supporting data from the party who made the Claim;
 - 2. Issue a recommendation;
 - 3. Suggest a compromise; or
 - 4. Advise the parties that **Designer** is not able to make a recommendation due to insufficient information or a conflict of interest.
- I. If the **Designer** does not take any action, the claim shall be deemed denied.
- J. The Contractor and the Owner shall seek to resolve the Claim through the exchange of information and direct negotiations. If no agreement is reached within 90 days, the Claim shall be deemed denied. The Owner and Contractor may extend the time for resolving the Claim by mutual agreement. Notify OAR of any actions taken on a Claim.
- K. Owner and Contractor may mutually agree to mediate the underlying dispute at any time after a recommendation is issued by the **Designer**.

ARTICLE 14 – PREVAILING WAGE RATE REQUIREMENTS

ARTICLE 15 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

ARTICLE 16 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

ARTICLE 17 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

ARTICLE 18 – SUSPENSION OF WORK AND TERMINATION

ARTICLE 19 – PROJECT MANAGEMENT

ARTICLE 20 – PROJECT COORDINATION

20.01 Work Included

20.02 Document Submittal

20.03 Communication During Project

- A. The OAR is to be the first point of contact for all parties on matters concerning this Project.
- B. The **Designer** will coordinate correspondence concerning:
 - 1. Documents, including Applications for Payment.
 - 2. Clarification and interpretation of the Contract Documents.
 - 3. Contract Modifications.
 - 4. Observation of Work and testing.
 - 5. Claims.

20.04 Requests for Information

- A. Submit Request for Information (RFI) to the **Designer** to obtain additional information or clarification of the Contract Documents.
 - 1. Submit a separate RFI for each item on the form provided.
 - 2. Attach adequate information to permit a written response without further clarification. **Designer** will return requests that do not have adequate information to the Contractor for additional information. Contractor is responsible for all delays resulting from multiple document submittals due to inadequate information.
 - 3. A response will be made when adequate information is provided. Response will be made on the RFI form or in attached information.
- B. Response to an RFI is given to provide additional information, interpretation, or clarification of the requirements of the Contract Documents, and does not modify the Contract Documents.
- C. **Designer** will initiate a Request for a Change Proposal (RCP) per Article 12 if the RFI indicates that a Contract Modification is required.

ARTICLE 21 – QUALITY MANAGEMENT

ARTICLE 22 – FINAL RESOLUTION OF DISPUTES

ARTICLE 23 – MINORITY/MBE/DBE PARTICIPATION POLICY

ARTICLE 24 – DOCUMENT MANAGEMENT

ARTICLE 25 – SHOP DRAWINGS

25.01 Work Included

- A. Shop Drawings are required for those products that cannot adequately be described in the Contract Documents to allow fabrication, erection, or installation of the product without additional detailed information from the Supplier.
- B. Submit Shop Drawings as required by the Contract Documents and as reasonably requested by the OPT to:
 1. Record the products incorporated into the Project for the Owner;
 2. Provide detailed information for the products proposed for the Project regarding their fabrication, installation, commissioning, and testing; and
 3. Allow the **Designer** to advise the Owner if products proposed for the Project by the Contractor conform, in general, to the design concepts of the Contract Documents.

25.02 Quality Assurance

25.03 Contractor's Responsibilities

25.04 Shop Drawing Requirements

- A. Provide adequate information in Shop Drawings and Samples so **Designer** can:
 1. Assist the Owner in selecting colors, textures, or other aesthetic features.
 2. Compare the proposed features of the product with the specified features and advise Owner that the product does, in general, conform to the Contract Documents.
 3. Compare the performance features of the proposed product with those specified and advise the Owner that the product does, in general, conform to the performance criteria specified in the Contract Documents.
 4. Review required certifications, guarantees, warranties, and service agreements for compliance with the Contract Documents.

- 25.05 Special Certifications and Reports
- 25.06 Warranties and Guarantees
- 25.07 Shop Drawing Submittal Procedures
- 25.08 Sample and Mockup Submittal Procedures
- 25.09 Requests for Deviation
- 25.10 **Designer** Responsibilities

- A. Shop Drawings will be received by the **Designer**. **Designer** will log the documents and review per this Article for general conformance with the Contract Documents.
 - 1. **Designer**'s review and approval will be only to determine if the products described in the Shop Drawing or Sample will, after installation or incorporation into the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 - 2. **Designer**'s review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 - 3. **Designer**'s review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- B. Comments will be made on items called to the attention of the **Designer** for review and comment. Any marks made by the **Designer** do not constitute a blanket review of the document submittal or relieve the Contractor from responsibility for errors or deviations from the Contract requirements.
 - 1. **Designer** will respond to Contractor's markups by either making markups directly in the Shop Drawings file using the color green or by attaching a Document Review Comments form with review comments.
 - 2. Shop Drawings that are reviewed will be returned with one or more of the following status designations:
 - a. Approved: Shop Drawing is found to be acceptable as submitted.
 - b. Approved as Noted: Shop Drawing is Approved so long as corrections or notations made by **Designer** are incorporated into the Show Drawing.
 - c. Not Approved: Shop Drawing or products described are not acceptable.
 - 3. Shop Drawing will also be designated for one of the following actions:
 - a. Final distribution: Shop Drawing is acceptable without further action and has been filed as a record document.
 - b. Shop Drawing not required: A Shop Drawing was not required by the Contract Documents. Resubmit the document per Article 26.

- c. Cancelled: This action indicates that for some reason, the Shop Drawing is to be removed from consideration and all efforts regarding the processing of that document are to cease.
 - d. Revise and resubmit: Shop Drawing has deviations from the Contract Documents, significant errors, or is inadequate and must be revised and resubmitted for subsequent review.
 - e. Resubmit with corrections made: Shop Drawing is “Approved as Noted,” but has significant markups. Make correction and notations to provide a revised document with markup incorporated into the original document so that no markups are required.
 - f. Returned without review due to excessive deficiencies: Document does not meet the requirement of the Specifications for presentation or content to the point where continuing to review the document would be counterproductive to the review process or clearly does not meet the requirements of the Contract Documents. Revise the Shop Drawing to comply with the requirements of this Section and resubmit.
 - g. Actions a through c will close out the Shop Drawing review process and no further action is required as a Shop Drawing. Actions d through f require follow up action to close out the review process.
- 4. Drawings with a significant or substantial number of markings by the Contractor may be marked “Approved as Noted” and “Resubmit with corrections made.” These drawings are to be revised to provide a clean record of the Shop Drawing. Proceed with ordering products as the documents are revised.
 - 5. Dimensions or other data that does not appear to conform to the Contract Documents will be marked as “At Variance With” (AVW) the Contract Documents or other information provided. The Contractor is to make revisions as appropriate to comply with the Contract Documents.
- C. Bring deviations to the Shop Drawings to the attention of the **Designer** for approval by using the Shop Drawing Deviation Request form. Use a single line for each requested deviation so the Status and Action for each deviation can be determined for that requested deviation. If approval or rejection of a requested deviation will impact other requested deviations, then all related deviations should be included in that requested deviation line so the status and action can be determined on the requested deviation as a whole.
 - D. Requested deviations will be reviewed as possible Modification to the Contract Documents.
 - 1. A Requested deviation will be rejected as “Not Approved” if the requested deviation is unacceptable. Contractor is to revise and resubmit the Shop Drawing with corrections for approval.
 - 2. A Field Order will be issued by the **Designer** for deviations approved by the **Designer** if the requested deviation is acceptable and if the requested deviation will not result in a change in Contract Price or Contract Times. Requested deviations from the Contract Documents may only be approved by Field Order.
 - 3. A requested deviation will be rejected if the requested deviation is acceptable but the requested deviation will or should result in a change in Contract Price or Contract Times.

Submit any requested deviation that requires a change in Contract Price or Contract Times as a Change Proposal for approval prior to resubmitting the Shop Drawing.

- E. Contractor is to resubmit the Shop Drawing until it is acceptable and marked Approved or Approved as Noted and is assigned an action per Paragraph 25.10.B that indicates that the Shop Drawing process is closed.
- F. Information that is submitted as a Shop Drawings that should be submitted as Record Data or other type of document, or is not required may be returned without review, or may be deleted. No further action is required and the Shop Drawing process for this document will be closed.

ARTICLE 26 – RECORD DATA

26.01 Work Included

26.02 Quality Assurance

26.03 Contractor’s Responsibilities

26.04 Record Data Requirements

26.05 Special Certifications and Reports

26.06 Warranties and Guarantees

26.07 Record Data Submittal Procedures

26.08 **Designer**’s Responsibilities

- A. Record Data will be received by the **Designer**, logged, and provided to Owner as the Project record.
 - 1. Record Data may be reviewed to see that the information provided is adequate for the purpose intended. Record Data not meeting the requirements of Paragraph 26.02 may be rejected as unacceptable.
 - 2. Record Data is not reviewed for compliance with the Contract Documents. Comments may be returned if deviations from the Contract Documents are noted during the cursory review performed to see that the information is adequate.
 - 3. Contractor’s responsibility for full compliance with the Contract Documents is not relieved by the review of Record Data. Contract modifications can only be approved by a Modification.
- B. **Designer** may take the following action in processing Record Data:
 - 1. File Record Data as received if the cursory review indicates that the document meets the requirements of Paragraph 26.02. Document will be given the status of “Filed as Received” and no further action is required on that Record Data.
 - 2. Reject the Record Data for one of the following reasons:
 - a. The document submittal requirements of the Contract Documents indicate that the document submitted as Record Data should have been submitted as a Shop

Drawing. The Record Data will be marked “Rejected” and “Submit Shop Drawing.” No further action is required on this document as Record Data and the Record Data process will be closed. Resubmit the document as a Shop Drawing per Article 25.

- b. The cursory review indicates that the document does not meet the requirements of Paragraph 26.02. The Record Data will be marked “Rejected” and “Revise and Resubmit.” Contractor is to resubmit the Record Data until it is acceptable and marked “Filed as Received.” When Record Data is filed, no further action is required and the Record Data process will be closed.
 - c. The Record Data is not required by the Contract Documents nor is the Record Data applicable to the Project. The Record Data will be marked “Rejected” and “Cancel - Not Required.” No further action is required and the Record Data process will be closed.
- C. Contractor is to resubmit the Record Data until it is acceptable and marked “Filed as Received.”

ARTICLE 27 – CONSTRUCTION PROGRESS SCHEDULE

ARTICLE 28 – VIDEO AND PHOTOGRAPHIC DOCUMENTATION

ARTICLE 29 – EXECUTION AND CLOSEOUT

29.01 Substantial Completion

- A. Notify the **Designer** that the Work or a designated portion of the Work is substantially complete per the General Conditions. Include a list of the items remaining to be completed or corrected before the Project will be considered to be complete.
- B. OPT will visit the Site to observe the Work within a reasonable time after notification is received to determine the status of the Project.
- C. **Designer** will notify the Contractor that the Work is either substantially complete or that additional Work must be performed before the Project will be considered substantially complete.
 - 1. **Designer** will notify the Contractor of items that must be completed before the Project will be considered substantially complete.
 - 2. Correct the noted deficiencies in the Work.
 - 3. Notify the **Designer** when the items of Work in the **Designer**’s notice have been completed.
 - 4. OPT will revisit the Site and repeat the process.
 - 5. **Designer** will issue a Certificate of Substantial Completion to the Contractor when the OPT considers the Project to be substantially complete. The Certificate will include a tentative list of items to be corrected before Final Payment will be recommended.
 - 6. Review the list and notify the **Designer** of any objections to items on the list within 10 days after receiving the Certificate of Substantial Completion.

29.02 Final Inspections

- A. Notify the **Designer** when:
 - 1. Work has been completed in compliance with the Contract Documents;
 - 2. Equipment and systems have been tested per Contract Documents and are fully operational;
 - 3. Final Operations and Maintenance Manuals have been provided to the Owner and all operator training has been completed;
 - 4. Specified spare parts and special tools have been provided; and
 - 5. Work is complete and ready for final inspection.
- B. OPT will visit the Site to determine if the Project is complete and ready for Final Payment within a reasonable time after the notice is received.
- C. **Designer** will notify the Contractor that the Project is complete or will notify the Contractor that Work is Defective.
- D. Take immediate steps to correct Defective Work. Notify the **Designer** when Defective Work has corrected. OPT will visit the Site to determine if the Project is complete and the Work is acceptable. **Designer** will notify the Contractor that the Project is complete or will notify the Contractor that Work is Defective.
- E. Submit the Request for Final Payment with the closeout documents described in Paragraph 29.06 if notified that the Project is complete and the Work is acceptable.

ARTICLE 30 – MISCELLANEOUS

END OF SECTION