

**AGREEMENT BETWEEN CITY OF CORPUS CHRISTI AND RHODES URBAN
FOR DONATION AND ACCEPTANCE OF SCULPTURE
TO BE PLACED AT LA RETAMA PARK**

RECITALS

THIS AGREEMENT ("Agreement"), is made this 6 day of MARCH, 2017, by and between the City of Corpus Christi ("the City"), and Rhodes Urban ("Donor"), for the purpose of establishing a contractual relationship under which Donor will procure, deliver, install, and donate, and the City will accept, a sculpture including base, for display on City property at the La Retama Park, Corpus Christi, Texas.

WHEREAS, Donor has offered to commission the creation of a sculpture ("the Sculpture") from Jack Gron ("the Artist") with the intention of donating the same to the City as a gift; and

WHEREAS, the City and Donor (collectively "the Parties") desire to formalize their contractual relationship regarding the procurement and transfer of the Sculpture, and to define their rights, obligations and liabilities therefore;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

1. **Donation of Sculpture.** Donor agrees to procure, install, and donate the Sculpture including base, to the City, at Donor's sole cost and expense, and the City agrees to accept the Sculpture, all according to the terms of this Agreement.
2. **Specifications of Sculpture.** The Sculpture shall be an aluminum creation by Jack Gron (the "Artist"), a preliminary drawing for which is shown and represented in the drawings and photos included as Exhibit 1, attached to this agreement and herein incorporated. The final specifications for the Sculpture are subject to review and approval by the Director of Parks and Recreation ("City Director"), whose approval shall not be unreasonably withheld.

The Sculpture shall include a plaque identifying the Artist and recognizing the Donor. The actual size, design, and wording of the explanatory plaque shall be subject to the final approval of the City Director of Parks and Recreation, whose approval shall not be unreasonably withheld. Donor shall ensure that the Sculpture and base are engineered for structural integrity and windstorm certified.

3. **Donor's Responsibilities.** Donor shall procure, install and donate the Sculpture to the City no later than 12 months after the date of City Council approval of this

Agreement. The Director of Parks and Recreation is authorized to approve extensions to these timelines.

Donor represents and warrants that it has authority to enter into this Agreement and that Artist grants to the City an unlimited license to graphically reproduce the Sculpture for municipal noncommercial purposes in City brochures, catalogs, and use in any City media or other City publications. City shall endeavor to include the Artist name and Sculpture title in the City publications or reproductions. This provision shall survive termination or expiration of this agreement.

Donor shall be solely and exclusively responsible for contacting, communicating with, and coordinating delivery of the Sculpture from the Artist to the City.

Donor shall be solely and exclusively responsible for all costs related to procurement, delivery, and installation of the Sculpture, and supporting base.

Donor shall provide the Director of Parks and Recreation or designee, within fourteen (14) days after installation of the Sculpture, instructions regarding routine maintenance required for the Sculpture.

Donor shall ensure that all work performed on the City property complies with all applicable City, State, and Federal codes, statutes, ordinances, and regulations. Donor is responsible for obtaining all required permits prior to performance of any work on the City property.

4. **City's Responsibilities.** The City, acting through its Director of Parks and Recreation or designee shall accept delivery, receipt and ownership for the Sculpture at a mutually acceptable time and place.
5. **Project Site.** Donor shall arrange for the delivery and installation of the Sculpture and associated base at the location in La Retama Park as depicted in the attached Exhibit 2. Should Parks, Development Services, Engineering or Utility staff determine that this location is not suitable for the installation due to engineering structural analysis or impact to City utility infrastructure, then the Director of Parks and Recreation is authorized to work with Donor to identify another more suitable location within La Retama Park for placement of the Sculpture.
6. **Risk of Loss or Damage.** Donor shall be solely responsible and assume all risk of loss or damage to the Sculpture until receipt and acceptance thereof by the City. Donor assumes all liability related to installation of the Sculpture. Acceptance and ownership of the Sculpture by the City shall occur after delivery and successful installation at the project site.
7. **Installation of Sculpture.** Donor shall insure that its contractor hired by Donor to install the Sculpture presents and reviews the construction plans with the Engineering, Development Services and Parks and Recreation Departments for

their prior approval. Donor must include, in all construction contracts entered into for the installation of the Sculpture and any additional components described herein, a provision requiring the Donor's contractor, to indemnify, hold harmless, defend and insure City, including its officers, agents, and employees, against the risk of legal liability for death, injury or damage to persons or property, direct or consequential, arising or alleged to arise out of, or in connection with, the performance of any or all of the work, whether the claims and demands made are just or unjust, unless same are caused by the gross negligence or willful act of City, its officers, agents, or employees.

Donor shall require Contractor to obtain all required City permits and the insurance described in the attached Exhibit 3 prior to beginning work on City property.

8. **Relationship of Parties.** No agent, employee, representative or subcontractor of Donor shall be deemed to be the employee, agent, representative or subcontractor of the City. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance and unemployment insurance, are available from the City to Donor or its employees, agents, representatives or subcontractors. Donor will be solely and entirely responsible for its acts and for the acts of Donor's agents, employees, representatives and subcontractors during the performance of this Agreement.
9. **Expiration; Termination.** This Agreement shall expire automatically upon the City's receipt and acceptance of the Sculpture. Once the commission contract is signed with the artist, neither the City nor the Donor can terminate this agreement.
10. **Indemnification/Hold Harmless.** Donor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The provisions of this section shall survive the expiration or termination of this Agreement.
11. **Entire Agreement.** The written provisions and terms of this Agreement, together with all documents attached hereto, shall supersede all prior verbal statements of any officer or representative of and such statements shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.
12. **Modification.** No waiver, alteration or modification of any of provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of City and Donor.
13. **Assignment.** Any assignment of this Agreement by Donor without the written consent of the City Director of Parks and Recreation shall be void.

- 14. **Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereinafter specified in writing.
- 15. **Non-Waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options and the same shall be and remain in full force and effect.
- 16. **Resolution of Disputes, Governing Law.** Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall be referred to the City Manager, whose decision shall be final. In the event of litigation arising out of this Agreement, the prevailing party shall be reimbursed for its reasonable attorney fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year above written.

CITY OF CORPUS CHRISTI

By: _____
 Name: _____
 Title: _____
 Date: _____

Approved as to legal form: 3/7/2017

By: *Lisa Aguilar*
 Lisa Aguilar, Assistant City Attorney
 for the City Attorney

RHODES URBAN

By: *[Signature]*
 Date: 16 MARCH 2017

GENERAL NOTES

- 1. PER TO CONSTRUCTION SPECIFICATIONS AND DETAILS FOR REINFORCED CONCRETE AND CONCRETE ALUMINUM WALLS AND PARTITIONS.
2. PER ARCHITECT'S GENERAL NOTES.
3. PER ARCHITECT'S SPECIFICATIONS AND DETAILS FOR CONCRETE FOUNDATION WALLS.
4. PER ARCHITECT'S SPECIFICATIONS AND DETAILS FOR CONCRETE FOUNDATION WALLS.

DESIGN CRITERIA

- 1. DESIGN LOADS: THE DESIGN LOADS FOR THIS STRUCTURE SHALL BE AS FOLLOWS:
2. LIVE LOADS: 40 PSF
3. DEAD LOADS: 15 PSF
4. WIND LOADS: AS PER ASCE 7-10, EXPOSED B AND EXPOSED C.

SHOP DRAWINGS AND SUBMITTALS

- 1. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR REVIEW AND APPROVAL BY THE ARCHITECT AND ENGINEER.
2. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR REVIEW AND APPROVAL BY THE ARCHITECT AND ENGINEER.
3. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR REVIEW AND APPROVAL BY THE ARCHITECT AND ENGINEER.

ALUMINUM

- 1. ALUMINUM SHALL BE CORROSIVE RESISTANT FORM STAINLESS.
2. ALUMINUM SHALL BE CORROSIVE RESISTANT FORM STAINLESS.
3. ALUMINUM SHALL BE CORROSIVE RESISTANT FORM STAINLESS.
4. ALUMINUM SHALL BE CORROSIVE RESISTANT FORM STAINLESS.

FOUNDATION AND EARTHWORK

- 1. FOUNDATION SHALL BE CONSTRUCTED AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.
2. FOUNDATION SHALL BE CONSTRUCTED AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.
3. FOUNDATION SHALL BE CONSTRUCTED AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.

CONCRETE NOTES

- 1. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.
2. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.
3. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.

CONCRETE NOTES CONT'D

- 1. REINFORCEMENT SHALL BE AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.
2. REINFORCEMENT SHALL BE AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.
3. REINFORCEMENT SHALL BE AS PER ARCHITECT'S SPECIFICATIONS AND DETAILS.

REINFORCEMENT TENSION LAPS AND EMBEDMENT

Table with 6 columns: Bar Size, Development Length (ft), and Development Length (in). Rows include #4, #5, #6, #7, #8, #9, #10, #11, #12.

WINDSTORM

- 1. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.
2. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.
3. ALL CONCRETE SHALL BE 4000 PSI COMPRESSED STRENGTH.

ABBREVIATIONS

Table with 2 columns: Abbreviation and Full Name. Includes terms like ACI, ASCE, FEMA, etc.

REVISIONS

Table with 3 columns: No., Date, and Description of revisions.

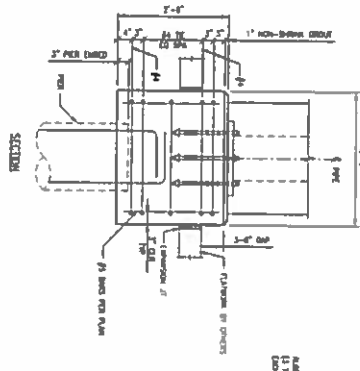
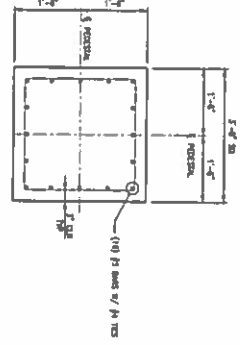
ISSUED FOR PERMITTING

S1

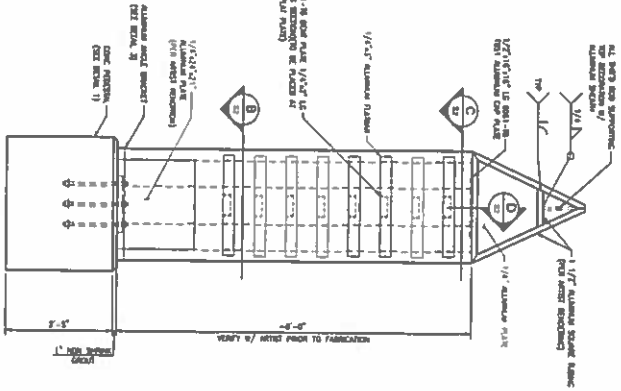
URBAN VISIONS LA RETAMA PARK SCULPTURE 500 NORTH MESQUITE, CORPUS CHRISTI, TEXAS, 78401 STRUCTURAL NOTES



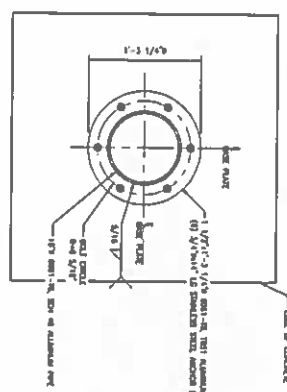
CONCRETE



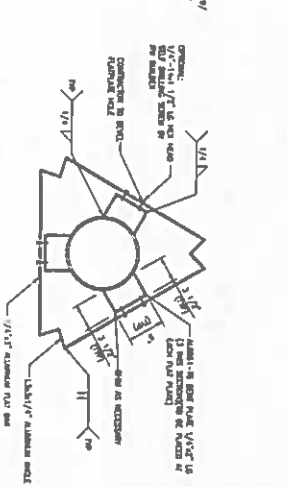
1 TYP PEDESTAL DETAIL
SCALE: 3/4" = 1'-0"



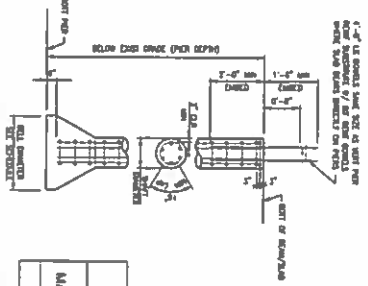
A STATUE ELEVATION
SCALE: 3/4" = 1'-0"



B SECTION
SCALE: 1 1/2" = 1'-0"

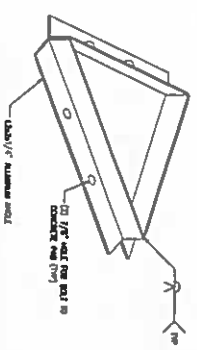


C SECTION
SCALE: 1 1/2" = 1'-0"

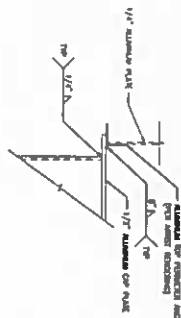


2 PIER DETAIL & SCHEDULE
SCALE: 3/4" = 1'-0"

PIER SCHEDULE			
MARK	DIMENSION	REINFORCING	REMARKS
P1	1'-0"	11# 1/2"	
P1	3'-0"	11# 1/2"	



3 ALUMINUM ANGLE BRACKET DETAIL
SCALE: 1 1/2" = 1'-0"



D TOP PLATE SECTION
SCALE: 1 1/2" = 1'-0"

ISSUED FOR PERMITTING

<p>URBAN VISIONS LA RETAMA PARK SCULPTURE 500 NORTH MESQUITE, CORPUS CHRISTI, TEXAS, 78401 ELEVATIONS, SECTIONS, & DETAILS</p>		<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>BY</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>ISSUED FOR REVIEW</td> <td>ME</td> <td>12/11/16</td> </tr> <tr> <td>2</td> <td>ISSUED FOR PERMITTING</td> <td>ME</td> <td>12/11/16</td> </tr> </tbody> </table>		NO.	DESCRIPTION	BY	DATE	1	ISSUED FOR REVIEW	ME	12/11/16	2	ISSUED FOR PERMITTING	ME	12/11/16
		NO.	DESCRIPTION	BY	DATE										
1	ISSUED FOR REVIEW	ME	12/11/16												
2	ISSUED FOR PERMITTING	ME	12/11/16												
<p>ME MECHANICAL ENGINEERING CORPUS CHRISTI, TEXAS</p>	<p>DATE: OCTOBER 2016</p>														

EXHIBIT 2

Location for La Retama Park Public Art Donation

Sculpture location: site location is at the corner of Peoples Street and N. Mesquite Street, indicated in yellow on the map of La Retama Park below.

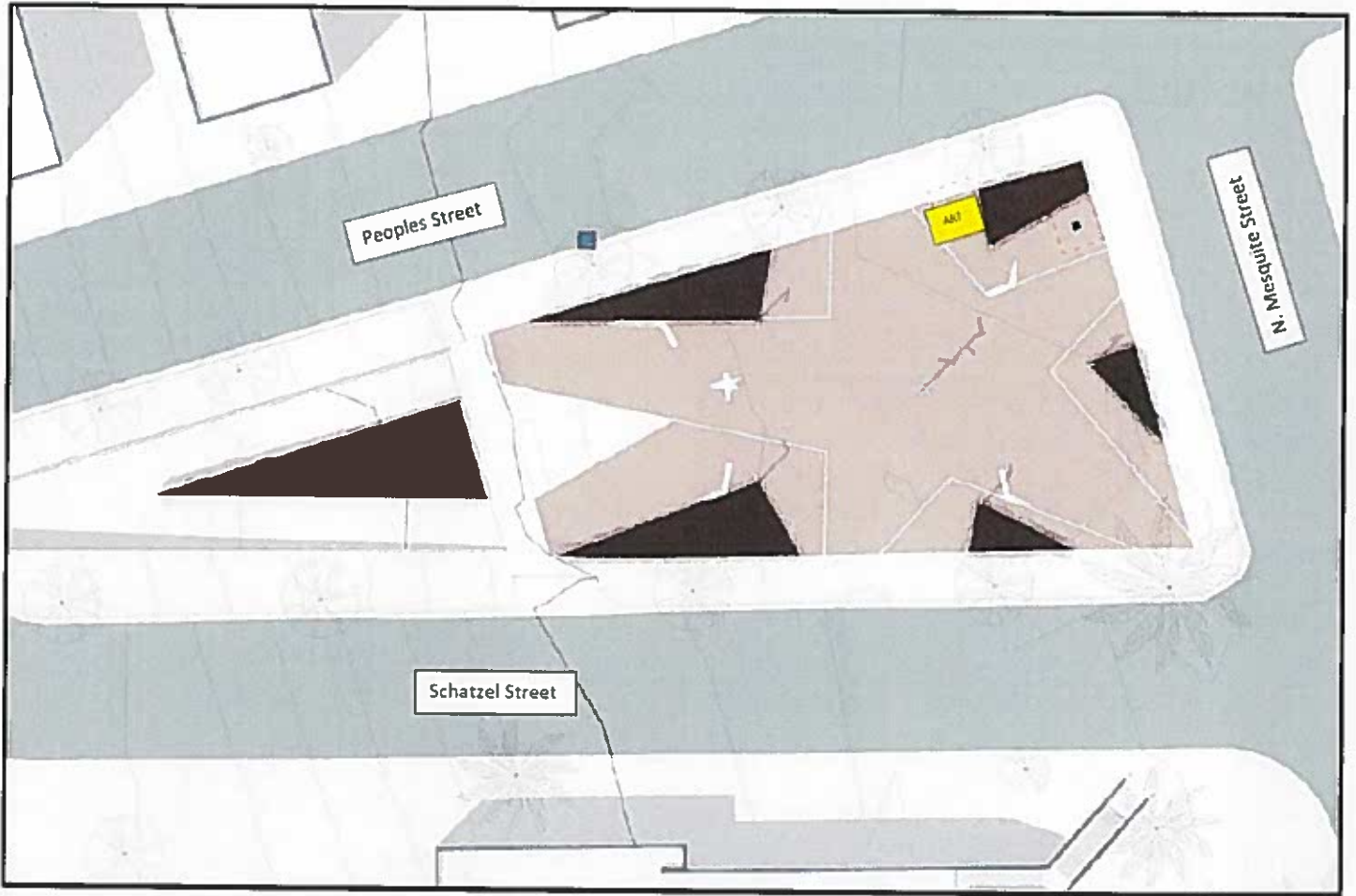


EXHIBIT 3

INSURANCE REQUIREMENTSI. **CONTRACTOR'S LIABILITY INSURANCE**

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Director of Parks and Recreation Department one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. **The City must be listed as an additional insured on the General liability and Auto Liability policies, and a waiver of subrogation is required on all applicable policies. Endorsements must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$500,000 Per Occurrence
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$500,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory and complies with Part II of this Exhibit.
Employer's Liability	\$500,000/\$500,000/\$500,000

INSTALLATION FLOATER	Coverage shall be in the amount of the appraised value of Artwork. Coverage shall cover transportation of Artwork From point of origin thru installation and acceptance of City of Corpus Christi, Parks and Recreation Director.
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- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

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

- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor'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 Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.