

CITY OF CORPUS CHRISTI

MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES

For the

E12191 IDIQ Major Ditch Improvements

This Agreement is between 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 and Lockwood, Andrews and Newnam, Inc. (LAN), a Texas Corporation, 500 N. Shoreline Blvd., Suite 500, Corpus Christi, Texas 78401(Consultant).

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ARTICLE I – PROJECT TASK ORDER

- 1.1 This Agreement shall apply to as many tasks as City and Consultant agree will be performed under the terms and conditions of this Agreement. Each task Consultant performs for City hereunder shall be designated a Task Order. No Task Order shall be binding or enforceable unless and until it has been properly executed by both City and Consultant. Each properly executed Task Order shall become a separate supplemental agreement to this Agreement.
- 1.2 The Consultant shall provide its Scope of Services, to be included in each Task Order. The Scope of Services shall include all associated services required for Consultant to provide such Services, pursuant to this Agreement, and any and all Services which would normally be required by law or common due diligence in accordance with the standard of care defined in Article XII of this Agreement. The approved Scope of Services defines the services to be performed by Consultant under this Agreement.
- 1.3 Under this Agreement, Consultant will provide services on a Task Order basis for a range of services related to assisting Engineering Services with professional engineering, architecture and construction services related to execution of Capital Improvements Programs. All work will be subject to authorization from City. A detailed Scope of Services and fee estimate will be developed for each task prior to execution of work.
- 1.4 Consultant shall follow City Codes and Standards, as applicable, throughout the duration of the Project, unless specifically and explicitly excluded from doing so in the approved Task Order. At review milestones, the Consultant and City will review the progress to ensure that City Codes and Standards are followed. A request made by either party to deviate from City standards after the contract is executed must be in writing.
- 1.5 Consultant must perform tasks and submit deliverables as detailed in each approved Task Order.
- 1.6 Consultant must provide all labor, equipment and transportation necessary to complete all services agreed to in a timely manner throughout the term of the Agreement. Persons retained by Consultant to perform work pursuant to this Agreement shall be employees or subconsultants of Consultant. Upon request, Consultant must provide City with a list of all subconsultants that includes the services performed by the subconsultant and the percentage of work performed by the subconsultant (in dollars). Changes in Consultant's proposed team as specified in the Scope of Services, SOQ, or other Task Order document must be agreed to by the City in writing.
- 1.7 Consultant must not begin work on any Task Order authorized under this Agreement until they are briefed on the scope of the Project and are notified in writing to proceed.
- 1.8 For design services, Consultant agrees to render the professional services necessary for the advancement of the Project through Final Completion of the Construction Contract. Consultant acknowledges and accepts its responsibilities, as defined and described in the City's General Conditions for Construction Contracts, an excerpt of which is attached as **Exhibit G**.

ARTICLE II – COMPENSATION

- 2.1 The Compensation for all services included in this Agreement and in the Scope of Services for this Agreement shall not exceed **\$500,000**.
- 2.2 The Consultant's fee for each Task Order will be on a lump sum or time and materials (T&M) basis with a negotiated not-to-exceed amount. The fees will not exceed those identified and will be full and total compensation for all services outlined in each Task Order, and for all expenses incurred in performing these services.

- 2.3 Consultant shall submit a proposal to the City, which shall be incorporated into this agreement as **Exhibit B**, subject to approval by the City.
- 2.4 Consultant shall submit a Rate Schedule, shown in **Exhibit B-1**, with their proposal. The rate schedule shall remain confidential pursuant to section 552.104 of the Texas Government Code since release of this information would give advantage to a competitor or bidder. In addition, section 552.110 of the TX Govt. Code protects third party commercial and financial information if release of the information would cause the third party substantial competitive harm.
- 2.5 Monthly invoices will be submitted in accordance with the Payment Request (**Exhibit C**). For T&M basis fees, Consultant shall submit documentation with the monthly invoice that shows who worked on the Project, the number of hours that each individual worked on the Project and reimbursables for that individual.
- 2.5.1 Principals may only bill at the hourly rate of Principals when acting in that capacity. Principals acting in the capacity of staff must bill at staff rates. The Consultant shall provide documentation with each payment request that clearly indicates how that individual's time is allocated and the justification for that allocation.

- 2.6 The anticipated fee structure under this agreement is as follows:

DESCRIPTION	NOT TO EXCEED AMOUNT
Maximum Contract Amount	\$500,000.00
Task 1 – TBD	TBD
Task 2 – TBD	TBD
Task 3 – TBD	TBD
Task 4 – TBD	TBD
Task 5 – TBD	TBD
Task 6 – TBD	TBD

- 2.7 All services shall be performed and the applicable standard of professional care set forth herein and to City's satisfaction, which satisfaction shall be judged by the Director in his/her sole discretion. City shall not be liable for any payment under this Agreement for services which are unsatisfactory and which previously have not been approved by the Director.
- 2.8 In the event of any dispute(s) between the Parties regarding the amount properly compensable for any Task Order or as final compensation or regarding any amount that may be withheld by City, Consultant shall be required to make a claim pursuant to and in accordance with the terms of this Agreement and follow the procedures provided herein for the resolution of such dispute. In the event Consultant, does not initiate and follow the claims procedures provided in this Agreement in a timely manner and as required by the terms thereof, any such claim shall be waived.
- 2.9 Request of final compensation by Consultant shall constitute a waiver of claims except those previously made in writing and identified by Consultant as unsettled at the time of final Payment Request.
- 2.10 Any fee payable under this Agreement is subject to the availability of funds. The Consultant may be directed to suspend work pending receipt and appropriation of funds. The right to suspend work under this provision does not relieve the City of its obligation to make payments in accordance with section 2.5 above for services provided up to the date of suspension.

ARTICLE III – QUALITY CONTROL PLAN

- 3.1 The Consultant agrees to perform quality assurance-quality control/constructability reviews (QCP Review). The City reserves the right to retain a separate consultant to perform additional QCP services for the City.
- 3.2 The Consultant will perform QCP Reviews at intervals during the project to ensure deliverables satisfy applicable industry quality standards and meet the requirements of the project scope. Based on the findings of the QCP Review, the Consultant must reconcile the project scope and Opinion of Probable Cost (OPC) as needed.
- 3.3 Documents that do not meet City Codes and Standards in effect at the time of the execution of the Task Order may be rejected. If final construction documents are found not to be in compliance with this Agreement or the Task Order, Consultant will not be compensated for having to resubmit documents.

ARTICLE IV – INSURANCE REQUIREMENTS

- 4.1 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.
- 4.2 Insurance Requirements are shown in **EXHIBIT D**.

ARTICLE V - INDEMNIFICATION

Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, or employees, 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.

ARTICLE VI – TERM; RENEWALS; TIMES FOR RENDERING SERVICE

- 6.1 This Agreement shall be effective upon the signature of the City Manager or designee (Effective Date).
- 6.2 This Agreement shall be applicable to Task Order issued hereunder from the Effective Date of the Agreement until project is complete.
- 6.3 ~~This service shall be for a period of _____ years beginning on the Effective Date. The Agreement may be renewed for up to _____ one-year renewal options upon mutual agreement of the parties to be evidenced in writing prior to the expiration date of the prior term. Any renewals shall be at the same terms and conditions, plus any approved changes.~~
- 6.4 The times for performing services or providing deliverables will be stated in each Task Order. If no times are so stated, Consultant will perform services and provide deliverables within a reasonable time.

ARTICLE VII - TERMINATION OF AGREEMENT

7.1 By Consultant:

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

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

7.2 By City:

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

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

7.3 Termination Procedure

7.3.1 Upon receipt of a Notice of Termination and prior to the effective date of termination, unless the notice otherwise directs or Consultant takes action to cure a failure to perform under the cure period, Consultant shall immediately begin the phase-out and discontinuance of all services in connection with the performance of this Agreement. Within 30 calendar days after receipt of the Notice of Termination, unless Consultant has successfully cured a failure to perform, Consultant shall submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination. City retains the option to grant an extension to the time period for submittal of such statement.

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

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

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

ARTICLE VIII – RIGHT OF REVIEW AND AUDIT

- 8.1 Consultant grants City, or its designees, the right to audit, examine or inspect, at City's election, all of Consultant's records relating to the performance of the Work under this Agreement, during the term of this Agreement and retention period herein. The audit, examination or inspection may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Consultant agrees to retain its records for a minimum of four (4) years following termination of the Agreement, unless there is an ongoing dispute under this Agreement, then such retention period shall extend until final resolution of the dispute.
- 8.2 "Consultant's records" include any and all information, materials and data of every kind and character generated as a result of the Work under this Agreement. Examples include billings, books, general ledger, cost ledgers, invoices, production sheets, documents, correspondence, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, federal and state tax filings for issue in questions and any and all other agreements, sources of information and matters that may, in City's judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.
- 8.3 City agrees that it shall exercise the right to audit, examine or inspect Consultant's records only during City's regular business hours. Consultant agrees to allow City's designee access to all of Consultant's records, Consultant's facilities and Consultant's current or former employees, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Consultant also agrees to provide adequate and appropriate work space necessary to City or its designees to conduct such audits, inspections or examinations.
- 8.4 Consultant shall include this audit clause in any subcontractor, supplier or vendor contract.

ARTICLE IX – OWNER REMEDIES

- 9.1 The City and Consultant agree that in the event the City suffers actual damages, the City may elect to pursue its actual damages and any other remedy allowed by law. This includes but is not limited to:
- 9.1.1 Failure of the Consultant to make adequate progress and endanger timely and successful completion of the Project, which includes failure of subconsultants to meet contractual obligations;
- 9.1.2 Failure of the Consultant to design in compliance with the laws of the City, State and/or federal governments, such that subsequent compliance costs exceed expenditures that would have been involved had services been properly executed by the Consultant.

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

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

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

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

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

ARTICLE X – CONSULTANT REMEDIES

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

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

ARTICLE XI – CLAIMS AND DISPUTE RESOLUTION

11.1 Filing of Claims

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

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

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

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

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

11.2 Alternative Dispute Resolution

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

11.2.2 Before invoking mediation or any other alternative dispute resolution (ADR) process set forth herein, the Parties agree that they shall first try to resolve any dispute arising out of or related to this Agreement through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects.

This step shall be a condition precedent to the use of any other ADR process. If the parties' senior management representatives cannot resolve the dispute within thirty (30) calendar days after a Party delivers a written notice of such dispute, then the Parties shall proceed with the mediation ADR process contained herein.

11.2.3 Mediation

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

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

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

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

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

11.4 **No Waiver of Governmental Immunity. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO WAIVE CITY'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.**

ARTICLE XII – MISCELLANEOUS PROVISIONS

- 12.1 Assignability. The Consultant will not assign, transfer or delegate any of its obligations or duties in this Agreement 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.

- 12.2 Ownership of Documents. Consultant agrees that upon payment, City shall exclusively own any and all information in whatsoever form and character produced and/or maintained in accordance with, pursuant to or as a result of this Agreement, including contract documents (plans and specifications), drawings and submittal data. Consultant may make a copy for its files. Any reuse, without specific written verification or adaptation by Consultant, shall be a City's sole risk and without liability or legal exposure to Consultant. 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.
- 12.3 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.
- 12.4 Licensing. Consultant shall be represented by personnel with appropriate licensure, registration and/or certification(s) at meetings of any official nature concerning the Project, including scope meetings, review meetings, pre-bid meetings and preconstruction meetings.
- 12.5 Entire Agreement. This Agreement, including Task Orders, 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.
- 12.6 Disclosure of Interest. (Exhibit E) Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form as part of this contract.
- 12.7 Certificate of Interested Parties. (Exhibit F). 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 that exceed \$50,000. 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; or
 - (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>.

- 12.8 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>
- 12.9 Controlling Law. This Agreement is governed by the laws of the State of Texas without regard to its conflicts of laws. Venue for legal proceedings lies exclusively in Nueces County, Texas.
- 12.10 Severability. If, for any reason, any one or more Articles and/or paragraphs of this Agreement are held invalid or unenforceable, such invalidity or unenforceability shall not affect, impair or invalidate the remaining Articles and/or paragraphs of this Agreement but shall be confined in its effect to the specific Article, sentences, clauses or parts of this Agreement held invalid or unenforceable, and the invalidity or unenforceability of any Article, sentence, clause or parts of this Agreement, in any one or more instance, shall not affect or prejudice in any way the validity of this Agreement in any other instance.
- 12.11 Conflict Resolution Between Documents. Consultant hereby agrees and acknowledges if anything contained in the Consultant-prepared **Exhibit A**, Scope of Services or in any other document prepared by Consultant and included herein, is in conflict with the terms of Articles I – XII of this Agreement (Articles) and/or an approved Task Order, the Articles and/or the Task Order shall take precedence and control to resolve said conflict.

CITY OF CORPUS CHRISTI

Jeff H. Edmonds, P. E. Date
Director of Engineering Services


APPROVED AS TO LEGAL FORM

Assistant City Attorney Date
for City Attorney

ATTEST

Rebecca Huerta Date
City Secretary

LOCKWOOD, ANDREWS & NEWNAM, INC.

 7/26/17

Steven A. Gilbreath, P.E. Date
Associate
500 N. Shoreline Blvd., Suite 500
Corpus Christi, TX 78401
(361) 882-2257 Office

Project No. <u>E12191</u>
Accounting Unit: <u>3495-043</u>
Account: <u>550950</u>
Activity: <u>E12191013495EXP</u>
Account Category: <u>50950</u>
Fund Name: <u>Storm Water 2012B Rev Bonds</u>
Encumbrance No. _____

EXHIBIT A

SAMPLE TASK ORDER

This Task Order pertains to a Master Services Agreement for Professional Services by and between City of Corpus Christi, Texas (City) and "Lockwood, Andrews & Newnam, Inc." (Consultant) dated _____, 2017 (Agreement). Consultant shall perform services on the project described below as provided in this Task Order and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

TASK ORDER NO.:

PROJECT NAME: _____

1. PROJECT DESCRIPTION

2. SCOPE OF SERVICES

3. COMPENSATION

This Task Order is approved and Consultant may proceed. All other terms and conditions of the Agreement remain in full force and effect.

CITY OF CORPUS CHRISTI

LOCKWOOD, ANDREWS & NEWNAM, INC

Jeff H. Edmonds, P. E. Date
Director of Engineering Services

Steven A. Gilbreath, P.E. Date
Associate
500 N. Shoreline Blvd., Suite 500
Corpus Christi, TX 78410
(361) 882-2257 Office

RECOMMENDED

Operating Department Date

EXHIBIT B
CONSULTANT PROPOSAL



**Lockwood, Andrews
& Newnam, Inc.**
A LEO A DALY COMPANY

April 5, 2017

Jeff Edmonds, P.E.
Director of Engineering Services
City of Corpus Christi
PO BOX 9277
Corpus Christi, Texas 78469-9277

Re: Proposal for IDIQ Major Ditch Improvements (E12191) Master Services Agreement

Dear Mr. Edmonds,

On January 4th and 17th, we met with your staff to discuss continuing our support of the IDIQ Major Ditch Improvements project. The purpose of this proposal is to continue with the overall goal to develop a plan to address observed flooding in the La Volla Creek / Airport Ditch Tributaries and to identify and prioritize ditch improvements through the sub-basin which serves the La Colonias, Los Encinos, Molina, West Oso, Old Brownsville Road, Corpus Christi International Airport, CC State School, and Gabe Lozano Sub-Basins; totaling approximately 19,000 acres. This proposal constitutes Phase 2 of this project: **LaVolla / Airport Ditch Analysis, Recommendations, and Design.**

In general, the tasks for this amendment include the following:

- Study/Report Phase Services including H&H Modeling of the above-mentioned sub-basins within the Oso Creek Basin.
- Preliminary Phase Services including evaluating alternatives and making recommendations for improvements in the combined sub-basins.
- Design Bid, and Construction Phase Services for implementing the alternatives / recommendations approved by the City.

LAN assumes that it is the City's intent to Bid this project using a 3-year Indefinite Delivery / Indefinite Quantity (IDIQ) contract. LAN will issue Delivery Orders (DO's) to the selected contractor during the Construction Phase for maintenance-related improvements to the Major Ditches in the project area (Reference Attachment A, Exhibit 1).

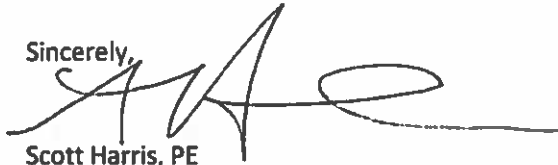
Attachment A details the scope of services required for this proposal. We propose to complete this work for a lump sum fee not to exceed \$500,000.00. It is our understanding that the City of Corpus Christi wants to begin this phase of this project immediately; LAN is prepared to begin directly upon receiving Notice to Proceed. Additionally, providing that we receive NTP before the end of May 2017, we

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April 5th, 2017
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anticipate to be substantially complete with Preliminary Phase Services NLT the end of November 2017, Design Phase Services NLT the end of April 2018, and ultimately complete with construction of three delivery orders by the end of September 2019.

Please feel free to contact me at 361-792-7225 or by email at smharris@lan-inc.com if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Harris', with a long horizontal flourish extending to the right.

Scott Harris, PE
Regional Manager

Attachments: A – Scope of Services

Cc: Daniel Deng, Project Manager
Temple Williamson, P.E.; Engineering Design Manager
Yvette Dodd, CFM; Floodplain Administrator

Attachment A

Scope of Services

IDIQ Major Ditch Improvements (E12191)

Basin: Oso Creek (OCB)

Phase 2: LaVolla / Airport Ditch Analysis, Recommendations, and Design

Situation:

For several years, major flooding has occurred along LaVolla Creek near Saratoga Boulevard, including at the Greenwood Wastewater Treatment Plant and within the Las Colonias Subdivision. Multiple studies have been conducted over the past 10 years that have made recommendations to either expand, clear and grub, re-shape, or even line the channel both upstream and downstream of Saratoga; no recommendations have been implemented to this date however there are current plans in design to improve the channel south of Saratoga Boulevard.

LaVolla Creek is a natural drainage-way in Corpus Christi that drains 34.45 square miles of western Corpus Christi, into Oso Creek. The drainage way is only partially developed as many sections are still meandering and heavily vegetated. Several tributaries of La Volla Creek include: Margaret Kelly Ditch, Saratoga Downs Ditch, and the Airport Ditch (Reference Exhibit 1). These tributaries are affected by the backwater from the LaVolla Creek in flood stage. The Airport Ditch is a concrete-lined major open-channel drainage ditch along the west side of the City that drains approximately 4200 acres or approximately 5000 cfs (peak 100 yr. storm). It extends from its' outfall into LaVolla Creek near Gavilan Street (south) to Horne Road and Airport Road (north). At the Horne Road intersection two additional tributaries contribute to the system: the Horne Road Ditch (west) and the Armory Ditch (east).

The La Volla / Airport Ditch system drains several Sub-Basins within the Oso Creek Basin (OCB). These include: La Colonias (OCB-200), Los Encinos (OCB-210), Molina (OCB-220), West Oso (OCB-230), Old Brownsville Road (OCB-240), Corpus Christi International Airport (OCB-241), CC State School (OCB-224), Gabe Lozano (OCB-221), and several smaller sub-basins; totaling approximately 34.45 square miles.

Current Project Phasing

Phase 1 – Project Initiation / FEMA FIRM Map Appeal Review for La Volla Creek and Airport Ditch **(ALREADY UNDER CONTRACT)**. Prior to recommending any additional improvements to the LaVolla Sub-Basin, the City intends to first analyze the upper reaches of the La Volla system including the Airport Ditch for the purposes of possibly appealing the Preliminary FEMA FIRM Map for that area. LAN is currently completing the scope of services related to this phase under Small A/E Contract E12191 IDIQ Major Ditch Improvements, dated August 31st, 2016.

Phase 2 – La Volla /Airport Ditch Analysis, Recommendations, and Design Phase Improvements (see detailed Scope of services below)

- Task 1 – Study and Report Phase Services – H&H Modeling of La Volla Sub-Basin
- Task 2- Preliminary Phase Services – Alternatives / Recommendations for Improvements in the La Volla Sub-Basin
- Task 3 – Design Phase Services for La Volla Sub-Basin Improvements
- Task 4- Bid Phase Services
- Task 5- Construction Phase Services

Phase 2 – Detailed Scope of Services

The following scope outlines the procedures that Lockwood, Andrews & Newnam (LAN) will follow to provide the required professional services.

Phase 2 Project Area: Reference Exhibit 1

I. BASIC SERVICES

A. Task 1 - Study and Report Phase Services - H&H Modeling of Sub-Basins (approximately 34.45 square miles)

1. Consult with City of Corpus Christi to understand requirements for each Task and review available data.
2. Participate in one (1) Task Kick-off and (2) Progress Meetings with the City staff, prepare the meeting agenda and distribute minutes to attendees within five working days of the meeting.
3. Provide Quality Assurance/Quality Control (QA/QC) measures to verify that all submittals of the project reflect the percent completion designated and do not necessitate an excessive amount of revision and correction by City.
4. Prepare and submit Monthly Invoices and Status Reports to the Project Manager no later than the last Wednesday of each month with action items developed from monthly progress and review meetings.
5. Advise CITY as to the necessity of providing or obtaining from others data or services, Additional Services (i.e. geotechnical or topographic survey), which are not part of LAN's Basic Services, and assist CITY in obtaining such data and services.
6. Identify and analyze requirements of governmental authorities (i.e. TCEQ, FEMA, etc.) having jurisdiction over the CITY to approve the portions of the Project designed or specified by LAN with whom consultation is to be undertaken in connection with the Project.
7. Data Collection and Field Visits
 - a. Collect and review historical Engineering reports, surveys, and hydrologic & hydraulic models for the project area and its vicinity. LAN shall carefully evaluate each previous study's assumptions, background, data sources, and its applicability to the current task order.
 - b. Make one (1) three-day field visit to the project area to field verify existing conditions. Photographs and field verification of existing conditions of the main creek channels, overbank areas, and structures will be completed during the field visit. Field visit will also be performed to verify the available data collected in the project areas.
8. Existing Condition Hydrologic Modeling – as part of the study and report phase, LAN will complete a hydrologic analysis of the project area by using HEC-HMS. Hydrographs corresponding to 10%, 2%, 1%, and 0.2% AEP storm events will be developed from HEC-HMS as boundary conditions for unsteady HEC-RAS model. Tasks involved in this analysis include:
 - a. Delineating Drainage Areas - Drainage areas will be delineated as necessary within the study areas based on the LiDAR data, as-built, survey, and existing plan sets.
 - b. Hydrologic parameters - Hydrologic parameters for drainage areas (Curve Numbers, Clark Unit Hydrograph) are to be determined per the City Drainage Criteria Manual.

This effort could involve using City standards, land-use data, soils data, and aerial imagery.

- c. Rainfall Storm Event –10%, 2%, 1%, and 0.2% AEP will be computed by using rainfall depth values listed in the City's Drainage Criteria Manual or USGS WRIR 98-4044.
 - d. Muskingum, Muskingum-Cunge, or Modified Plus methods will be applied to HEC-HMS reach routing modules as recommended in the City Drainage Criteria Manual.
9. Existing Condition Hydraulic Modeling – as part of the study and report phase, LAN will complete hydraulic analyses of the open channel system in the project area. Tasks involved in this analysis include:
- a. 1D steady-state HEC-RAS models (10%, 2%, 1%, and 0.2% AEP storm events) will be developed for the project basin. LAN will obtain the current effective FEMA hydraulic models, as well as the hydraulic models developed by the City's other consultants, and convert these models to one unsteady-state HEC-RAS hydraulic model. LAN will utilize the effective FEMA HEC-RAS cross sections, where possible. As shown in Exhibit 1, currently, La Volla Creek, Margaret Kelly Channel, Donigan Channel and Airport Ditch #1 were studied in details by FEMA.
 - b. LAN will develop 1D steady-state HEC-RAS models for major ditches without an existing hydraulic model and incorporate these new models to the combined 1D steady-state HEC-RAS model. As shown in Exhibit 1, the major ditches which require new HEC-RAS models include Airport Ditch #2, Horne Road Ditch, Armory Ditch, Enterprise Channel, Saratoga Downs Channel, and Bates Channel. LiDAR furnished by the City will be utilized to acquire the hydraulic model geometry information.
 - c. Hydraulic structures such as bridges and culverts will be built into the models appropriately by as-built record drawings from the City. When as-built drawings are not available, the engineer will notify the City for guidance. Any field survey efforts if deemed necessary by the City to acquire as-built or existing data will be authorized separately through a contract amendment.
 - d. Mannings' n values will be examined by Table 4-3 of the City Drainage Criteria Manual. Necessary adjustments will be made to Manning's n values to better represent existing field conditions and the recommendations of Table 4-3.
 - e. Boundary Conditions and Inflows – Peak flows from the existing condition HEC-HMS model will be imported as boundary conditions into the combined 1D steady-state HEC-RAS model. Normal depth will be applied as the downstream boundary condition.
 - f. The 1D steady-state HEC-RAS model will be validated by comparing to FEMA effective model results, historical storm event high water marks, and channel gage data if available.

B. Task 2- Preliminary Phase Services - Alternatives / Recommendations for Improvements in the Sub-Basins

- 1. Evaluate various alternate solutions available to the City and after consultation with City, recommend those solutions which in the LAN's judgment best meet City of Corpus Christi's requirements for the Project.

- a. **Develop Improvement Alternatives Hydraulic HEC-RAS Models** – LAN will perform hydraulic analyses on up to three (3) improvement alternatives comprised of major components of the open channel and hydraulic structures and ensure that those alternatives meet established criteria set forth in the City Drainage Criteria Manual. The improvement alternatives includes but not limited to: detention basins, channel widening, channel improvements, bridge enlargement and replacement, culvert enlargement and replacement. It worth noting that the Improvement Alternatives hydraulic models will be for planning, implementation and general impact analysis and are not intended to meet FEMA standards for flood risk mapping. These models will have varying level of detail for planning and implementation purposes. Any flood risk modifications will need to be made to the FEMA effective models should they ever need to be used for FEMA flood risk purposes, which is not part of this Scope of Service.
 - i. Identified the preferred locations for various improvement alternatives.
 - ii. Model development for the proposed alternatives will build upon the existing condition HEC-RAS model.
 - iii. The proposed improvements modeling effort is an iterative process that involves evaluation of benefit and impact for different alternatives and subsequent modification and optimization.
 - iv. The proposed improvements will be evaluated for cost effectiveness in reducing flood risk.
 - v. Alternative improvements for the purposes of value engineering and reducing overall construction cost will be evaluated.
 - vi. Detention basins will be modeled as reservoirs by revising existing condition HEC-HMS model, since normally detention basins will have great impact to peak flows. Other improvement alternatives will only be modeled in steady-state HEC-RAS model by assuming they are not going to change the watershed hydrologic condition substantially.
 - b. **Cost Estimates - Planning level cost estimates** will be prepared for each of the three (3) alternatives. The Engineer will develop an Opinion of Probable Construction Cost (OPCC) for the recommended alternatives. The cost estimates should include all major project items such as major ditch improvements, channel lining, earthwork, embankment, retention/detention basins, major utility relocations, and bridge or culvert replacement, with an overall 25% contingency.
2. **Develop preliminary requirements for utility relocations and replacements or upgrades** necessary for any proposed improvements.
 3. **Prepare engineering letter reports (ELR's)** which will contain the statement of City's requirements for the Project and, as appropriate, will contain major ditch, channel, and/or hydraulic structure improvement schematic layouts, sketches and conceptual design criteria for drainage improvements with appropriate exhibits to indicate the considerations involved and those alternate solutions available to City, which LAN recommends.
 4. **Develop Sub-Basin Capital Improvement Plan / Project List** – As an appendix to the ELR, LAN will develop a detailed list of projects recommended for implementation in the sub-basin to improve the conditions of the existing major open ditch systems, improve flooding within the sub-basin, and improve water quality within the sub-basin and at its' outfall into Oso Creek.

The project list will be comprehensive, include lifecycle costs, but will NOT be intended for full implementation during the three-year IDIQ contract.

C. Task 3 - Design Phase Services

1. Prepare a "Project Manual" in City standard format for typical maintenance-related stormwater open ditch improvements that the selected contractor can execute using delivery orders issued during the construction phase of this project. The scope and contents of the project manual will include:

<u>PLAN SHEETS:</u>
1 Cover Sheet and Plan Index
2 Legend, Detail Symbols, Testing Schedule
3 General Notes
4 Stormwater Pollution Prevention Standard Details
5 Bank Stabilization / Embankment / Grading Details
6 Earthwork / Excavation / Storage Details
7 and 8 Erosion Control Measures - Standard Details (2 Sheets)
9 Re-establishment of Riparian Area's / Overbank - Standard Details
10 Flow / Velocity Control Structures / Energy Dissipators - Standard Details
11 Traffic Control (Sheet 1 of 5)
12 Traffic Control (Sheet 2 of 5)
13 Traffic Control (Sheet 3 of 5)
14 Traffic Control (Sheet 4 of 5)
15 Traffic Control (Sheet 5 of 5)
16 - 27 TxDOT Barricade & Construction Details (12 Sheets)
28 - 44 City of Corpus Christi Standard Details (17 Sheets)
<u>PROJECT MANUAL</u>
DIV 00 Procurement and Contracting Requirements
DIV 01 General Requirements
Part S Standard Specifications
Part T Technical Specifications

2. The following typical submittals apply to all deliverables:
 - a. 60% Design Phase Submittal
 - i. Complete internal quality control check of plans and calculations per the Quality Control Plan developed in Task 1.
 - ii. Furnish one (1) set of the interim plans and typical details (60% submittal - electronic and hard copies using City Standards as applicable) to the City staff for review and approval purposes with an opinion of probable construction costs. Identify distribution list for plans and bid documents to all affected franchise utilities.

- iii. Required with the interim plans is a "Plan Executive Summary, project checklist & drawing checklist" which will identify and summarize the project by distinguishing key elements and opinion of probable project costs.
 - iv. Attend 60% submittal meeting with City Staff to assist staff in review of 60% submittal.
 - b. 90% Design Phase Submittal
 - i. Assimilate all 60% review comments upon approval by the Director of Engineering Services.
 - ii. Complete internal quality control check of plans, specifications, and calculations per the Quality Control Plan developed in Task 1.
 - iii. Provide one (1) set of the pre-final plans, project manual, and bid documents (90% submittal - electronic and hard copy using City Standards as applicable) to the City staff for review and approval purposes with a revised opinion of probable construction costs. Plan executive summary, project checklist and plan checklist.
 - iv. Participate in project 90% submittal review meeting. Prepare meeting agenda and distribute meeting minutes to attendees within five working days of the meeting. Assimilate all review comments, and incorporate any requirements into the plans and specifications, and advise City of responding and non-responding participants as appropriate and, upon Notice to Proceed.
 - c. Final Submittals
 - i. Assimilate all 90% review comments upon approval by the Director of Engineering Services.
 - ii. Complete internal quality control check of plans, specifications, and calculations per the Quality Control Plan developed in Task 1.
 - iii. Provide one (1) set of the final (100%) plans, project manual, (unsealed and unstamped - electronic and half full-size hard copy using City Standards as applicable) for City's final review.
 - d. Issued for Bid Documents
 - i. Assimilate all final review comments upon approval by the Director of Engineering Services
 - ii. Provide one (1) set of the final signed and sealed ISSUED FOR BID plans and contract documents (electronic and half full-size hard copy using City Standards as applicable) suitable for reproduction. Said bid documents henceforth become the shared intellectual property of the City of Corpus Christi and the Consultant.

D. Task 4 - Bid / Pre-Construction Phase Services

1. Participate in the pre-bid conference and provide a meeting agenda for critical construction activities and elements impacted the project.
2. Assist the City in solicitation of bids by identification of prospective bidders, and review of bids by solicited interests.

3. Review all pre-bid questions and submissions concerning the bid documents and prepare, in the City's format, for approval, any addenda or other revisions necessary to inform contractors of approved changes prior to bidding.
4. Attend bid opening, analyze bids, evaluate, prepare bid tabulation, and make recommendation concerning award of the contract.
5. Participate in pre-construction meeting conference and provide a recommended agenda for critical construction activities and elements impacted the project.
6. Review, Contractor submittals and operating and maintenance manuals for conformance to contract documents.

E. Task 5 - Construction Phase Services

LAN assumes that it is the City's intent to Bid this project using a 3-year Indefinite Delivery / Indefinite Quantity (IDIQ) contract. LAN will issue Delivery Orders (DO's) to the selected contractor during the Construction Phase for maintenance-related improvements to the Major Ditches in this project area (Reference Exhibit 1).

1. Issue Delivery Orders as follows:
 - a. Delivery Order #1 – Year 1 – assume start of construction in early 2018 with a 6-month construction duration.
 - b. Delivery Order #2 – Year 2 – assume start of construction in late 2018 with a 6-month construction duration.
 - c. Delivery Order #3 – Year 3 – assume start of construction in early with a 6-month construction duration.
2. Each delivery order will include the following construction engineering / administration tasks:
 - a. Site Plan / Layout
 - b. Site Specific General Notes / Specifications
 - c. Traffic Control Plan (TCP)
 - d. Construction Sequencing Plan
 - e. Review and interpret field and laboratory tests.
 - f. Make regular visits to the site of the Project to confer with the City project inspector and contractor to observe the general progress and quality of work, and to determine, in general, if the work is being done in accordance with the contract documents. **LAN assumes one (1) 4-hour site visit per week for a six (6) month project duration.**
 - g. Provide interpretations and clarifications of the contract documents for the contractor and authorize required changes, which do not affect the contractor's price and are not contrary to the general interest of the City under the contract.
 - h. Prepare change orders as authorized by the City; provide interpretations and clarifications of the plans and specifications for the contractor and authorize minor changes which do not affect the contractor's price and are not contrary to the general interest of the City under the contract.
 - i. Attend final inspection with City staff; provide punch list items to the City's Construction Engineers for contractor completion of the project.

- j. Review Contractor-provided construction "red-line" drawings. Prepare Project record drawings and provide a reproducible set and electronic file (AutoCAD r.14 or later) within two (2) months of final acceptance of the project. All drawings shall be CADD drawn using dwg format in AutoCAD, and graphics data will be in dxf format with each layer being provided in a separate file. Attribute data will be provided in ASCII format in tabular form. All electronic data will be compatible with the City GIS system.

F. Documents / Services to be provided by the City

The City shall provide LAN available studies, surveys, and reports concurrently when issuing the Notice to Proceed for a work authorization from this master service agreement. The documents to be provided to LAN include but not limited to:

1. Project budget specifying the funds available for the construction of stormwater improvements related to this contract
2. Existing Reports/plans for stormwater improvements
3. Existing LiDAR, conventional topographic survey data in the project area, City control benchmarks and coordinates
4. Existing GIS data including roadways, waterway and water body alignments and boundaries
5. As-built record drawings for utilities, channels, bridges, and culverts in the project areas.
6. Land use data, soil group data
7. Existing HEC-HMS, HEC-RAS, and other hydrologic and hydraulic models developed by FEMA and the City's consultants.

II. ADDITIONAL SERVICES

This section defines the scope of additional services that may be needed for construction of these projects. The fees associated with these services are NOT included in this proposal. **LAN will determine if any of these services are required during Task 2 Preliminary Phase Services.** LAN will not begin work on any service under this section without specific written authorization by the Director of Engineering Services. Fees for Additional Services are an allowance for potential services to be provided and will be negotiated by the Director of Engineering Services as required. The A/E shall, with written authorization by the Director of Engineering Services, perform the following:

- A. **Permitting** - Furnish the City all engineering data and documentation necessary for all required permits. LAN will prepare this documentation for all required signatures. LAN will prepare and submit identified permits as applicable to the appropriate local, state, and federal authorities.
- B. **LOMR/CLOMR** – LAN will prepare LOMR/CLOMR package for proposed design alternatives if deemed necessary.
- C. **Right-of-Way (ROW) Acquisition Survey and Parcel Descriptions** - all work must comply with Category 1-A, Condition I specifications of the Texas Society of Professional Surveyors' Manual of Practice for Land Surveying in the State of Texas, Ninth Edition. All work must be tied to and in conformance with the City's Global Positioning System (GPS) control network. All work must comply with all TxDOT requirements as applicable. LAN will coordinate with a sub-consultant to complete the following:
 - 1. Perform surveys to determine apparent right-of-way widths.
 - 2. Research plats, ROW maps, deed, easements, and survey for fence corners, monuments, and iron pins within the existing ROW and analyze to establish existing apparent ROW. A/E must obtain Preliminary Title Reports from a local title company and provide copies of the title reports to the City. Preliminary Title Report shall identify title ownership and any title encumbrances to all right-of-way to be acquired.
 - 3. Provide a preliminary base map containing apparent ROW. This preliminary base map must show lot or property lines, land ownership and addresses as per appraisal district records.
 - 4. Prepare Metes and Bounds instrument with supporting exhibits as required and agreed upon for ROW parcels, utility easements, and temporary construction easements.
 - 5. Determine property corners and prepare right of way strip parcel map depicting all parcels proposed for acquisition. Metes and bounds descriptions must indicate parent tract areas based on the most accurate information available. Strip map will show entire parent tracts at "not to scale" and for information only. All existing easements within the parcels to be acquired and those within adjacent parcels must be shown.
 - 6. Prepare individual signed and sealed parcel maps and legal descriptions for the required right of way acquisition for parcels and easements. A strip map showing all parcels required will be submitted along with parcel descriptions. Additional fees may be required in resolving boundary conflicts between Owners.
- D. **Topographic Survey** – Based on the value of the data gathered during the Study and Report Phase of this project (Task 1); there may be a need for additional site specific topographic survey to be

accomplished prior to construction of any Delivery Order. In general, all work must be tied to and conform with the City's Global Positioning System (GPS) control network and comply with Category 6, Condition I specifications of the Texas Society of Professional Surveyors' Manual of Practice for Land Surveying in the State of Texas, Ninth Edition. Include reference to a minimum of two (2) found boundary monuments from the project area. LAN will coordinate with a sub-consultant to complete the following:

1. Survey Control

- a. Establish Horizontal and Vertical Control; establish both primary and secondary horizontal/vertical control.
 - b. Set project control points for Horizontal and Vertical Control outside the limits of project construction disturbance.
 - c. Horizontal control will be based on NAD 83 State plane coordinates (South Zone), and the data will have no adjustment factor applied – i.e. – the coordinate data will remain in grid.
 - d. Vertical control will be based on NAVD 88.
 - e. All control work will be established using conventional (non-GPS) methods. Perform topographic surveys to gather existing condition information.
- 2. Utilities -** Within the limits of the major ditch improvements projects, obtain x, y, and z coordinates of all accessible existing utilities included but not limited to:
- a. City owned sanitary sewer, storm sewer, water and gas lines
 - b. Third-party utilities, i.e. electrical, telecommunications, oil & gas pipelines and wells, all visible utilities signs within the project limits.
- 3. Locate proposed soil/pavement core holes** as drilled by the City's Geotechnical Engineering Consultant.
- 4. Locate improvements** within the apparent project limits.
- 5. Locate and identify trees**, at least five inches in diameter within the project limits.
- 6. Basemap -** Generate electronic planimetric base map for use in project design.

E. Environmental Assessments / Archeological Studies

1. LAN shall identify and develop a scope of work for any testing, handling and disposal of hazardous materials and/or contaminated soils that may be discovered during construction.
2. Phase I Assessment – if necessary LAN will coordinate with a subconsultant for the following services:
 - a. Performance of an on-site visit to view present conditions (chemical spill residue, die-back of vegetation, etc.); hazardous substances or petroleum products usage (presence of above ground or underground storage tanks, storage of acids, etc.); and evaluate any likely environmentally hazardous site history.
 - b. Evaluation of risks of neighboring properties upon the subject property
 - c. Review of Federal, State, Local and Tribal Records out to distances specified by the ASTM 1528 and AAI Standards (ranging from 1/8 to 1 mile depending on the database)
 - d. Interview of persons knowledgeable regarding the property history (past owners, present owner, key site manager, present tenants, neighbors).
3. Archeological Studies - if necessary LAN will subconsultant the following services:
 - a. Archeological site surveys and testing

- b. Assessment of significance and effects on project
- c. Technical memorandum, reports

F. Public Involvement. Participate in public meetings. For each public meeting, LAN will:

- 1. Provide follow-up and response to citizen comments
- 2. Revise contract drawings to address citizen comments, as directed by the City
- 3. Prepare notices, handouts and exhibits for public information meetings

G. Subsurface Utility Investigation – if necessary for the design of stormwater related improvements in this contract, LAN will coordinate with a subconsultant for the following services:

- 1. Inform local franchises whose utilities fall within the footprint of construction-related excavation of the potential for encountering their utility lines during construction.
- 2. Provide subsurface utility engineering in accordance with ASCE Standard "ASCE C-1, 38-02, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" including, but not limited to, hydro-excavation. The proposed subsurface utility investigation will be as follows:
 - a. Excavation – The survey scope includes working with a subsurface utility excavator to perform Quality Level A investigation of underground utilities in specified areas through the project limit. (Quality Level A involves the use of nondestructive digging equipment at critical points to determine the horizontal and vertical position of underground utilities, as well as the type, size, condition, material, and other characteristics.) Utilities located at this quality level will be physically located and tied to the topographic survey control. The utility will be identified and an elevation will be obtained to the top of the utility.
 - b. Utility Location – The survey scope includes locating certain utilities to Quality Level B (Quality Level B involves surveying visible above ground utility facilities, such as manholes, valve boxes, posts, etc., and correlating this information with existing utility records.) These utilities will be located by obtaining a One-Call Notice and measuring the marked locations.
 - c. Storm Water – Storm water facilities within the project limits will be located to Quality Level C. Locations will be based on the surveyed locations of accessible storm water manholes and drainage inlets.
 - d. Wastewater – Wastewater facilities within the project limits will be located to Quality Level C. Locations will be based on the surveyed locations of accessible wastewater manholes. Wastewater lines that are not to be replaced as part of this project and that fall within the footprint of construction-related excavation shall be located at Quality Level A.
 - e. Water – Water facilities within the project limits will be located to Quality Level C.
 - f. Gas – Gas facilities within the project limits will be located to Quality Level C by the A/E. The City of Corpus Christi Gas Department will provide Quality Level A. The A/E will coordinate this activity.

H. Geotechnical Engineering Services - LAN will coordinate with a sub-consultant to complete a subsurface investigation of the project area.

1. LAN will communicate to the City and subconsultant the total number of borings required and termination depths of those borings in each work authorization from this Master Service Agreements.
2. Consultants will sample, identify and measure the pavement constituents at each boring location. The scope of work is provided below:
 - a. Coordination with Texas One Call to identify underground utilities in the proximity of the boring locations. The borings will be relocated if necessary.
 - b. Traffic control and traffic control devices as required by the City of Corpus Christi during field investigation.
 - c. Soil samples will be obtained at predetermined depths, unless subsurface conditions warrant additional sampling.
 - d. Groundwater readings will be obtained during drilling and immediately upon completion of the drilling operations.
 - e. After obtaining the delayed groundwater readings, the open boreholes will be backfilled with excess soils obtained during the drilling operations; the base material will be replaced in the boreholes and patched with cold mix.
 - f. Scope of Laboratory Testing Program
 - i. Supplementary Visual Classification (ASTM D 2487)
 - ii. Water Content Tests (ASTM D 2216)
 - iii. Atterberg Limits Tests (ASTM D 4318)
 - iv. Unconfined Compressive Strength Tests (ASTM D 2166)
 - v. Percent Material Finer Than The #200 Sieve Tests (ASTM D 1140)
 - vi. All phases of the laboratory testing program will be performed in general accordance with applicable ASTM Specifications. All field and laboratory test results will be included on the boring logs or provided in the report.
 - g. Geotechnical Engineering Report. In addition to the field and laboratory testing, a geotechnical engineering report will be prepared that includes a description of the field exploration and laboratory tests, boring logs, a discussion of the engineering properties of the subsurface materials encountered, trench excavation design parameters, OSHA soil type classification, utility trench recommendations and pavement recommendations for the proposed project.

EXHIBIT C
PAYMENT REQUEST FORM

COMPLETE PROJECT NAME
Project No. XXXX
Invoice No. 12345
Invoice Date 01/01/2017

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

Notes:
If needed, update this sample form based on the contract requirements.
If applicable, refer to the contract for information on what to include with time and materials (T&M).

EXHIBIT D
INSURANCE REQUIREMENTS

EXHIBIT D

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 In the event of a change in insurance coverage, Consultant shall be required to submit a copy of the replacement certificate of insurance to City at the address provided

below within 10 business days of said change. Consultant shall pay any costs 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 If the policy is cancelled, other than for nonpayment of premium, notice of such cancellation will be provided at least 30 days in advance of the cancellation effective date to the certificate holder;
- 1.6.2 If the policy is cancelled for nonpayment of premium, notice of such cancellation will be provided within 10 days of the cancellation effective date to the certificate holder.

1.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall notify City of such lapse in coverage and 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 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.

EXHIBIT E
DISCLOSURE OF INTEREST



CITY OF CORPUS CHRISTI DISCLOSURE OF INTEREST

City of Corpus Christi Ordinance 17112, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA". See reverse side for Filing Requirements, Certifications and definitions.

COMPANY NAME: Lockwood, Andrews & Newnam, Inc.

P. O. BOX: _____

STREET ADDRESS: 500 N. Shoreline Blvd., Suite 500 **CITY:** Corpus Christi **ZIP:** 78401

FIRM IS: 1. Corporation ☐ 2. Partnership ☐ 3. Sole Owner ☐
4. Association ☐ 5. Other ☐

DISCLOSURE QUESTIONS

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Department (if known)	Job Title	and City
------	-----------------------	-----------	----------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Title
------	-------

_____	_____
_____	_____
_____	_____

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Committee	Board, Commission	or
------	-----------	-------------------	----

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Consultant
------	------------

_____	_____
_____	_____
_____	_____

FILING REQUIREMENTS

If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any City official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, you shall disclose that fact in a signed writing to the City official, employee or body that has been requested to act in the matter, unless the interest of the City official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary.
[Ethics Ordinance Section 2-349 (d)]

CERTIFICATION

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas as changes occur.

Certifying Person: Steven A. Gilbreath, P.E. **Title:** Associate
(Type or Print)

Signature of Certifying Person:



Date: 4/26/17

DEFINITIONS

- a. "Board member." A member of any board, commission, or committee appointed by the City Council of the City of Corpus Christi, Texas.
- b. "Economic benefit". An action that is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof.
- c. "Employee." Any person employed by the City of Corpus Christi, Texas either on a full or part-time basis, but not as an independent contractor.
- d. "Firm." Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- e. "Official." The Mayor, members of the City Council, City Manager, Deputy City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judges of the City of Corpus Christi, Texas.
- f. "Ownership Interest." Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate, or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture or partnership agreements."
- g. "Consultant." Any person or firm, such as engineers and architects, hired by the City of Corpus Christi for the purpose of professional consultation and recommendation.

EXHIBIT F
CERTIFICATE OF INTERESTED PARTIES

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2016-73614

Date Filed:
06/20/2016

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lockwood, Andrews & Newnam, Inc.
Houston, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Corpus Christi

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

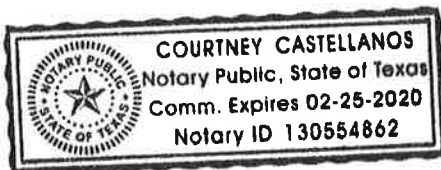
E12191
IDIQ Major Ditch Improvements

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Daly, Leo	Washington, DC United States	X	
	Daly, Grega	Washington, DC United States	X	
	Petersen, Dennis	Houston, TX United States	X	
	Cohen, Arnie	Austin, TX United States	X	
	Vajdani, Sima	Los Angeles, CA United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Stephen Gilbreath

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Stephen Gilbreath, this the 21st day of June, 2016, to certify which, witness my hand and seal of office.

Courtney Castellanos

Signature of officer administering oath

Courtney Castellanos

Printed name of officer administering oath

Notary Public

Title of officer administering oath

EXHIBIT G

EXCERPT FROM GENERAL CONDITIONS FOR CONSTRUCTION CONTRACT

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

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

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

13. **Change Proposal** - A document submitted by Contractor in accordance with the requirements of the Contract Documents:
 - a. Requesting an adjustment in Contract Price or Contract Times;
 - b. Contesting an initial decision concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents;
 - c. Challenging a set-off against payment due; or
 - d. Seeking a Modification with respect to the terms of the Contract.
14. **City Engineer** - The Corpus Christi City Engineer and/or his designated representative as identified at the preconstruction conference or in the Notice to Proceed.
15. **Claim** - A demand or assertion by Owner or Contractor submitted in accordance with the requirements of the Contract Documents. A demand for money or services by an entity other than the Owner or Contractor is not a Claim.
16. **Constituent of Concern** - Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous wastes, and substances, products, wastes, or other materials that are or become listed, regulated, or addressed pursuant to:
 - a. The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA");
 - b. The Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.;
 - c. The Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA");
 - d. The Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.;
 - e. The Clean Water Act, 33 U.S.C. §§1251 et seq.;
 - f. The Clean Air Act, 42 U.S.C. §§7401 et seq.; or
 - g. Any other Laws or Regulations regulating, relating to, or imposing liability or standards of conduct concerning hazardous, toxic, or dangerous waste, substance, or material.
17. **Contract** - The entire integrated set of documents concerning the Work and describing the relationship between the Owner and Contractor.
18. **Contract Amendment** - A document issued on or after the Effective Date of the Contract and signed by Owner and Contractor which:
 - a. Authorizes new phases of the Work and establishes the Contract Price, Contract Times, or terms and conditions of the Contract for the new phase of Work; or
 - b. Modifies the terms and conditions of the Contract, but does not make changes in the Work.
19. **Contract Documents** - Those items designated as Contract Documents in the Agreement.
20. **Contract Price** - The monetary amount stated in the Agreement and as adjusted by Modifications, and increases or decreases in unit price quantities, if any, that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.

21. **Contract Times** - The number of days or the dates by which Contractor must:
 - a. Achieve specified Milestones;
 - b. Achieve Substantial Completion; and
 - c. Complete the Work.
22. **Contractor** - The individual or entity with which Owner has contracted for performance of the Work.
23. **Contractor's Team** - Contractor and Subcontractors, Suppliers, individuals, or entities directly or indirectly employed or retained by them to perform part of the Work or anyone for whose acts they may be liable.
24. **Cost of the Work** - The sum of costs incurred for the proper performance of the Work as allowed by Article 13.
25. **Defective** - When applied to Work, refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. Does not conform to the Contract Documents;
 - b. Does not meet the requirements of applicable inspections, reference standards, tests, or approvals referred to in the Contract Documents; or
 - c. Has been damaged or stolen prior to OAR's recommendation of final payment unless responsibility for the protection of the Work has been assumed by Owner at Substantial Completion in accordance with Paragraphs 15.03 or 15.04.
26. **Designer** - The individuals or entity named as Designer in the Agreement and the subconsultants, individuals, or entities directly or indirectly employed or retained by Designer to provide design or other technical services to the Owner. Designer has responsibility for engineering or architectural design and technical issues related to the Contract Documents. Designers are Licensed Professional Engineers or Registered Architects qualified to practice their profession in the State of Texas.
27. **Drawings** - The part of the Contract that graphically shows the scope, extent, and character of the Work. Shop Drawings and other Contractor documents are not Drawings.
28. **Effective Date of the Contract** - The date indicated in the Agreement on which the City Manager or designee has signed the Contract.
29. **Field Order** - A document issued by OAR or Designer requiring changes in the Work that do not change the Contract Price or the Contract Times.
30. **Hazardous Environmental Condition** - The presence of Constituents of Concern at the Site in quantities or circumstances that may present a danger to persons or property exposed to Constituents of Concern. The presence of Constituents of Concern at the Site necessary for the execution of the Work or to be incorporated in the Work is not a Hazardous Environmental Condition provided these Constituents of Concern are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract.

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

43. **Progress Schedule** - A schedule prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
44. **Project** - The total undertaking to be accomplished for Owner under the Contract Documents.
45. **Resident Project Representative or RPR** - The authorized representative of OPT assigned to assist OAR at the Site. As used herein, the term Resident Project Representative includes assistants and field staff of the OAR.
46. **Samples** - Physical examples of materials, equipment, or workmanship representing some portion of the Work that are used to establish the standards for that portion of the Work.
47. **Schedule of Documents** - A schedule of required documents, prepared, and maintained by Contractor.
48. **Schedule of Values** - A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for Contractor's Applications for Payment.
49. **Selected Bidder** - The Bidder to which Owner intends to award the Contract.
50. **Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
51. **Site** - Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed. The Site includes rights-of-way, easements, and other lands furnished by Owner which are designated for use by the Contractor.
52. **Specifications** - The part of the Contract that describes the requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
53. **Subcontractor** - An individual or entity having a direct contract with Contractor or with other Subcontractors or Suppliers for the performance of a part of the Work.
54. **Substantial Completion** - The point where the Work or a specified part of the Work is sufficiently complete to be used for its intended purpose in accordance with the Contract Documents.
55. **Supplementary Conditions** - The part of the Contract that amends or supplements the General Conditions.
56. **Supplier** - A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with Subcontractors or other Suppliers to furnish materials or equipment to be incorporated in the Work.
57. **Technical Data** - Those items expressly identified as Technical Data in the Supplementary Conditions with respect to either:
 - a. Subsurface conditions at the Site;

- b. Physical conditions relating to existing surface or subsurface structures at the Site, except Underground Facilities; or
 - c. Hazardous Environmental Conditions at the Site.
58. Underground Facilities - All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, other similar facilities or appurtenances, and encasements containing these facilities which are used to convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
59. Unit Price Work - Work to be paid for on the basis of unit prices.
60. Work - The construction of the Project or its component parts as required by the Contract Documents.
61. Work Change Directive - A directive issued to Contractor on or after the Effective Date of the Contract ordering an addition, deletion, or revision in the Work. The Work Change Directive serves as a memorandum of understanding regarding the directive until a Change Order can be issued.

1.02 Terminology

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

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

ARTICLE 2 – PRELIMINARY MATTERS

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Intent

- B. Provide equipment that is functionally complete as described in the Contract Documents. The Drawings and Specifications do not indicate or describe all of the Work required to complete the installation of products purchased by the Owner or Contractor. Additional

details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the Designer through the OAR.

3.02 Reference Standards

- B. Comply with applicable construction industry standards, whether referenced or not.
 - 1. Standards referenced in the Contract Documents govern over standards not referenced but recognized as applicable in the construction industry.
 - 2. Comply with the requirements of the Contract Documents if they produce a higher quality of Work than the applicable construction industry standards.
 - 3. Designer determines whether a code or standard is applicable, which of several are applicable, or if the Contract Documents produce a higher quality of Work.

3.03 Reporting and Resolving Discrepancies

3.04 Interpretation of the Contract Documents

- A. Submit questions concerning the non-technical or contractual / administrative requirements of the Contract Documents to the OAR immediately after those questions arise. OAR is to provide an interpretation of the Contract Documents regarding these questions and will coordinate the response of the OPT to Contractor.
- B. Submit questions regarding the design of the Project described in the Contract Documents to the OAR immediately after those questions arise. OAR is to request an interpretation of the Contract Documents from the Designer. Designer is to respond to these questions by providing an interpretation of the Contract Documents. OAR will coordinate the response of the OPT to Contractor.
- C. OPT may initiate a Modification to the Contract Documents through the OAR if a response to the question indicates that a change in the Contract Documents is required. Contractor may appeal Designer's or OAR's interpretation by submitting a Change Proposal.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

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

5.01 Availability of Lands

5.02 Use of Site and Other Areas

5.03 Subsurface and Physical Conditions

5.04 Differing Subsurface or Physical Conditions

- A. Notify OAR immediately, but in no event later than 3 days, after becoming aware of a subsurface or physical condition that is uncovered or revealed at the Site, and before

further disturbing the subsurface or physical conditions or performing any related Work that:

1. Establishes that the Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
2. Requires a change in the Drawings or Specifications;
3. Differs materially from that shown or indicated in the Contract Documents; or
4. Is of an unusual nature and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

Do not further disturb or perform Work related to this subsurface or physical condition, except in an emergency as required by Paragraph 7.12, until permission to do so is issued by OAR.

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

5.05 Underground Facilities

- A. The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to OPT by the owners of these Underground Facilities or by others. OPT is not responsible for the accuracy or completeness of information or data provided by others that OPT makes available to Contractor. The Contractor is responsible for:
 1. Reviewing and checking available information and data regarding existing Underground Facilities at the Site;
 2. Complying with Laws and Regulations related to locating Underground Facilities before beginning Work;
 3. Locating Underground Facilities shown or indicated in the Contract Documents;
 4. Coordinating the Work with the owners, including Owner, of Underground Facilities during construction; and

5. The safety and protection of existing Underground Facilities at or adjacent to the Site and repairing damage resulting from the Work.
- B. Notify the OAR and the owner of the Underground Facility immediately if an Underground Facility is uncovered or revealed at the Site that was not shown in the Contract Documents, or was not shown with reasonable accuracy in the Contract Documents. Do not further disturb conditions or perform Work affected by this discovery, except in the event of an emergency as required by Paragraph 7.12.
- C. The Designer is to take the following action after receiving notice from the OAR:
 1. Promptly review the Underground Facility and conclude whether the Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy;
 2. Prepare recommendations to OPT regarding the Contractor's resumption of Work in connection with this Underground Facility;
 3. Determine the extent to which a change is required in the Drawings or Specifications to document the consequences of the existence or location of the Underground Facility; and
 4. Advise OAR of Designer's findings, conclusions, and recommendations and provide revised Drawings and Specifications if required.
- D. OAR is to issue a statement to Contractor regarding the Underground Facility in question and recommend action as appropriate after review of Designer's findings, conclusions, and recommendations.

ARTICLE 6 – BONDS AND INSURANCE

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

ARTICLE 8 – OTHER WORK AT THE SITE

ARTICLE 9 – OWNER'S AND OPT'S RESPONSIBILITIES

9.01 Communications to Contractor

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

9.02 Replacement of Owner's Project Team Members

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

9.03 Furnish Data

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

9.04 Pay When Due

- A. Owner is to make payments to Contractor when due as described in Paragraphs 15.01.D and 15.06.D.

9.05 Lands and Easements; Reports and Tests

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

9.06 Insurance

- A. Owner's responsibilities with respect to purchasing and maintaining insurance are described in Article 6.

9.07 Modifications

- A. Owner's responsibilities with respect to Modifications are described in Article 11.

9.08 Inspections, Tests, and Approvals

- A. OPT's responsibility with respect to certain inspections, tests, and approvals are described in Paragraph 14.02.

9.09 Limitations on OPT's Responsibilities

- A. The OPT does not supervise, direct, or have control or authority over, and is not responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or related safety precautions and programs, or for failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. OPT is not responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 Undisclosed Hazardous Environmental Condition

- A. OPT's responsibility for undisclosed Hazardous Environmental Conditions is described in Paragraph 5.06.

9.11 Compliance with Safety Program

- A. Contractor is to inform the OPT of its safety programs and OPT is to comply with the specific applicable requirements of this program.

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

10.01 Owner's Representative

- A. OAR is Owner's representative. The duties and responsibilities and the limitations of authority of OAR as Owner's representative are described in the Contract Documents.

10.02 Visits to Site

- A. Designer is to make periodic visits to the Site to observe the progress and quality of the Work. Designer is to determine, in general, if the Work is proceeding in accordance with the Contract Documents based on observations made during these visits. Designer is not required to make exhaustive or continuous inspections to check the quality or quantity of

the Work. Designer is to inform the OPT of issues or concerns and OAR is to work with Contractor to address these issues or concerns. Designer's visits and observations are subject to the limitations on Designer's authority and responsibility described in Paragraphs 9.09 and 10.07.

- B. OAR is to observe the Work to check the quality and quantity of Work, implement Owner's quality assurance program, and administer the Contract as Owner's representative as described in the Contract Documents. OAR's visits and observations are subject to the limitations on OAR's authority and responsibility described in Paragraphs 9.09 and 10.07.

10.03 Resident Project Representatives

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

10.04 Rejecting Defective Work

- A. OPT has the authority to reject Work in accordance with Article 14. OAR is to issue a Defective Work Notice to Contractor and document when Defective Work has been corrected or accepted in accordance with Article 14.

10.05 Shop Drawings, Modifications and Payments

- A. Designer's authority related to Shop Drawings and Samples are described in the Contract Documents.
- B. Designer's authority related to design calculations and design drawings submitted in response to a delegation of professional design services are described in Paragraph 7.15.
- C. OAR and Designer's authority related to Modifications is described in Articles 11.
- D. OAR's authority related to Applications for Payment is described in Articles 13 and 15.

10.06 Decisions on Requirements of Contract Documents and Acceptability of Work

- A. OAR is to render decisions regarding non-technical or contractual / administrative requirements of the Contract Documents and will coordinate the response of the OPT to Contractor.
- B. Designer is to render decisions regarding the conformance of the Work to the requirements of the Contract Documents. Designer will render a decision to either correct the Defective Work, or accept the Work under the provisions of Paragraph 14.04, if Work does not conform to the Contract Documents. OAR will coordinate the response of the OPT to Contractor.
- C. OAR will issue a Request for a Change Proposal if a Modification is required. OAR will provide documentation for changes related to the non-technical or contractual / administrative requirements of the Contract Documents. Designer will provide documentation if design related changes are required.
- D. Contractor may appeal Designer's decision by submitting a Change Proposal if Contractor does not agree with the Designer's decision.

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

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

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

ARTICLE 12 – CLAIMS

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

ARTICLE 18 – MISCELLANEOUS

END OF SECTION