

**SHORT-TERM LEASE AGREEMENT BETWEEN THE CITY OF CORPUS CHRISTI
AND
BUCCANEER COMMISSION**

**STATE OF TEXAS §
 §
COUNTY OF NUECES §**

KNOW ALL BY THESE PRESENTS:

This lease agreement ("**Lease**") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("**City**"), acting through its duly authorized City Manager, or his designee ("**City Manager**"), and the Corpus Christi Buccaneer Commission ("**Lessee**").

WHEREAS, the City is the owner of real property known as the Tex-Mex Railroad Depot located at 1823 Chaparral, Corpus Christi Texas, together with all improvements thereon ("**Premises**");

WHEREAS, Lessee has requested the use of the Premises for the purpose of office space for its operations as the Buccaneer Commission, upon the conditions and covenants contained in this Lease; and,

WHEREAS, City desires to allow Lessee to use the Premises for this purpose.

NOW, THEREFORE, City and Lessee, in consideration of the mutual promises and covenants contained herein, agree as follows:

Section 1 Definitions.

- (A) **City** means the City of Corpus Christi, Nueces County, Texas, a home rule municipal corporation.
- (B) **City Manager** means the City's City Manager or the City Manager's designee.
- (C) **Director** means the City's Director of Park and Recreation or the Director of Park and Recreation's designee.
- (D) **Lease** means this lease document, including all attached and incorporated exhibits.
- (E) **Lessee** means Buccaneer Commission.
- (F) **Parks** means the City's Park and Recreation Department.
- (G) **Premises** means the Tex-Mex Railroad Depot located at 1823 Chaparral, Corpus Christi Texas, together with all improvements thereon, including parking spaces, as depicted on the attached and incorporated **Exhibit A**. However, the

parking spaces will be available for general public use after Lessee's regular office hours.

Section 2. Purpose.

The purpose of this Lease, between City and Lessee, is to enable Lessee to utilize Premises for office space for its day-to-day nonprofit corporation operations. Lessee shall not operate the Premises for any other purpose without Director's prior written approval.

Section 3. Term.

The City leases the Premises, subject to all terms and conditions of this Lease, to the Lessee on a month-to-month basis for up to six months, unless sooner terminated as set out herein. This short-term Lease automatically terminates upon the effective date of a longer term multi-year lease between the parties.

Section 4. Acceptance of Premises Disclaimer:

A. LESSEE ACKNOWLEDGES THAT IT IS LEASING THE PREMISES "AS IS" WITH ALL FAULTS AS MAY EXIST ON THE PREMISES, AND THAT NEITHER LESSOR, NOR ANY EMPLOYEE OR AGENT OF LESSOR, HAS MADE ANY REPRESENTATIONS OR WARRANTIES AS TO THE CONDITION OF SUCH PREMISES. LESSEE HEREBY WAIVES ANY AND ALL CAUSES OF ACTION, CLAIMS, DEMANDS, AND DAMAGES BASED ON ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF SUITABILITY FOR A PARTICULAR PURPOSE, ANY AND ALL WARRANTIES OF HABITABILITY, AND ANY OTHER IMPLIED WARRANTIES NOT EXPRESSLY SET FORTH IN THIS LEASE.

B. LESSEE ACKNOWLEDGES AND AGREES THAT LESSEE HAS BEEN PROVIDED, TO ITS SATISFACTION, THE OPPORTUNITY TO INSPECT THE PREMISES FOR ANY DEFECTS AS TO THE SUITABILITY OF SUCH PROPERTY FOR THE PURPOSE TO WHICH LESSEE INTENDS TO USE THE PREMISES, AND IS RELYING ON ITS OWN INSPECTION.

C. LESSEE ACKNOWLEDGES THAT ANY AND ALL STRUCTURES AND IMPROVEMENTS EXISTING ON THE PREMISES ON THE COMMENCEMENT DATE, IF ANY, ARE ACCEPTED "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY LESSOR WITH RESPECT THERETO. LESSEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, STATEMENT OR OTHER ASSERTION BY LESSOR WITH RESPECT TO ANY EXISTING STRUCTURES OR IMPROVEMENTS, BUT IS RELYING ON ITS EXAMINATION THEREOF.

D. THE PROVISIONS OF THIS Section 4 SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

Section 5. Lease Payments.

- (A) For and in consideration of the rights and privileges herein granted, Lessee agrees to pay the City, as follows monthly rents as follows: \$600 per month
- (B) All rental fees are due and payable on or before the 10th day of each month for the term of this Lease. Payment must be made to the order of the City of Corpus Christi and mailed to the City Collections Department, P. O. Box 9257, Corpus Christi, TX, 78469, or delivered to City Hall at 1201 Leopard Street, Corpus Christi, TX, 78401.

Section 6. Construction of Improvements.

Prior to commencing any work at the Premises, Lessee shall coordinate with the Director of Parks and Recreation to verify that Lessee has sufficient funds on hand to complete the planned improvements, ("Improvements"), will comply with City permitting process, and will obtain prior approval from the Director of Parks and Recreation regarding any work at the Premises.

Lessee shall require the contractors who are awarded contracts for construction of the Improvements to furnish the following bonds by surety companies authorized to do business in Texas:

Payment Bond – A payment bond in the amount of One Hundred Percent of the contract shall be furnished for the protection of all persons, firms, and corporations who may furnish materials or perform labor. The payment bond shall be made with City as an obligee. However, this requirement does not apply if the amount of the construction contract is \$25,000 or less.

Performance Bond. A performance bond in the amount of One Hundred Percent of the contract shall be furnished covering the faithful performance of the contract. The performance bond shall be made with City as an obligee. However, this requirement does not apply if the amount of the construction contract is \$50,000 or less.

Lessee shall include in all construction contracts for the Improvements, in large, bold face text: **"Contractor does hereby agree to release, indemnify, defend and hold harmless City of Corpus Christi, and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action including all expenses of litigation and/or settlement, court costs and attorney fees which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property occasioned by error, omission, or negligent act of contractor, its officers, agents, employees, subcontractors, invitees or any other person arising out of or in connection with the performance of the construction**

contract, and contractor shall at his or her own cost and expense defend and protect the City of Corpus Christi from any and all such claims and demands."

Lessee shall also require the contractors in all construction agreements for the Improvements to furnish insurance in such amounts as specified in *Exhibit B*.

Lessee agrees that the Director of Engineering Services or designee, as well as the Director of Parks and Recreation or designee, will make visits to the Premises at intervals appropriate to the various stages of construction, as they deem necessary.

Lessee agrees that the Director of Engineering Services or designee will have the authority to reject Work believed to be defective. Lessee agrees to promptly correct all defective work.

Lessee agrees that all work performed shall be done in full compliance and in accordance with all federal, state and local laws, ordinances, codes and regulations, including but not limited to the Americans with Disabilities Act and the Americans with Disabilities Act Accessibility Guidelines and such work shall be subject to City inspection during the performance thereof and after it is completed.

Lessee shall discharge all obligations to contractors, subcontractors, materialmen, workmen and/or other persons for all work performed and for materials furnished for or on account of Lessee as such obligations mature. Lessee expressly agrees that it will neither give nor grant, nor purport to give or grant any mechanic's or materialmen's lien upon the City's property or upon any Improvements thereupon in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party should be entitled, as a matter of law, to a mechanic's or materialmen's lien against the City's property or the Improvements thereon, and Lessee will discharge any such lien within thirty (30) days after notice of filing thereof.

Lessee shall conduct its operations under this Agreement in an orderly and proper manner, considering the nature of such operation, so as not to unreasonably annoy, disturb, or endanger others.

The complete cost of developing all necessary plans and specifications, as provided in this Agreement, and the cost of construction of the Improvements shall be borne solely by the Lessee at no expense to the City whatsoever. Lessee shall pay all taxes, special assessments, or levies, if any, assessed against the Premises or Improvements.

Upon completion of the Improvements, Lessee shall donate them to the City upon acceptance by the City Director of Parks and Recreation. Any warranties given to Lessee regarding the Improvements shall be transferred and assigned to the City at the same time as the Improvements are accepted by the City.

Section 7. Utilities.

- (A) Lessee shall be responsible to obtain and pay for all utilities to the Premises, including but not limited to, telephone, internet, electricity, water, wastewater, and solid waste.
- (B) Lessee shall pay for all utilities related to usage of Premises prior to the due date. Failure to pay any utility bill(s) prior to the due date constitutes grounds for termination of this Lease.

Section 8. Abandonment, Interruption of Utilities, Removal of Lessee's Property, and Lockout.

Chapter 93 of the Texas Property Code governs the rights and obligations of the parties with regard to: (a) abandonment of the leased premises; (b) interruption of utilities; (c) removal of Lessee's personal property; and (d) lock out of Lessee.

Section 9. Maintenance.

During the term of this Lease, Lessee will repair and maintain, at its sole expense, the Premises and any improvements on the Premises including without limitation all fixtures connected therewith, and all personal property thereon. However, the City shall be responsible for repairs to the HVAC system and repairs to the roof, subject to provisions of Section 29 and subject to availability and appropriation of funds. City has no obligation for such repairs if funds are not budgeted and appropriated for such purpose during the annual City budget process. Lessee shall obtain, at its own expense, all required building permits, all utility services, garbage collection, janitorial services, and similar services.

Section 10. Furniture, Fixtures, Equipment and Parking.

- (A) It is understood that Lessee will be responsible for furnishing and equipping the Premises and that the City has no obligation to furnish any equipment or furnishings for Lessee.
- (B) All capital construction to the premises, such as installation of electrical or plumbing fixtures, remains the property of the City.
- (C) Lessee may place signage for the reserved parking spaces shown on the attached Exhibit A to indicate that the parking spaces are reserved for Lessee during its business hours and during Buc Days events.

Section 11. City Use.

City retains the right to use or cross the Premises with utility lines and easements. City may exercise these rights without compensation to Lessee for damages to the Premises from installing, maintaining, repairing, or removing the utility lines and easements. City must use reasonable judgment in locating the utility lines and easements to minimize damage to the Premises.

Section 12. Laws Affecting Operation of Premises and Performance.

- (A) Lessee shall ensure that its use of the Premises is in accordance with all applicable Federal, State, and local laws, ordinances, rules and regulations.
- (B) Lessee shall bear the expense and responsibility of meeting all requirements for acquiring all applicable licenses and permits related to its operations. Lessee shall also bear the expense of meeting and complying with all health regulations and Certificate of Occupancy requirements.

Section 13. Inspection.

Any officer or authorized employee of the City may enter upon the Premises, at all reasonable times and notice, to determine whether Lessee is providing maintenance in accordance with and as required by above, or for any other purpose incidental to City's retained rights of and in the Premises.

Section 14. Relationship of Parties.

This Lease establishes a landlord/tenant relationship, and none other, and this Lease must be construed conclusively in favor of that relationship. In performing this Lease, both City and Lessee will act in an individual capacity and not as agents, representatives, employees, employers, partners, joint venturers, or associates of one another. The employees or agents of either party shall not be, nor be construed to be, the employees or agents of the other party for any purpose whatsoever.

Section 15. Insurance.

- (A) Lessee shall secure and maintain at Lessee's expense, during the term of this Lease, insurance of the type and with the amount of coverage shown on the Exhibit "B", which is incorporated in this Lease by reference.
- (B) The Certificate of Insurance must be sent to the Risk Manager prior to occupancy of and operations at the Premises. Lessee agrees to notify Lessor of any substantive change to its insurance coverage.
- (C) Lessee shall provide, during the term of this Lease, copies of all insurance policies to the Risk Manager upon written request by the City Manager. The Risk Manager shall retain the right to annually review the amount and types of insurance maintained by Lessee, to require increased coverage limits, if reasonably necessary in the interest of public health, safety, or welfare, and to decrease coverage, if so warranted.
- (D) In the event of any necessary increase, Lessee shall receive ninety (90) days written notice prior to the effective date of the requirement to obtain increased coverage. In the event alcoholic beverages are to be served or consumed on any Premises covered by this Lease, the Lessee shall additionally obtain or cause to

be obtained alcoholic beverage liability insurance in the amount of one million dollars (\$1,000,000.00) covering the event or time period when alcoholic beverages are to be served or consumed.

- (E) Lessee shall, prior to any addition or alteration to, in, on, or about the Premises, obtain prior clearance, in writing, from the Risk Manager that the proposed addition or alteration will not necessitate a change or modification in the existing insurance coverage maintained by Lessee. This clearance is in addition to the prior consent required by Section 6, as contained herein.
- (F) The City carries the property and flood insurance on the building. Lessee is responsible for insuring its own contents.

Section 16. Indemnity.

In consideration of allowing Lessee to use the Premises, Lessee ("Indemnitor") covenants to fully indemnify, save and hold harmless the City, its officers, agents, representatives, and employees (collectively, "Indemnitees") from and against any and all liability, loss, damages, claims, demands, suits, and causes of action of any nature whatsoever asserted against or recovered from City on account of injury or damage to person including, without limitation on the foregoing, premises defects, workers' compensation and death claims, or property loss or damage of any other kind whatsoever, to the extent any injury, damage, or loss may be incident to, arise out of, be caused by, or be in any way connected with, either proximately or remotely, wholly or in part: (1) Lessee's performance pursuant to this Lease; (2) Lessee's use of the Premises and any and all activities associated therewith pursuant to this Lease; (3) the violation by Lessee, its officers, employees, agents, or representatives or by Indemnitees or any of them, of any law, rule, regulation, ordinance, or government order of any kind pertaining, directly or indirectly, to this Lease; (4) the exercise of rights under this Lease; or (5) an act or omission on the part of Lessee, its officers, employees, agents, or representatives or of Indemnitees, or any of them, pertaining to this Lease, regardless of whether the injury, damage, loss, violation, exercise of rights, act or omission is caused or is claimed to be caused by the contributing or concurrent negligence of Indemnitees, or any of them, but not if caused by the sole negligence of Indemnitees, or any of them, unmixed with the fault of any other person or entity and including all expenses of litigation, court costs, and attorneys' fees, which arise, or are claimed to arise, out of or in connection with the asserted or recovered incident.

Lessee covenants and agrees that, if City is made a party to any litigation against Lessee or in any litigation commenced by any party, other than Lessee relating to this Lease, Lessee shall, upon receipt of reasonable notice regarding commencement of litigation, at its own expense, investigate all claims and demands, attend to their settlement or other disposition, defend City in all actions based thereon with legal counsel satisfactory to City, and pay all charges of attorneys and all other costs and expenses of any kind whatsoever arising from any said liability, injury, damage, loss, demand, claim or action.

Such indemnity provisions contained in this Section 16 herein apply to the extent insurance (as approved by City in Section 15) may apply for protection of the City and Lessee.

Section 17. Alterations.

- (A) Lessee agrees not to harm the Premises beyond normal wear and tear.
- B) All alterations, improvements, and additions made by the Lessee upon said Premises, which are permanent in nature, even if made at Lessee's own expense, shall, if not removed by Lessee at any termination or cancellation hereof, become the property of the City in fee simple without any other action or process of law. Lessee agrees to be contractually and financially responsible for repairing any and all damage caused by such removal. If items are installed in such a manner as to become fixtures, such fixtures shall not be removed by Lessee upon termination and shall become the property of the City.

Section 18. Signs.

- (A) Lessee shall not exhibit, inscribe, paint, erect, or affix any signs, advertisements, notices, or other lettering ("**Signs**") at, on, or about the Premises, or any part thereof, without the Director's prior written approval.
- (B) City may require Lessee to remove, repaint, or repair any Signs allowed. If Lessee does not remove, repaint, or repair the Signs within ten (10) days of Director's written demand, City may do or cause the work to be done, and Lessee will pay City's costs within thirty (30) days of receipt of Director's invoice. If payment is not timely made, the City may terminate this Lease upon ten (10) days written notice to Lessee. Alternatively, City may elect to terminate this Lease after ten (10) days written notice to Lessee.

Section 19. Sublease and Assignment.

Lessee understands and agrees that Lessee shall not sublease the Premises or any part thereof without obtaining the prior written consent of the City. Lessee shall not, in whole or in part, assign or transfer directly or indirectly this Lease unless prior written approval has been obtained from the City. Written consent or approval shall not be unreasonably withheld by Lessor.

Section 20. Default.

- (A) The following constitute Events of Default under this Lease: failure to keep, perform, and observe any other promises, covenants and conditions contained in this Lease.

- (B) Upon the occurrence of any Event of Default, the City may, at its option, in addition to any other remedy or right given hereunder or by law, give notice to Lessee that this Lease terminates upon the date specified in the notice, which date will be no earlier than thirty (30) days after the giving of such notice.

Section 21. No debts.

Lessee shall not incur any debts or obligations on the credit of the City during the term of this Lease.

Section 22. Notice.

- (A) All notices, demands, requests or replies provided for or permitted under this Lease by either party must be in writing and must be delivered by one of the following methods: (i) by personal delivery; or (ii) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid.
- (B) Notice deposited with the United States Postal Service in the manner described above will be deemed effective two (2) business days after deposit with the United States Postal Service.
- (C) All these communications must only be made to the following:

IF TO CITY:

City of Corpus Christi
Park and Recreation Department
P. O. Box 9277
Corpus Christi, Texas 78469-9277
Attn: Director of Park and Recreation

IF TO LESSEE:

Buccaneer Commission
Attn: Executive Director
P.O. Box 30404
Corpus Christi, TX 78463

- (D) Either party may change the address to which notice is sent by using a method set out above. Lessee shall notify the City of an address change within ten (10) days after the address is changed.

Section 23. Nondiscrimination.

Lessee covenants and agrees that it shall not unreasonably discriminate nor permit discrimination against any person or group of persons, with regard to employment and the provision of services at, on, or in the Premises, on the grounds of race, religion, national origin, marital status, sex, age, disability, or in any manner prohibited by the laws of the United States or the State of Texas. The City hereby reserves the right to take such action as the United States may direct to enforce this covenant.

Section 24. Modifications.

No changes or modifications to this Lease may be made, nor any provisions waived, unless the change or modification is made in writing and signed by persons authorized to sign agreements on behalf of each party.

Section 25. Force Majeure.

No party to this Lease shall be liable for delays or failures in performance due to any cause beyond their control including, without limitation, any delays or failures in performance caused by strikes, lock outs, fires, acts of God or the public enemy, common carrier, severe inclement weather, riots or interference by civil or military authorities. These delays or failures to perform shall extend the period of performance until these exigencies have been removed.

Section 26. Surrender.

Lessee acknowledges and understands that the lease of the Premises to Lessee is expressly conditioned on the understanding that the Premises must be surrendered, upon the expiration, termination, or cancellation of this Lease, in as good a condition as received, reasonable use and wear, acts of God, fire and flood damage or destruction where Lessee is without fault, excepted. Any reasonable costs incurred for repairs or corrections for which Lessee is responsible under this Lease are payable by Lessee to City as additional rental on the next rental payment date, or within 30 days written demand.

Section 27. Publication Costs.

Lessee shall pay for the cost of publishing the Lease description and related ordinance, if required by the City Charter, in the legal section of the local newspaper.

Section 28. Interpretation.

This Lease will be interpreted according to the Texas laws that govern the interpretation of contracts. Venue lies in Nueces County, Texas, where this Lease was entered into and will be performed.

Section 28. Captions.

The captions utilized in this Lease are for convenience only and do not in any way limit or amplify the terms or provisions hereof.

Section 29. Casualty.

If the Premises become damaged due to weather event, fire, or other natural or man-made disaster, such that the Premises are not deemed safe for occupation by the City Building Official, and repairs are not completed within 30 days of the event of disaster,

then either party may terminate this lease upon 30 days written notice to the other party, without penalty.

Section 30. Removal of Property upon Termination.

It is Lessee's responsibility to remove its personal property from the Premises prior to termination or expiration of the Lease. Lessee agrees that any of personal property remaining on the Premises after the termination or expiration of the Lease automatically becomes City property without any notice, action, or process of law, for disposition by the City as City deems appropriate in City Manager sole discretion, with no compensation to Lessee. Lessee shall be invoiced for City's costs to remove property from the Premises after termination or expiration of the Lease, and Lessee shall pay said invoice within thirty (30) days of receipt.

Section 31. Entirety Clause.

This Lease and the incorporated and attached exhibits constitute the entire agreement between the City and Lessee for the purpose granted. All other agreements, promises, representations, and understandings, oral or otherwise, with reference to the subject matter hereof, unless contained in this Lease are expressly revoked, as the parties intend to provide for a complete understanding within the provisions of this Lease and its exhibits of the terms, conditions, promises, and covenants relating to Lessee's operations and the Premises to be used in the operations.

Section 32. Severability.

- (A) If, for any reason, any section, paragraph, subdivision, clause, provision, phrase, or word of this Lease or the application hereof to any person or circumstance is, to any extent, held illegal, invalid, or unenforceable under present or future law or by a final judgment of a court of competent jurisdiction, then the remainder of this Lease, or the application of said term or provision to persons or circumstances other than those as to which it is held illegal, invalid, or unenforceable, will not be affected thereby, for it is the definite intent of the parties to this Lease that every section, paragraph, subdivision, clause, provision, phrase or word hereof be given full force and effect for its purpose.
- (B) To the extent that any clause or provision is held illegal, invalid, or unenforceable under present or future law effective during the term of this Lease, then the remainder of this Lease is not affected thereby, and in lieu of each such illegal, invalid, or unenforceable clause or provision, a clause or provision, as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable, will be added to this Lease automatically by the Court construing such clause or provision to be invalid.

EXECUTED IN DUPLICATE, each of which shall be considered an original, on the day of _____, 2017.

ATTEST:

CITY OF CORPUS CHRISTI

Rebecca Huerta
City Secretary

Margie C. Rose
City Manager

LESSEE: BUCCANEER COMMISSION

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO LEGAL FORM this _____ day of _____, 2017.

By: _____
Lisa Aguilar Assistant City Attorney
for City Attorney

EXHIBIT B
INSURANCE

I. LESSEE AND LESSEE'S CONTRACTOR'S LIABILITY INSURANCE

- A. Lessee and Lessee's contractor must not commence work under this agreement 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. Lessee and Lessee's Contractor must furnish to the City's Risk Manager and Director of Parks and Recreation Department, 2 copies 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	\$1,000,000 Combined Single Limit
WORKERS' COMPENSATION	Statutory
EMPLOYER'S LIABILITY	\$500,000 /\$500,000 /\$500,000

- C. In the event of accidents of any kind related to this lease agreement, Lessee and Lessee's 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, Lessee and Lessee's 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 an amount sufficient to assure that all workers' compensation obligations incurred by the Lessee and Lessee's Contractor will be promptly met.
- B. Lessee and Lessee's Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Lessee and Lessee's 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. Lessee and Lessee's Contractor 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. Lessee and Lessee's Contractor 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
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Lessee and Lessee's 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, volunteers, 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 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 and Lessee's Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lessee and Lessee's 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 Lessee and Lessee's 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 Lessee and Lessee's Contractor to stop work hereunder, until Lessee and Lessee's Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Lessee and Lessee's Contractor may be held responsible for payments of damages to persons or property resulting from Lessee and Lessee's Contractor's or its subcontractor's performance of the work covered under this agreement.
- H. It is agreed that Lessee and Lessee's 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 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.