

CITY OF CORPUS CHRISTI
CONTRACT FOR PROFESSIONAL SERVICES

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 of Engineering Services) and **HDR Engineering, Inc.**, 555 N. Carancahua, Suite 1600, Corpus Christi, Texas, Nueces County, Texas 78401, (**Consultant**), hereby agree as follows:

1. SCOPE OF PROJECT

McGee Beach Nourishment (Project No. E14048) - The City desires a feasibility assessment for dredging the southern portion of the downtown marina to improve boat access to the new "R Pier" south of the Cooper's Alley L-Head. The assessment will consider the possibility of beneficial placement of the dredged material to nourish McGee Beach.

2. SCOPE OF SERVICES

The Consultant hereby agrees to perform services to complete the Project, as detailed in **Exhibit "A"**. In addition, Consultant will provide monthly status updates (project progress or delays presented with monthly invoices) and provide contract administration services, as described in **Exhibit "A"**, to complete the Project. Work will not begin on Additional Services until requested by the Consultant (provide breakdown of costs, schedules), **and** written authorization is provided by the Director of Engineering Services.

3. ORDER OF SERVICES

The Consultant agrees to begin work on those authorized Basic Services for this contract upon receipt of the Notice to Proceed from the Director of Engineering Services. 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. The anticipated schedule of the preliminary phase, design phase, bid phase, and construction phase is shown on **Exhibit "A"**. This schedule is not to be inclusive of all additional time that may be required for review by the City staff and may be amended by or with the concurrence of the Director of Engineering Services.

The Director of Engineering Services may direct 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 of Corpus Christi within three (3) days of notice if tasks requested requires an additional fee.

4. FEE

The City will pay the Consultant a fee as described in **Exhibit “A”** for providing services authorized, a total fee not to exceed \$28,651.00. Monthly invoices will be submitted in accordance with **Exhibit “B”**.

5. INDEMNITY

Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, employees, or other entity, excluding the engineer or architect or that person’s agent, employee or subconsultant, over which the City exercises control (“Indemnatee”) 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 Indemnatee, with counsel satisfactory to the City Attorney, from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, if the claim is not based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee, the 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.

6. INSURANCE

Consultant agrees to comply with the insurance requirements in **Exhibit C**.

7. TERMINATION OF CONTRACT

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

In the event of termination, the Consultant will be compensated for its services on all stages authorized based upon Consultant and City's estimate of the proportion of the total services actually completed at the time of termination. As a condition precedent to termination for cause, the Consultant shall have the right to cure the default within the cure period specified in the initial notice of default.

8. LOCAL PARTICIPATION

The City Council's stated policy is that City expenditures on contracts for professional services be of maximum benefit to the local economy.

9. ASSIGNABILITY

The Consultant will not assign, transfer or delegate any of its obligations or duties in this contract to any other person without the prior written consent of the City, except for routine duties delegated to personnel of the Consultant staff. If the Consultant is a partnership, then in the event of the termination of the partnership, 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.

10. OWNERSHIP OF DOCUMENTS

All documents including contract documents (plans and specifications), record drawings, contractor's field data, inspection reports and submittal data will be the sole property of the City, may not be used again by the Consultant without the express written consent of the Director of Engineering Services. However, the Consultant may use standard details that are not specific to this project. The City agrees that any modification of the plans will be evidenced on the plans, and be signed and sealed by a professional engineer prior to re-use of modified plans.

11. STANDARD OF CARE

Services provided by Consultant under this Agreement shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and 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.

12. DISCLOSURE OF INTEREST

Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form as part of this contract.

13. CERTIFICATE OF INTERESTED PARTIES

For contracts that exceed \$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 requires disclosure of “interested parties” with respect to entities that enter contracts with cities. These interested parties include:

- (1) persons with a “controlling interest” in the entity, which includes:
 - a. an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock or otherwise that exceeds 10 percent;
 - b. membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
 - c. service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.
- (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser or attorney for the business entity.

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, notarized 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>.

14. CONFLICT OF INTEREST

Consultant agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City Secretary’s Office, if required. For more information and to determine if you need to file a Form CIQ, please review the information on the City Secretary’s website at <http://www.cctexas.com/government/city-secretary/conflict-disclosure/index>.

15. ENTIRE AGREEMENT AND CONTROLLING LAW

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. 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.

16. CONFLICT RESOLUTION BETWEEN DOCUMENTS

Consultant hereby agrees and acknowledges if anything contained in the Consultant-prepared **Exhibit A**, Consultant’s Scope of Services, or contained in any other document prepared by Consultant and included herein, is in conflict with this Agreement, this Agreement shall take precedence and control to resolve said conflict.

CITY OF CORPUS CHRISTI

HDR ENGINEERING, INC.

Mark Van Vleck, P.E. Date
Assistant City Manager

Arthur B. Colwell, P.E. Date
Vice President
555 N. Carancahua, Suite 1600
Corpus Christi, TX 78401-0850
(361) 696-3300 Office
(361) 696-3385 Fax

APPROVED

Valerie H. Gray, P.E. Date

APPROVED AS TO LEGAL FORM

Legal Department Date

ATTEST

Rebecca Huerta Date
City Secretary

PROJECT NAME
Project No. EXXXX
Invoice No. 12345
Invoice Date:

Basic Services:

| | Contract | Amd No. 1 | Amd No. 2 | Total Contract | Amount Invoiced | Previous Invoice | Total Invoice | Percent Complete |
|-------------------------|----------|-----------|-----------|----------------|-----------------|------------------|---------------|------------------|
| Preliminary Phase | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |
| Design Phase | 0 | 0 | 0 | 0 | \$0 | 0 | 0 | 0% |
| Bid Phase | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Report Phase | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Construction Phase | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Subtotal Basic Services | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |

Additional Services:

| | | | | | | | | |
|------------------------------|-----|-----|-----|-----|-----|-----|-----|----|
| Permitting | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |
| Warranty Phase | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Inspection | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Platting Survey | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Reporting | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| O & M Manuals | TBD | TBD | TBD | TBD | TBD | TBD | 0 | 0% |
| SCADA | TBD | TBD | TBD | TBD | TBD | TBD | TBD | 0% |
| Subtotal Additional Services | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |

Summary of Fees

| | | | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|-----|----|
| Basic Services Fees | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |
| Additional Services Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Total of Fees | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | 0% |

EXHIBIT C

Insurance Requirements

Pre-Design, Design and General Consulting Contracts

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. **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 |
| PROFESSIONAL LIABILITY (Errors and Omissions) | \$1,000,000 Per Claim If claims made policy, retro date must be prior to inception of agreement, have extended reporting period provisions and identify any limitations regarding who is insured. |

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, 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 shall be required to submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. 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 Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation or non-renewal 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.