

**LEASE AGREEMENT**

**THE STATE OF TEXAS §**

**§ KNOW ALL BY THESE PRESENTS:**

**COUNTY OF NUECES §**

This Lease Agreement is by and between the **City of Corpus Christi, Texas**, a municipal corporation (hereinafter "City"), and the **Corpus Christi Area Council for the Deaf, Inc.**, a non-profit corporation (hereinafter "Lessee").

**WITNESSETH:**

WHEREAS, the Lessee is organized exclusively for the charitable purpose of providing services to deaf persons;

WHEREAS, in 1991 Lessee requested a revision of its 1983 Lease agreement in order to incorporate Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) regulations;

WHEREAS, the City originally leased the Premises to Lessee for a ten (10) year term beginning March 1, 1983, by lease dated February 4, 1983 ("1983 Lease");

WHEREAS, the City by "Lease Agreement Amendment" dated December 29, 1991 ("1991 Lease") (authorized by City Council Ordinance No. 021272 dated October 29, 1991), revised and extended the 1983 Lease for a period of ten (10) years beginning December 29, 1991, and ending on July 14, 2001;

WHEREAS, the City found and determined that the lease amendment dated December 29, 1991, would further the popular enjoyment of the park property and was consistent with the goals for public recreation established by the City to extend these services to a broad spectrum of the population;

WHEREAS, the City has found and determined in the ordinance authorizing this lease that the 1991 Lease should be extended by this lease; and the Premises shall be considered to have been continuously leased to Lessee under the terms of the 1991 Lease from the beginning of the 1991 Lease until the beginning of this lease;

WHEREAS, the City Council held a public hearing on the 13<sup>th</sup> day of January 2004, and complied with the requirements of Chapter 26 of the Texas Parks and Wildlife Code regarding the use of park lands;

WHEREAS, the City approved a lease amendment dated January 13, 2004 to extend the term until April 10, 2014, with an automatic renewal for an additional ten year term;

WHEREASE, the Lessee desires to expand its leased premises for new construction;

WHEREAS, the City Council held a public hearing on the \_\_\_\_\_ day of \_\_\_\_\_, and complied with the requirements of Chapter 26 of the Texas Parks and Wildlife Code regarding the use of additional park lands;

NOW, THEREFORE, in consideration of the premises, covenants and conditions in this Lease, the City and Lessee mutually agree as follows:

**Section I. Premises.**

The City grants, leases and demises unto Lessee and Lessee rents and leases from the City the following parcel of real property located in Corpus Christi, Nueces County, Texas ("Premises"):

A site having the dimensions of approximately 242.5 feet by 120 feet, located on the north and east portion of a tract known as Mt. Vernon Park along McArdle Road. The site and park are more fully described in the attached **Exhibit "A"**.

**Section 2. Term.**

a. The primary term of this Lease shall be ten (10) years beginning sixty one (61) days after final adoption by City Council of the ordinance authorizing this Lease and ending on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; and when the primary term begins the Premises shall be deemed continuously leased under the 1991 Lease from the beginning of the 1991 Lease until the beginning of this lease.

b. At the end of the primary term, this Lease shall be automatically extended for an additional ten (10) year term; provided, however, that either party may terminate this Lease at any time upon giving the other party one year's written notice in advance of intention to terminate.

**Section 3. Purpose.**

Lessee shall operate the Premises exclusively for the following purpose and uses incidental thereto: To operate a public service and recreation center (hereinafter the Project) designed to primarily benefit the deaf and hard of hearing persons of the community. Should Lessee ever receive Community Development Block Grant Funding subsequent to the effective date of this Lease, then the following purpose shall apply to this Lease: To further the primary objective of the Act as outlined in Federal Register 24CFR 570.200 and to provide safe and sanitary public facilities for handicapped individuals; and to further provide additional services to help the deaf and hearing impaired person to live as independently as possible in the hearing world and at all times in accordance with Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) regulations.

**Section 4. Construction.**

- a. Lessee constructed the building on the Premises in 1983. Lessee constructed improvements to the building in 1991 and 2001 using CDBG funds allocated to Lessee.
- b. Lessee desires to construct new improvements at the Premises. Lessee agrees to add to, maintain, and operate a public service and recreation center (hereinafter the Project) designed to primarily benefit the deaf and hard of hearing persons of the community. Lessee agrees to construct certain improvements on the Premises in the furtherance of said Project, which improvements shall be constructed in accordance with plans and specifications approved by the City Director of Parks and Recreation and the City Director of Engineering Services. Lessee shall have full and complete responsibility for the preparation of such plans and specifications, obtaining all required Federal, State, and local permits, and supervision of construction of the Project.
- c. Lessee agrees that the entire costs of construction of the Project, including initial site work, architect's and engineer's fees, inspection, installation of utilities, and all other costs related to completing, equipping, and stocking the facility, shall be borne entirely by Lessee. The City does not assume nor will it in any way be responsible for any of the financial obligations incurred or created by the Lessee in connection with the construction, equipping and operation of the Project.

**Section 5. Furnishings.**

Lessee shall be responsible for furnishing and equipping the building and City has no obligation to furnish any equipment or furnishings for Lessee. All personal property furnished by Lessee or donated by others on behalf of Lessee shall remain the property of Lessee unless specifically donated to City.

**Section 6. Maintenance and Utilities.**

Lessee agrees to maintain the Premises during the term of this Lease in a clean and attractive appearance. Lessee shall be responsible for all costs of maintenance, utilities and the collection and removal of any trash or rubbish from the Leased Premises.

**Section 7. Duties at Termination or Expiration of lease.**

At the expiration of the term of this Lease, or any extension thereof, Lessee shall release and deliver unto the City the Premises and all facilities included thereon in reasonably sound condition, normal wear and tear excepted. Lessee may remove at its own expense any supplies, furniture or equipment which are not classified as fixtures and which may be removed without damaging the remaining improvements.

**Section 8. Records.**

Should Lessee receive CDBG funds subsequent to the effective date of this lease, then the following provisions shall apply:

a. Operation Records. Lessee will provide access to the documentation of clientele being benefited by the Facilities and the activities being carried out in the Facilities which pertain to the operations of the Facilities and all obligations pursuant to this Agreement, including all information on matching funds, if any, during regular business hours for the purpose of City and/or HUD conducted audits or monitoring.

b. Equal Participation Documentation. Lessee shall also keep and provide access to records documenting compliance with Section 109 of the Housing and Community Act which requires that no person shall on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act.

c. Information and Reports. Lessee shall provide any information, reports, data and/or forms pertinent to this Agreement as the Director of Housing and Community Development for the City may from time to time request for the proper administration of this Agreement.

d. OMB Circular A-110. Lessee shall comply with the following attachment to OMB Circular number A-110:

Attachment C, "Retention and Custodial Requirements for Records", except, in lieu of the provisions in paragraph 4, the retention period for records pertaining to individual CDBG activities starts from the date of submission of the annual performance and evaluation report, as prescribed in Section 570.507, in which the specific activity is reported on for the final time;

e. Compliance Documentation. Lessee shall keep and provide access to records documenting compliance with the following sections of the Housing and Community Act 24 CFR 570, et seq: 5770.610 Uniform Administrative Requirements and Cost Principles; and 570.611 Conflict of Interest. If there is a conflict of interest with any employee, agent, consultant, officer or member of the Board of Directors of lessee, identify by name and title the person with the conflict and the nature of the conflict.

**Section 9. Compliance with Laws.**

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

**Section 10. Non-discrimination policy.**

Lessee agrees that in the conduct of programs a non-discrimination policy will apply, and that the Premises may be utilized by the public in accordance with reasonable scheduling requirements on a first come, first served basis.

**Section 11. Fees.**

Lessee may charge fees for rooms and use of the Premises facilities and may conduct instructional classes for fees. All of the fees and charges shall be reasonable in keeping with charges and fees assessed at other recreation centers within the City and must be first approved by the City Director of Parks and Recreation.

**Section 12. Changes in Programs.**

Lessee agrees that no changes in programs, plans or fee schedules for activities at the premises facilities may be implemented without first obtaining the prior approval of the City Director of Parks and Recreation.

**Section 13. Insurance.**

Lessee agrees to secure and maintain throughout the term of this Lease, or any extension, at Lessee's expense, the policies of insurance described on the attached Exhibit.

The policies of insurance shall name the City as an additional insured by their terms and shall contain provisions that they cannot be cancelled, allowed to lapse, or materially changed unless ten (10) days' notice of shall first have been served upon the Director of Park and Recreation. Lessee shall promptly provide copies of all insurance policies upon City's written request.

Certificates of insurance for all policies shall be furnished to the Director of Park and Recreation prior to any construction activities pursuant to this Lease Agreement and maintained at all times throughout the term of this Lease Agreement.

**Section 14. Indemnity.**

Lessee shall indemnify the City of Corpus Christi against any and all losses, claims, demands, and defend any suit or action for damage of every kind and character made against the City of Corpus Christi based on personal injury of any person, including death and for loss of or damage to property of any person, whether caused by the City of Corpus Christi and Lessee or however same may be caused, growing out of any act, occurrence or omission, or incident to or resulting from the performance, or failure to perform the work or the provisions of this Agreement.

**Section 15. No assignment.**

Lessee shall not sublet or assign this Lease, or any part thereof, without the prior written consent from Lessor.

**Section 16. Publication Costs.**

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

**Section 17. Taxes and other assessments.**

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

This Lease Agreement constitutes the entire agreement of the parties.

EXECUTED IN DUPLICATE, each of which shall be considered an original, on the 6 day of February, 2013.

LESSEE: Corpus Christi Area Council for the Deaf, Inc.

By: Mary E. Wambach

Name: Mary E. Wambach

Executive Director

THE STATE OF TEXAS §

COUNTY OF NUECES §

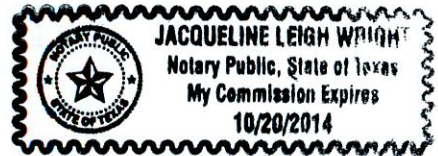
This instrument was acknowledged before me on February 6<sup>th</sup>, 2013 by Mary E. Wambach, Executive Director of Corpus Christi Area Council for the Deaf, Inc., a Texas nonprofit corporation, on behalf of the corporation.

Jacqueline Leigh Wright  
Notary Public, State of Texas

Printed Name: Jacqueline L Wright

Seal:

Expiration Date: 10/20/2014



ATTEST:

CITY OF CORPUS CHRISTI

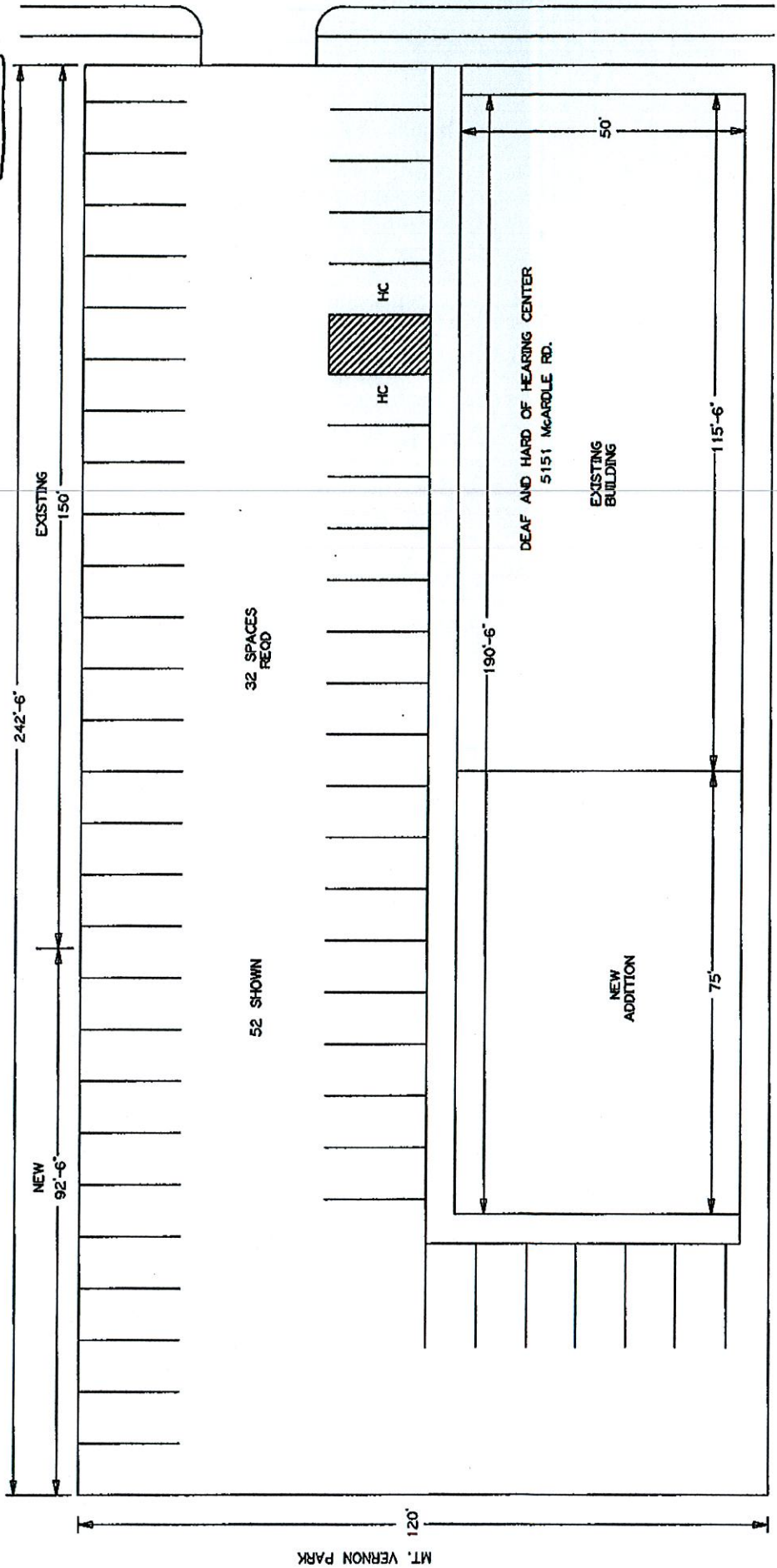
\_\_\_\_\_  
Armando Chapa  
City Secretary

\_\_\_\_\_  
Ronald L. Olson  
City Manager

Exhibit A  
Page 1 of 2

MT. VERNON UNIT 3  
3MPTS ONLY OUT OF 7,245 ACS - PARK

MT. VERNON PARK



LA PALMERA MALL  
PROPERTY

MT. VERNON PARK

MCGARDLE RD.





Exhibit A  
Page 2 of 2

SCALE 1" = 30'

PUBLIC PARK  
MT. VERNON S/D., UNIT 3  
V.19, P. 84 (M.R.N.C.T.)

5151 MCARDLE ROAD  
(50' R.O.W.)  
(S 60° 59' 30" E 120.00')

(IN 30° 58' 48" E 242.50')

"VACANT"  
0.677 AC.  
29,494 S.F.  
OF PUBLIC PARK

(S 29° 00' 30" W 30.00')

(IN 61° 00' 05" W 120.00')

PUBLIC PARK  
MT. VERNON S/D., UNIT 3  
V.19, P. 84 (M.R.N.C.T.)

( $\Delta = 04^\circ 22' 29''$ ; R=2783.83, LA=212.55', T= 106.33')  
LC= (S 31° 15' 30" W 212.50')

LA PALMERA  
LOT C  
MT. VERNON S/D. UNIT 3  
V.51, P. 92-93 (M.R.N.C.T.)

This property lies within Zone C,  
according to FIRM 85, which is  
NOT within the 100 year Flood Plain.

NOTES:  
(1.) Found 5/8" I.R. @ all lot corners unless noted otherwise.  
(2.) House Ties are to the foundation.

NOTE: THIS SURVEY IS FOR THE SOLE USE OF THE BUYER, TITLE COMPANY,  
OR MORTGAGE COMPANY IN THIS TRANSACTION ONLY. NO LICENSE HAS  
BEEN CREATED, EXPRESSED OR IMPLIED, TO COPY THE SURVEY, WHICH IS  
VOID AFTER SIX MONTHS FROM THE DATE OF THIS SURVEY.



I, Ronald A. Voss, a Registered Professional Land Surveyor, do hereby  
certify that this survey was made on the ground of the property shown  
hereon under my direction and supervision; that it is my knowledge and  
belief that there are no apparent encroachments or overlapping of  
improvements with the deed lines except as shown hereon. This Survey  
was performed without the benefit of a Title Policy or Title Opinion.

NOT VALID WITHOUT ORIGINAL  
SIGNATURE AND ORIGINAL SEAL.

Registered Professional Land Surveyor State of Texas No. 2293

BUYER: -  
DATE: 12/07/12  
REVISION:  
CREW: RS & DL  
OFFICE: RV & OA  
GF#:  
JOB#: 12-8478

0.677 Ac. of The Public Park, Mt. Vernon Subdivision Unit 3  
Volume 19, Page 84, (M.R.N.C.T.)  
Corpus Christi, Nueces County, Texas

KEY: WOOD FENCE  
[RECORDED] WIRE FENCE  
(MEASURED) VINYL FENCE

**VOSS ENGINEERING, INC.**  
ENGINEERING & LAND SURVEYING  
6838 GREENWOOD DRIVE, CORPUS CHRISTI, TEXAS 78415  
PHONE: 361.854.6202 FAX: 361.853.4696

## INSURANCE REQUIREMENTS

### I. LESSEE'S LIABILITY INSURANCE

- A. Lessee must not commence work under this agreement until all insurance required has been obtained and such insurance has been approved by the City. Lessee must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Lessee must furnish to the City's Risk Manager, 2 copies of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be named as an additional insured on the General liability policy, and a blanket waiver of subrogation is required on all applicable policies.

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: <ol style="list-style-type: none"> <li>1. Commercial Broad Form</li> <li>2. Premises – Operations</li> <li>3. Products/ Completed Operations</li> <li>4. Contractual Liability</li> <li>5. Independent Contractors</li> <li>6. Personal Injury- Advertising Injury</li> </ol>	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) <ol style="list-style-type: none"> <li>1. Owned</li> <li>2. Hired and Non-Owned</li> </ol>	\$1,000,000 Combined Single Limit
Property Coverage	Lessee will be responsible for any and all damage to property or equipment used regardless if owned, rented,

	leased or borrowed.
<b>WORKERS' COMPENSATION</b>	<b>Applicable for paid employees,</b>  WHICH COMPLIES WITH THE TEXAS WORKERS' COMPENSATION ACT AND SECTION II OF THIS EXHIBIT
<b>EMPLOYERS' LIABILITY</b>	\$500,000 /\$500,000 /\$500,000

C. In the event of accidents of any kind related to this lease agreement, Lessee 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, Lessee must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Lessee will be promptly met.

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

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

City of Corpus Christi  
Attn: Risk Manager and

Parks and Recreation Director  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

- D. Lessee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation policy;
  - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Lessee shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lessee's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Lessee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Lessee to stop work hereunder, and/or withhold any payment(s) which become due to Lessee hereunder until Lessee demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Lessee may be held responsible for payments of damages to persons or property resulting from Lessee's or its subcontractor's performance of the work covered under this agreement.

- H. It is agreed that Lessee's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this agreement.
  
  - I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement.
-