

# CITY OF CORPUS CHRISTI

## AMENDMENT NO. 4 CONTRACT FOR PROFESSIONAL SERVICES

### FOR PROJECT: E12121 CENTRAL LIBRARY ROOF REPLACEMENT

The City of Corpus Christi, a Texas home rule municipal corporation, P.O. Box 9277, Corpus Christi, Nueces County, Texas 78469-9277 (City) acting through its duly authorized City Manager or Designee (Director) and **Solka, Nava, Torno, LLC**, a Texas corporation, 6262 Weber Road, Suite 310, Corpus Christi, Nueces County, Texas 78413-4031, (Consultant), hereby agree as follows:

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## ARTICLE I – SCOPE OF SERVICES

1.1 The Consultant shall provide to Engineering Services its Scope of Services, to be incorporated herein and attached to this Agreement as **Exhibit A**. 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 that would normally be required by law or common due diligence in accordance with the standard of care defined in Article XIII of this Agreement. The approved Scope of Services defines the services to be performed by Consultant under this Agreement.

1.2 Consultant shall follow City Codes and Standards effective at the time of the execution of the contract. At review milestones, the Consultant and City will review the progress of the plans to ensure that City Codes and Standards are followed unless specifically and explicitly excluded from doing so in the approved Scope of Services attached as **Exhibit A**. A request made by either party to deviate from City standards after the contract is executed must be in writing.

1.3 Consultant shall provide labor, equipment and transportation necessary to complete all services agreed to hereunder 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 subconsultant and the % of work performed by subconsultant (in dollars). Changes in Consultant's proposed team as specified in the SOQ or Scope of Services must be agreed to by the City in writing.

1.4 Consultant shall not begin work on any phase/task authorized under this Agreement until they are briefed on the scope of the Project and are notified in writing to proceed. If the scope of the Project changes, either Consultant or City may request a review of the changes with an appropriate adjustment in compensation.

1.5 Consultant will provide monthly status updates (project progress or delays) in the format requested by the City with each monthly invoice.

1.6 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 City's General Conditions for Construction Contracts, excerpt attached as **Exhibit D**.

1.6.1 The Consultant agrees to serve as the City's Designer as defined in the General Conditions and will consult and advise the City on matters related to the Consultant's Scope of Services during the performance of the Consultant's services.

1.6.2 The Consultant agrees to prepare plans, specification, bid and contract documents and to analyze bids and evaluate the documents submitted by bidders.

1.6.3 The Consultant agrees to assist the City in evaluating the qualifications of the prospective contractors, subcontractors and suppliers.

1.7 For projects that require subsurface utility investigation:

1.7.1 The Consultant agrees to prepare and submit to the City prior to the 60% submittal a signed and sealed report identifying all utilities within the project area at the Quality Level specified in **Exhibits A and A-1**. It is assumed that all utilities will be identified using Quality Level A exploratory excavation unless stated otherwise.

1.7.2 Utilities that should be identified include but are not limited to utilities owned by the City, local franchises, electric companies, communication companies, private pipeline companies and 3<sup>rd</sup> party owners/operators.

1.8 For project with potential utility conflicts:

1.8.1 The Consultant agrees to coordinate the verification and resolution of all potential utility conflicts.

1.8.2 The Consultant agrees to prepare and submit a monthly Utility Coordination Matrix to the City.

1.9 The Consultant agrees to complete the Scope of Services in accordance with the approved project schedule and budget as defined in **Exhibit A**, including completing the work in phases defined therein.

## ARTICLE II – QUALITY CONTROL

2.1 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.

2.2 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 the Opinion of Probable Cost (OPC), as needed.

2.3 Final construction documents that do not meet City standards in effect at the time of the execution of this Agreement may be rejected. If final construction documents are found not to be in compliance with this Agreement, Consultant will not be compensated for having to resubmit documents.

## ARTICLE III – COMPENSATION

3.1 The Compensation for all services (Basic and Additional) included in this Agreement and in the Scope of Services for this Agreement shall not exceed **\$75,740.00 for a total restated fee not to exceed \$125,030.00.**

3.2 The Consultant's fee will be on a lump sum or time and materials (T&M) basis as detailed in **Exhibit A** and will be full and total compensation for all services and for all expenses incurred in performing these services. Consultant shall submit a Rate Schedule with their proposal. City and Consultant agree that the Rate Schedule is considered confidential information that may be excluded from public disclosure under Texas Government Code Chapter 552 as determined by the Texas Attorney General.

3.3 The Consultant agrees to complete the Scope of Services in accordance with the approved project schedule and budget as defined in **Exhibit A**, including completing the work in phases defined therein.

3.4 The Director of Engineering Services may request the Consultant to undertake additional services or tasks provided that no increase in fee is required. Services or tasks requiring an increase of fee will be mutually agreed and evidenced in writing as an amendment to this contract. Consultant shall notify the City within three (3) days of notice if tasks requested requires an additional fee.

3.5 Monthly invoices will be submitted in accordance with the Payment Request as shown in **Exhibit B**. Each invoice will include the Consultant's estimate of the proportion of the contracted services completed at the time of billing. For work performed on a T&M Basis, the invoice shall include documentation that shows who worked on the Project, the number of hours that each individual worked, the applicable rates from the Rate Schedule and any reimbursable expenses associated with the work. City will make prompt monthly payments in response to Consultant's monthly invoices in compliance with the Texas Prompt Payment Act.

3.6 Principals may only bill at the agreed hourly rate for Principals (as defined in the Rate Schedule) when acting in that capacity. Principals acting in the capacity of staff must bill at applicable staff rates.

3.7 Consultant certifies that title to all services covered by a Payment Request shall pass to City no later than the time of payment. Consultant further certifies that, upon submittal of a Payment Request, all services for which Payment Requests have been previously issued and payments received from City shall, to the best of Consultant's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of Consultant or other persons or entities making a claim by reason of having provided labor or services relating to this Agreement. **CONSULTANT SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY ANYONE CLAIMING BY, THROUGH OR UNDER THE ITEMS COVERED BY PAYMENTS MADE BY CITY TO CONSULTANT.**

3.8 The final payment due hereunder shall not be paid until all reports, data and documents have been submitted, received, accepted and approved by City. Final billing shall indicate "Final Bill – no additional compensation is due to Consultant."

3.9 City may withhold compensation to such extent as may be necessary, in City's opinion, to protect City from damage or loss for which Consultant is responsible, because of:

3.9.1 delays in the performance of Consultant's work;

3.9.2 failure of Consultant to make payments to subconsultants or vendors for labor, materials or equipment;

3.9.3 damage to City; or

3.9.4 persistent failure by Consultant to carry out the performance of its services in accordance with this Agreement.

3.10 When the above reasons for withholding are removed or remedied by Consultant, compensation of the amount withheld shall be made within 30 days. City shall not be deemed in default by reason of withholding compensation as provided under this Agreement.

3.11 In the event of any dispute(s) between the Parties regarding the amount properly compensable for any phase 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 as required by the terms of this Agreement, any such claim shall be waived.

3.12 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.

3.13 All funding obligations of the City under this Agreement are subject to the appropriation of funds in its annual budget. The City may direct the Consultant 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 3.5 above for services provided up to the date of suspension.

#### ARTICLE IV – TIME AND PERIOD OF SERVICE

4.1 This Agreement shall be effective upon the signature of the City Manager or designee (Effective Date).

~~4.2 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.~~

4.3 The Consultant agrees to begin work on those authorized Services for this contract upon receipt of the Notice to Proceed from the Director of Engineering Services. Work will not begin on any phase or any Additional Services until requested in writing by the Consultant and written authorization is provided by the Director of Engineering Services.

4.4 Time is of the essence for this Agreement. Consultant shall perform and complete its obligations under this Agreement in a prompt and continuous manner so as to not delay the Work for the Project, in accordance with the schedules approved by City. The Consultant and City are aware that many factors may affect the Consultant's ability to complete the services to be provided under this agreement. The Consultant must notify the City within ten business days of becoming aware of a factor that may affect the Consultant's ability to complete the services hereunder.

4.5 City shall perform its obligations of review and approval in a prompt and continuous manner so as to not delay the project.

4.6 This Agreement shall remain in force for a period which may reasonably be required for completion of the Project, including any extra work and any required extensions thereto, unless terminated as provided for in this Agreement. For construction design services, "completion of the Project" refers to acceptance by the City of the construction phase of the Project, i.e., Final Completion.

#### ARTICLE V – OPINIONS OF COST

5.1 The Opinion of Probable Cost (OPC) is computed by the Consultant and includes the total cost for construction of the Project.

5.2 The OPC does not include the cost of the land, rights-of-way or other costs which are the responsibility of the City.

5.3 Since Consultant has no control over a construction contractor's cost of labor, materials or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant's opinions of probable Project Cost or Construction Cost provided herein are to be made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as a design professional familiar with the construction industry, but Consultant cannot and does not guarantee proposals, bids or the construction cost shall not vary from the OPC prepared by Consultant.

#### ARTICLE VI – INSURANCE REQUIREMENTS

6.1 Consultant must not commence work under this Agreement until all insurance required 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.

6.2 Insurance Requirements are shown in **EXHIBIT C**.

#### ARTICLE VII – INDEMNIFICATION

**Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, employees, excluding the engineer or architect or that person's agent, employee or subcontractant, 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 Indemnitee, 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 Indemnitee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnitee, 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 VIII – TERMINATION OF AGREEMENT**

### **8.1 By Consultant:**

8.1.1 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.

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

### **8.2 By City:**

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

8.2.2 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.

### **8.3 Termination Procedure**

8.3.1 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.

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

8.3.3 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.

8.3.4 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 IX – RIGHT OF REVIEW AND AUDIT

9.1 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.

9.2 Consultant's records include any and all information, materials and data of every kind and character generated as a result of and relevant to the Work under this Agreement (Consultant's Records). 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, and any and all other agreements, sources of information and matters that may, in City's and Consultant's reasonable judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.

9.3 City agrees that it shall exercise the right to audit, examine or inspect Consultant's Records only during Consultant'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 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.

9.4 Consultant shall include this audit clause in any subcontractor, supplier or vendor contract.

## ARTICLE X – OWNER REMEDIES

10.1 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:

10.1.1 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;

10.1.2 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.

10.1.3 Losses are incurred because of errors and/or 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 errors and/or omissions in the documents.

10.2 When the City incurs non-value added work costs for change orders due to design errors and/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.

10.3 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.

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

#### ARTICLE XI – CONSULTANT REMEDIES

11.1 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.

11.2 The City agrees that the Consultant is not responsible for damages arising from any cause beyond Consultant's reasonable control.

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

#### ARTICLE XII – CLAIMS AND DISPUTE RESOLUTION

##### 12.1 Filing of Claims

12.1.1 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.

12.1.2 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.

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

12.1.4 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 Mediation.

12.1.5 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.



## 12.2 Mediation

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

12.2.2 Before invoking mediation, 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 mediation. 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 process contained herein.

12.2.3.1 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.

12.2.3.2 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.

12.2.3.3 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.

12.2.3.4 The parties shall share the mediator's fee. Venue for mediation 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.

12.3 In calculating the amount of any Claim or any measure of damages for breach of contract, the following standards shall apply both to claims by Consultant and to claims by City:

12.3.1 In no event shall either Party be liable, whether in contract or tort or otherwise, to the other Party for loss of profits, delay damages or for any special incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever;

12.3.2 Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong for which the other Party is claimed to be responsible.

12.4 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 between the parties to this Agreement.

**12.5 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 XIII – MISCELLANEOUS PROVISIONS

13.1 Assignability. Neither party will assign, transfer or delegate any of its obligations or duties under this Agreement contract to any other person and/or party without the prior written consent of the other party, except for routine duties delegated to personnel of the Consultant staff. This includes subcontracts entered into for services under this Agreement. If the Consultant is a partnership or joint venture, then in the event of the termination of the partnership or joint venture, 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.

13.2 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 by the City, 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 licensed professional prior to re-use of modified plans.

13.3 Standard of Care. Services provided by Consultant under this Agreement shall be performed with the professional skill and care ordinarily provided by competent licensed professionals practicing 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.

13.4 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.

13.5 Independent Contractor. The relationship between the City and Consultant under this Agreement shall be that of independent contractor. City may explain to Consultant the City's goals and objectives in regard to the services to be performed by Consultant, but the City shall not direct Consultant on how or in what manner these goals and objectives are to be met.

13.6 Entire Agreement. This Agreement represents the entire and integrated Agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both the City and Consultant.

13.7 No Third-Party Beneficiaries. Nothing in this Agreement can be construed to create rights in any entity other than the City and Consultant. Neither the City nor Consultant intends to create third party beneficiaries by entering into this Agreement.

13.8 Disclosure of Interest. Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form.

13.9 Certificate of Interested Parties. For contracts greater than \$50,000, Consultant agrees to comply with Texas Government Code section 2252.908 and complete Form 1295 Certificate of Interested Parties as part of this agreement. Form 1295 must be electronically filed with the Texas Ethics Commission at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm). The form must then be printed, signed 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>.

13.10 Conflict of Interest. Consultant agrees, in compliance with Chapter 176 of the Texas Local Government Code, to complete and file Form CIQ with the City Secretary's Office. 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>.

13.11 Boycott Israel. As required by Chapter 2270, Government Code, Consultant hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

13.12 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. Cases must be filed and tried in Nueces County and cannot be removed from Nueces County.

13.13 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.

13.14 Conflict Resolution Between Documents. Consultant hereby agrees and acknowledges if anything contained in the Consultant-prepared **Exhibit A**, Consultant's Scope of Services, or contained in any other document prepared by Consultant and included herein, is in conflict with Articles I-XIII of this Agreement (Articles), the Articles shall take precedence and control to resolve said conflict.

13.15 Title VI Assurance. The Consultant shall prohibit discrimination in employment based upon race, color, religion, national origin, gender, disability or age.

**CITY OF CORPUS CHRISTI**

**SOLKA, NAVA, TORNO, LLC**

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

\_\_\_\_\_  
Erasmio Nava Date  
AIA, President  
6262 Weber Road, Suite 310  
Corpus Christi, TX 78413-4031  
(361) 854-4031 Office  
enava@sntarchitects.com

**APPROVED AS TO LEGAL FORM**

\_\_\_\_\_  
Assistant City Attorney Date

ATTEST

\_\_\_\_\_  
Rebecca Huerta Date  
City Secretary

Accounting Unit: 3162-191  
Account: 550950  
Activity: E12121-01-3162-EXP  
Account Category: 50950  
Fund Name: PublFac 2013 GO  
Amount: \$75,740.00

April 4, 2019

Elaborio Pena, PE, MS  
Engineer IV - Facilities Project Manager  
Engineering Services Department  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

Subject: Project E12121 Central Library Roof Replacement  
A/E Services Proposal (Re-Engage Contract)

Dear Mr. Pena,

SolkaNavaTorno, LLC proposes to provide Architectural/Engineering Services for the completion of the design, bidding and construction administration phases for the subject project (Amendment 4) in accordance with City Standards, as outlined in the Standard Professional Services Agreement for the total fixed fee amount of \$75,740.00. A/E design was previously completed to 60% status prior to being placed on "HOLD".

As discussed, the project scope will include the salvage and reinstallation of the existing Spanish Clay Tile Mansard Roofing System, the removal and replacement of the existing low-slope gravel-surfaced coal tar pitch roof membrane and flashing system along with all existing roof-mounted mechanical equipment and the repair of the existing internal gutter drainage system. The work will be designed to comply with requirements of the TDI Windstorm Code and the International Energy Conservation Code (IECC) as required by the City of Corpus Christi Building Code.

The 60% Design Submittal Estimate of Probable Construction Cost for the total project scope which includes the previously authorized Gutter Replacement project is \$1,750,000.00 (Refer Option 2 Cost Estimate from the Central Library Emergency Roof Storm Damage Assessment Report dated September 20, 2017).

The project is intended to be bid according to City of Corpus Christi Engineering Department procurement standards. Primary bidding and construction administration services will be managed by the City of Corpus Christi with assistance by the A/E.

Following is a general breakdown of the proposed A/E Services and Fee by deliverable category in order to advance the project from 60% to Final Completion:

A.	Additional edits to City Standard "Front End" documents for Re-Engage Scope of Work .....	\$ 800.00
B.	Provide Technical Specifications edited to specific project requirements. Refer to the Specification Index attached .....	\$ 6,400.00
C.	Provide additional field investigation and confirmation of existing conditions for Re-Engage Contract .....	\$ 1,200.00
D.	Provide 90% 100% and Final Design Review Submittals (Assume previous 60% Design Review is acceptable) .....	\$ 8,000.00
	1. Provide Engineering Letter Reports	
	2. Provide Engineering Opinion of Probable Construction Costs	
	3. Provide Design Review Check Lists	
	4. Provide Design Review Comment Responses	
	5. Attend and Document Design Review Meetings	
E.	Complete Design Drawings and Details from 60% Submittal (Anticipate Twenty Sheets Total – Refer to attached proposed Drawing Index) .....	<u>\$10,800.00</u>
	<b>Subtotal Re-Engage Project Architectural Design Phase</b>	<b>\$27,200.00</b>
F.	Provide A/E Services during Bidding, Approval and Contracting Phase .....	\$ 4,000.00
	1. Respond to Bidder Inquiries.	
	2. Prepare Addendums if required.	
	3. Attend Pre-Proposal Conference and Site Visit.	
	4. Solicit interest from qualified local and out of town Contractors.	
	5. Attend Bid Opening.	
	6. Assist Engineering Staff in review of proposals received, analysis of Contractor qualifications and recommendation for award.	

G.	Provide A/E Services During Construction Phase .....	<u>\$24,240.00</u>
	1. Attend and document Pre-Construction Conference	
	2. Attend and document Pre-Installation Conferences with G.C. and subcontractors:	
	a. Demolition	
	b. Spanish Clay Tile Roofing	
	c. Low-slope roofing	
	d. Internal gutter repair (PMMA membrane)	
	e. Retrofit roof drains	
	f. Mechanical equipment replacement	
	3. Complete City Monthly Status Reports.	
	4. Review monthly Contractor Pay Requests and time reports.	
	5. Review Contractor submittals.	
	6. Attend and document bi-weekly Project Status meetings and on-site project status observations.	
	7. Prepare written and photographic Field Reports for all site visits.	
	8. Participate in project final inspection.	
	9. Participate in project close-out.	
	10. Prepare electronic as-built drawings.	
	<b>Subtotal Basic Architectural Services</b>	<b>\$28,240.00</b>

H.	Consultant Engineering Services	
	1. Windstorm Engineering and Inspection (MGM Engineering) .....	\$16,000.00
	a. Attend Construction Meetings.	
	b. Respond to Contractor Questions.	
	c. Review Related Submittal data.	
	d. Perform periodic windstorm inspections on-site.	
	e. Prepare windstorm inspection documentation.	
	f. File necessary WPI forms to Texas Department of Insurance for Certification.	
	2. Mechanical Engineering and Inspection (NRG Engineering) .....	\$4,300.00
	a. Survey existing equipment and conditions with regards to the roof replacement.	
	b. Design the replacement of multiple exhaust fans, boiler flue and fresh air intakes located on the roof with new windstorm rated equipment.	
	c. Electrical will be indicated to disconnect and reconnect existing equipment.	
	d. Design the refurbish/replacement of existing roof drains located on the roof.	
	e. MEP Specifications will be provided in 8-1/2 x 11 inch book format.	

- f. Review Contractor submittals.
- g. Interim and Final Inspections as required.

**Subtotal Special Engineering Services** **\$20,300.00**

Total Architectural and Engineering Services Fee Proposed  
for Re-Engage Project Contract (Amendment No. 4) ..... **\$ 75,740.00**

Previously authorized A/E Services Fee for Original Contract  
including Amendments #1, #2 and #3 ..... \$49,290.00

Total Proposed (Amendment No. 4) and previously Authorized  
A/E Services Fee for complete Original and Re-Engage Contract ..... \$125,030.00

SolkaNavaTorno, LLC appreciates the opportunity to provide A/E Services for these important renovations to this prominent City facility. We believe that we have the special skills and relevant experience to make this project a success despite the difficult conditions and budget limitations. Please call or contact us if you have questions or need further clarification of this Proposal.

Sincerely yours,



Erasmo Nava, AIA  
President



**CENTRAL LIBRARY ROOF REPLACEMENT (BOND 2012)  
CITY PROJECT NO. E12121  
SUMMARY OF FEES**

	<b>Original Contract</b>	<b>Amend No. 1</b>	<b>Amend No. 2</b>	<b>Amend No. 3</b>	<b>Amend No. 4 (Proposed)</b>	<b>Total Contract</b>
<b>Basic Services:</b>						
Preliminary Phase	\$2,652.00			\$1,200.00	\$1,200.00	<b>\$5,052.00</b>
Design Phase	\$10,608.00	\$1,200.00	\$4,920.00	\$18,400.00	\$26,000.00	<b>\$61,128.00</b>
Bid Phase	\$884.00				\$4,000.00	<b>\$4,884.00</b>
Construction Admin Phase	\$3,536.00				\$24,240.00	<b>\$27,776.00</b>
<b>Subtotal Basic Services</b>	<b>\$17,680.00</b>	<b>\$1,200.00</b>	<b>\$4,920.00</b>	<b>\$19,600.00</b>	<b>\$55,440.00</b>	<b>\$98,840.00</b>
<b>Additional Services:</b>						
Permit Preparation						<b>\$0.00</b>
Topographic Survey						<b>\$0.00</b>
ROW Acquisition Survey						<b>\$0.00</b>
Environmental Issues				\$1,210.00		<b>\$1,210.00</b>
Public Meetings						<b>\$0.00</b>
Construction Observation						<b>\$0.00</b>
Traffic Control						<b>\$0.00</b>
Signalization Improvements						<b>\$0.00</b>
Warranty Phase						<b>\$0.00</b>
Construction Inspection (T&M)						<b>\$0.00</b>
Platting Survey						<b>\$0.00</b>
O & M Manuals						<b>\$0.00</b>
SCADA						<b>\$0.00</b>
Windstorm Engineering				\$3,840.00	\$16,000.00	<b>\$19,840.00</b>
MEP Engineering				\$840.00	\$4,300.00	<b>\$5,140.00</b>
<b>Subtotal Additional Services</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$5,890.00</b>	<b>\$20,300.00</b>	<b>\$26,190.00</b>
<b>Summary of Fees:</b>						
Basic Services Fees	\$17,680.00	\$1,200.00	\$4,920.00	\$19,600.00	\$55,440.00	<b>\$98,840.00</b>
Additional Services Fees	\$0.00	\$0.00	\$0.00	\$5,890.00	\$20,300.00	<b>\$26,190.00</b>
<b>Total Authorized Fees</b>	<b>\$17,680.00</b>	<b>\$1,200.00</b>	<b>\$4,920.00</b>	<b>\$25,490.00</b>	<b>\$75,740.00</b>	<b>\$125,030.00</b>
Admin Approval Oct. 5, 2016	Admin Approval May 4, 2017	Admin Approval Sept. 8, 2017	Admin Approval Mar. 26, 2018	Pending		

Company Name  
Billing Contact Info

**COMPLETE PROJECT NAME**  
**City Project No. XXXX**  
**Invoice No. 12345**  
**Invoice Date: MM/DD/YYYY**  
**Billing Period: From XXXXX to YYYYY**

Sample form for:  
 Payment Request  
 AE Contract  
 Revised 11/30/18

	Original Contract	Amend No. 1	Amend No. 2	Total Contract	Current Invoice	Previous Invoice	Total Invoiced	Remaining Balance	Percent Complete
<b>Basic Services:</b>									
Preliminary Phase	\$1,000.00	\$0.00	\$0.00	<b>\$1,000.00</b>	\$0.00	\$1,000.00	\$1,000.00	\$0.00	100.0%
Design Phase	\$2,000.00	\$1,000.00	\$0.00	<b>\$3,000.00</b>	\$1,000.00	\$500.00	\$1,500.00	\$1,500.00	50.0%
Bid Phase	\$500.00	\$0.00	\$250.00	<b>\$750.00</b>	\$0.00	\$0.00	\$0.00	\$750.00	0.0%
Construction Admin Phase	\$2,500.00	\$0.00	\$1,000.00	<b>\$3,500.00</b>	\$0.00	\$0.00	\$0.00	\$3,500.00	0.0%
Subtotal Basic Services	\$6,000.00	\$1,000.00	\$1,250.00	<b>\$8,250.00</b>	\$1,000.00	\$1,500.00	\$2,500.00	\$5,750.00	30.3%
<b>Additional Services:</b>									
Permit Preparation	\$2,000.00	\$0.00	\$0.00	<b>\$2,000.00</b>	\$500.00	\$0.00	\$500.00	\$1,500.00	25.0%
Topographic Survey	\$5,000.00	\$0.00	\$0.00	<b>\$5,000.00</b>	\$0.00	\$0.00	\$0.00	\$5,000.00	0.0%
ROW Acquisition Survey	\$1,000.00	\$0.00	\$0.00	<b>\$1,000.00</b>	\$0.00	\$0.00	\$0.00	\$1,000.00	0.0%
Environmental Issues	\$500.00	\$0.00	\$0.00	<b>\$500.00</b>	\$0.00	\$0.00	\$0.00	\$500.00	0.0%
Public Meetings	\$1,200.00	\$0.00	\$0.00	<b>\$1,200.00</b>	\$0.00	\$0.00	\$0.00	\$1,200.00	0.0%
Construction Observation	\$10,000.00	\$0.00	\$0.00	<b>\$10,000.00</b>	\$0.00	\$0.00	\$0.00	\$10,000.00	0.0%
Traffic Control	\$0.00	\$5,000.00	\$0.00	<b>\$5,000.00</b>	\$0.00	\$0.00	\$0.00	\$5,000.00	0.0%
Signalization Improvements	\$0.00	\$0.00	\$1,000.00	<b>\$1,000.00</b>	\$0.00	\$0.00	\$0.00	\$1,000.00	0.0%
Warranty Phase	\$0.00	\$1,120.00	\$0.00	<b>\$1,120.00</b>	\$0.00	\$0.00	\$0.00	\$1,120.00	0.0%
Construction Inspection (T&M)	\$0.00	\$0.00	\$5,000.00	<b>\$5,000.00</b>	\$0.00	\$0.00	\$0.00	\$5,000.00	0.0%
Platting Survey	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
O & M Manuals	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
SCADA	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
Subtotal Additional Services	\$19,700.00	\$6,120.00	\$6,000.00	<b>\$31,820.00</b>	\$500.00	\$0.00	\$500.00	\$31,320.00	1.6%
<b>Summary of Fees:</b>									
Basic Services Fees	\$6,000.00	\$1,000.00	\$1,250.00	<b>\$8,250.00</b>	\$1,000.00	\$1,500.00	\$2,500.00	\$5,750.00	30.3%
Additional Services Fees	\$19,700.00	\$6,120.00	\$6,000.00	<b>\$31,820.00</b>	\$500.00	\$0.00	\$500.00	\$31,320.00	1.6%
<b>Total of Fees</b>	<b>\$25,700.00</b>	<b>\$7,120.00</b>	<b>\$7,250.00</b>	<b>\$40,070.00</b>	<b>\$1,500.00</b>	<b>\$1,500.00</b>	<b>\$3,000.00</b>	<b>\$37,070.00</b>	<b>7.5%</b>

**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 C

### Insurance Requirements

#### Pre-Design, Design and General Consulting Contracts

1.1 Consultant must not commence work under this agreement until all required insurance has been obtained and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.

1.2 Consultant must furnish to the Director of Engineering Services with the signed agreement a copy of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. **A waiver of subrogation is required on all applicable policies. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<b>30-written day notice of cancellation, required on all certificates or by applicable policy endorsements</b>	<b>Bodily Injury and Property Damage</b> 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.