



## SERVICE AGREEMENT NO. 2651

### CONTRACT FOR PROFESSIONAL SERVICES

#### FOR PROJECT (No./Name) 19046A - Packery Channel Dredging

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

#### TABLE OF CONTENTS

<u>ARTICLE NO.</u>	<u>TITLE</u>	<u>PAGE</u>
ARTICLE I	SCOPE OF SERVICES .....	2
ARTICLE II	QUALITY CONTROL .....	3
ARTICLE III	COMPENSATION .....	3
ARTICLE IV	TIME AND PERIOD OF SERVICE .....	4
ARTICLE V	OPINIONS OF COST .....	5
ARTICLE VI	INSURANCE REQUIREMENTS .....	5
ARTICLE VII	INDEMNIFICATION .....	5
ARTICLE VIII	TERMINATION OF AGREEMENT .....	6
ARTICLE IX	RIGHT OF REVIEW AND AUDIT .....	7
ARTICLE X	OWNER REMEDIES .....	7
ARTICLE XI	CONSULTANT REMEDIES .....	8
ARTICLE XII	CLAIMS AND DISPUTE RESOLUTION .....	8
ARTICLE XIII	MISCELLANEOUS PROVISIONS .....	10
EXHIBITS		

## ARTICLE I – SCOPE OF SERVICES

1.1 City and Consultant agree that the services provided are properly described in the Scope of Services, which is 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 **\$392,736.**

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 Contracts and Procurement Department. 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 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 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.

12.2.2.1 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.

12.2.2.2 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.

12.2.2.3 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.

12.2.2.4 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 In case of litigation between the parties, Consultant and City agree that they have knowingly waived and do hereby waive the right to trial by jury and have instead agreed, in the event of any litigation arising out of or connected to this Agreement, to proceed with a trial before the court, unless both parties subsequently agree otherwise in writing.

**12.6 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>.



<b>Fund Name</b>	<b>Acct Unit</b>	<b>Acct No.</b>	<b>Activity No.</b>	<b>Amount</b>
Packery Ch TIF#2	3278-717	550950	19046-A-3278-EXP	\$312,569.00
State HOT Fund	1032-13836-141	530000	19046-A-1032-EXP	\$80,167.00
<b>Total</b>				<b>\$392,736.00</b>



September 21, 2018  
*July 1, 2019 (Rev1)*  
*September 20, 2019 (Rev 2)*  
*September 23, 2019 (Rev 3)*

MCN 10037592

Mr. Jeff Edmonds, P.E.  
Director, Capital Programs  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

**RE: PROPOSAL FOR PROFESSIONAL SERVICES FOR PACKERY CHANNEL  
DREDGING AND BEACH NOURISHMENT (19046A)**

Dear Mr. Edmonds:

Thank you for inviting HDR to submit this proposal for professional engineering and regulatory services. Based on our recent correspondence, the City is requesting design, permitting, bidding, and construction-phase services for maintenance dredging at Packery Channel. The dredged material is planned to be placed as beach nourishment along the Padre Island seawall and in the vicinity of Whitecap Boulevard. Having a local team of coastal engineers and regulatory specialists on staff, several of whom helped complete the previous Packery Channel dredging and beach nourishment project for the City, we are well qualified to help. A detailed outline of HDR's proposed services is provided below.

**SCOPE OF SERVICES**

HDR's proposed services for this project consist of the following tasks:

**Task 1: 30% Preliminary Design**

HDR will participate in a kickoff meeting with City staff to review project scope, objectives, and timeline. The meeting will be held at the City's office. Following the kickoff meeting, HDR will perform a site visit to observe general conditions at the planned beach nourishment project area, anticipated staging area(s), and dredging pipeline route. Results of the site visit will be documented in a site visit report with photographs. HDR will then perform preliminary design consisting of the following items:

- Review readily-available aerial photography, as well as beach and channel monitoring data provided by the City, to develop a general site characterization for the project.
- Review results of sieve and chemical analyses from sediment core samples taken from Packery Channel. The sampling, testing, chemical data interpretation, and associated reporting will be performed by a third-party consultant who is directly under contract with the City. Once these data have been provided to HDR, HDR will assess the sieve analyses and chemical test results to determine if the material

planned to be dredged from the channel is suitable for placement as beach nourishment. If the material is not beach-quality sand, HDR will provide conceptual-level recommendations for placement of the dredged material in other locations (such as for habitat restoration or in an upland placement area).

- Review channel bathymetric survey data provided by the City to determine the channel locations in need of maintenance dredging, and the associated volumes.
- Identify possible upland borrow sources that could potentially serve as alternative or supplemental (e.g. for maintenance purposes) sources of sand for nourishing the beach along the seawall. Up to three sources will be identified. This task will not include topographic surveys, sediment sampling/testing, environmental assessments, or regulatory coordination.
- Review shoreline change data provided by the City to develop beach nourishment location and limits, planform shape, and cross sections. HDR will also coordinate with the City regarding potential funding and design requirements associated with project cost-sharing with the Texas General Land Office.
- Develop preliminary dredging pipeline routes and public access crossings to minimize impacts to public use of the beach between Packery Channel and the beach nourishment area.
- Perform regulatory review of U.S. Army Corps of Engineers (USACE) permit requirements, Texas General Land Office rules and policy, and Texas Commission of Environmental Quality (TCEQ) dredging and water quality requirements. Results of review will guide design of proposed project.
- Develop a preliminary-level opinion of probable project cost for maintenance dredging and beach nourishment.
- Results of the items described above will be summarized in a 30% Preliminary Design Memorandum. This memorandum will be submitted in draft format for review by the City. Once HDR has received the City's review comments, the memorandum will be updated and a final version will be provided to the City.
- HDR will meet with the City to review the results and recommendations presented in the 30% Preliminary Design Memorandum, and review the goals, objectives, and schedule for final design.

## **Task 2: USACE Regulatory Coordination (Time and Materials)**

HDR will perform the following services related to environmental and regulatory permitting for this project:

### *Task 2.1: Dredging and Beach Nourishment Permit*

Under a previous contract with the City, HDR prepared a U.S. Army Corps of Engineers (USACE) Section 10/404 permit application for this project. The permit

application is still under review by USACE. HDR will provide continued coordination with USACE in an attempt to receive an executed permit for this project.

*Task 2.2: Beach Maintenance Permit*

HDR assisted the City with obtaining authorization from USACE in 2008 to conduct beach maintenance activities along 21 miles of beach located on Mustang and North Padre Islands. Beach maintenance was authorized under Department of Army (DA) Individual Permit SWG-2006-00647, which had an expiration of December 31, 2014. As part of formal Section 7 consultation with USFWS, the 2008 permit included the following conservation measures: Attachment A – Provisions for Sea Turtle and Piping Plover Monitoring and Attachment B – Habitat Monitoring Effort. Prior to expiration of the IP, HDR assisted the City with amending the permit to remove the Habitat Monitoring Effort (Attachment B) based on results from five years of monitoring and obtaining an Extension of Time (EOT) for beach maintenance activities to occur until December 31, 2020. Due to the regulatory process and concerns from the natural resources agencies regarding threatened and endangered species within the project area, approval of the previous amendment and the EOT took approximately two years.

It is HDR's understanding that the City would like to request an EOT for the current beach maintenance activities for another five (5) years, clarify the extent of beach maintenance conducted by the City and biological monitoring requirements, and amend the permit to include the redistribution of accumulated sand to eroded areas where the beach width has been reduced, as described below.

- Based on discussions with the City, maintenance activities occur within an approximate 8-mile stretch of beach between Marker 254 and Marker 236, Access Road 4 and Newport Access Road, and Marker 103 and Marker 62. The remaining beach areas included in the current permit are maintained by the County.
- The City would like to amend the permit to reflect the correct beach maintenance extents. In addition, the City would like to amend Attachment A of the existing permit to include only yearly training courses (Item 1) of the Piping Plover Section and remove Items 2 and 3. Because Attachment B was removed from the existing permit during the previous amendment and EOT dated February 13, 2015, the requirements detailed in Items 2 and 3 are no longer applicable.
- The redistribution of sand would occur along an approximate 5-mile stretch of beach between the placement areas referred to as the "Packery Channel Footprint" or "PA-4N" and "PA-4S" in the Environmental Impact Statement for Packery Channel; this area extends from approximately Viento Del Mar to Newport Pass. The proposed work includes repositioning sand that is routinely maintained in areas above the mean tide line to areas that have been eroded. Sand would be removed from areas located between the toe of the dune and the mean tide line and placed below the mean tide line to nourish the beach seaward of the existing dune and seawall. The proposed sand reposition could result in an increased beach width of up to 300 feet.



Due to the amount of time available before the existing beach maintenance permit expires, it is HDR's opinion that USACE would not currently grant an EOT for the existing beach maintenance permit. However, it is HDR's professional opinion that an amendment of the permit to address the bulleted items listed above could be authorized prior to expiration of the existing permit on December 31, 2020. Therefore, HDR recommends the City submit an amendment request for the current permit without an EOT request. Upon receipt of the amended permit, if USACE did not include an EOT with the amended permit, the City can request an EOT to allow the amended beach maintenance activities through December 31, 2025. If the City has not received authorization of the amendment within 60-days of the current permit expiration (December 31, 2020), a separate EOT request specifically requesting a 5-year extension of the existing permit should be submitted by November 1, 2020. This EOT will allow the City to continue their current beach maintenance activities while the permit amendment request is pending. To develop the permit amendment and EOT requests, HDR proposes to conduct the following services:

2.2.1 Desktop Review: The City will provide HDR with annual monitoring reports that were compiled for sea turtles and piping plovers, and annual summary reports that were submitted to USACE Corpus Christi Regulatory Field Office by February 1 of each year, as required under the special conditions outlined in DA permit SWG-2006-00647. HDR will review these reports as well as other existing information to make a determination on the extent of field investigation that will be required to develop the permit amendments. A summary of the desktop review will be provided to the City in a Desktop Review Memorandum.

2.2.2 Formal Coordination with USACE and USFWS: The previous permit SWG-2006-00647 included development of a Biological Assessment (BA) and a Final Biological and Conference Opinion (BCO) as part of formal Section 7 consultations with the U.S. Fish and Wildlife Service (USFWS). HDR anticipates an updated BA will be required for the permit amendments due to changes in federal regulations, including the listing of red knots (*Calidris canutus*) as threatened under the Endangered Species Act of 1973, and modification of beach maintenance activities to include the redistribution of sand alongshore. HDR will initiate formal consultation with USACE and USFWS to clarify the proposed beach maintenance activities and amendment of Attachment A to include only Item 1 in the Piping Plover Section.

2.2.3 Field Investigations: Assuming site conditions have remained relatively constant for the entire 21-mile stretch of beach to be maintained by the City, HDR environmental staff will perform a site visit within the Packery Channel Footprint (Viento Del Mar to Newport Pass) area to review current site conditions. The area to be investigated depends on findings from Tasks 2.2.1 and 2.2.2. HDR will also note items that may require regulatory coordination and documentation as part of a BA. HDR will walk the beach from either end of the Packery Channel Footprint area to



survey for jurisdictional areas and potential protected species habitat. A summary of the site visit and associated recommendations for regulatory services will be provided in a Site Visit Memorandum. A site visit for the Packery Channel Footprint area will require two HDR environmental staff and will be completed in one day. State coastal boundary delineation or other surveying of the beach and vegetation line are not included.

**2.2.4 Regulatory Assistance for Permit Amendments:** HDR will assist the City with obtaining authorization for permit amendments to SWG-2006-00647 to allow alongshore redistribution of sand throughout the Packery Channel Footprint area to areas below the mean tide line, clarify the extent of beach maintenance conducted by the City, and amend Attachment A to remove Items 2 and 3 of the Piping Plover Section. The following subtasks are proposed:

*Joint Evaluation Meeting*

HDR will schedule a joint evaluation meeting (JEM) at either the USACE Corpus Christi Regulatory Field Office or The Texas General Land Office Coastal Field Operations/Permit Service Center Office. Two representatives from HDR will attend the JEM. HDR will provide hard copies of the original and amended DA permit SWG-2006-00647, a summary of current site conditions from subtask 2.2.3, and an aerial photograph of the proposed Packery Channel Footprint area to aid in project discussions at the JEM. After the JEM, HDR will provide notes to be distributed to the JEM attendees.

*Permit Amendment Request*

Several activities are required to develop the permit amendment request. The following items will be compiled into a single USACE permit amendment request:

- Project summary and coordination cover letter to USACE Corpus Christi Regulatory Field Office (CCRFO)
- USACE ENG Form 4345
- Previous DA permit SWG-2006-00647 and EOT (Dated 02/13/2015)
- TCEQ Water Quality Certification (Tier II)
- CMP Consistency Review Form
- Protected Species Evaluation – HDR assumes the previous Biological Assessment would need to be updated
- Wetland Delineation Report
- Cultural/Historical Resources Evaluation
- Mitigation/Evaluation Plan
- Alternatives Evaluation

#### *Update Beach Maintenance Plan*

The City's current beach maintenance activities allow beach roadway sand and seaweed to be placed above the Annual High Tide (A.H.T) line and immediately in front of the dunes between April and November. From November to April, the sand placed above the A.H.T. can be redistributed across the beach, but that redistribution is limited to the area immediately seaward of its location. As a result, sand that may be placed above the A.H.T. during beach roadway maintenance practices within an accreting area of the beach cannot be transported alongshore to another section of the beach that is eroding. The redistribution of sand alongshore to beach areas that are eroding would improve beach conditions and provide more effective coastal protection. As part of the permit amendment, HDR will provide coastal analyses to assist the City in developing a more detailed long-term beach maintenance plan to help maintain beach width. Having an updated beach maintenance plan will also help expedite agency coordination during the permitting process. The plan will contain recommendations for periodic small-scale back passing of accumulated sand to eroded areas within the project footprint, including how, when, and where sand is relocated.

#### *Agency Coordination*

As part of the permit amendment process, the project will be put on a 30-day Public Notice. Our experience is that there may be substantial agency and public comments in response to the Public Notice, which will require responses provided by the applicant to USACE. We anticipate that the existing BA will need to be updated to reflect recent listing of the red knot as a threatened species protected under Section 7 of the Endangered Species Act. HDR will update the BA for Section 7 consultation through USACE. HDR assumes the previously amended permit conditions authorized in a letter dated February 13, 2015 will remain in full force and effect, with the exception of the addition of red knots to Attachment A.

HDR will continue to coordinate with the agencies through the Section 7 consultation process and be responsive to requests regarding the existing avoidance and minimization measures in effect by SWG-2006-00647. Based on our recent permitting experience, HDR assumes that Texas Parks and Wildlife Department (TPWD), the Texas Commission of Environmental Quality, and the Environmental Protection Agency will have substantial comments to the Public Notice. Additional coordination with TPWD, TCEQ, and the EPA is included in our scope estimate. However, HDR assumes that no additional site visits will be requested with agency representatives. The timing and outcome of the permitting process is highly dependent on the availability and responsiveness of USACE and the resource agencies. Based on our experience, USACE may require the proposed activity be authorized under a new Individual Permit instead of authorizing a permit amendment. However, the level of

effort would not change as described in this task if USACE issues a new permit instead of an amendment to the existing one.

**2.2.5 Extension of Time:** If the newly submitted permit amendment request is not approved within 60 days of the expiration of the existing permit, HDR will assist the City with obtaining an EOT for the existing permit. The EOT will request authorization for the City to conduct the existing beach maintenance activities until 2025 while the permit amendment request is pending. *Note that the services described under this sub-task will only be performed if authorized by the City.*

The following subtasks are proposed:

*Extension of Time Request*

The following items will be compiled into a single USACE EOT application:

- Project summary and coordination cover letter to USACE CCRFO
- USACE ENG Form 4345
- Existing permit SWG-2006-00647 dated February 13, 2015

*USACE Coordination*

HDR assumes the USACE can authorize the EOT request for the existing permit as an administrative amendment. HDR assumes the previously amended BA included in subtask 2.2.4 and the existing permit conditions will suffice for Section 7 consultation through USACE for the EOT. HDR assumes that no additional site visits will be requested with agency representatives or from the City. If additional information or coordination is required for authorization of an EOT for the existing permit, HDR will provide additional regulatory services under a separate scope and fee.

**Task 3 – Final Design**

Based on the City's review and feedback on HDR's 30% Preliminary Design Memorandum prepared under Task 1, HDR will perform detailed engineering analyses and final design for channel maintenance dredging along up to 3.5 miles of Packery Channel from the Gulf Intracoastal Waterway to the Gulf of Mexico. The actual dredging limits will be based on monitoring surveys performed by the City, sand quality, project budget, and other factors. Project design will include beach nourishment as the placement location for beach-quality sand extracted from the channel during the maintenance dredging. The beach nourishment design will be limited to material dredged from Packery channel; material obtained from other sources is not included. The beach nourishment location will be limited to the northern portion of the Padre Island seawall and/or the general vicinity of Whitecap Boulevard.

If bathymetric monitoring surveys and sediment sampling/testing performed by the City indicate that portions of the channel containing non-beach-quality material are in need of dredging, an

alternative placement area will be required. In this event, HDR will provide additional design and regulatory services as described under Task 6 (Additional Services).

Tasks that will be performed by HDR to advance the project through final design consist of the following:

- HDR will prepare Procurement Documents (plans and specifications) for use by the City in soliciting bids from prospective construction contractors. The Procurement Documents will include technical specifications; construction drawings; supporting appendices (including USACE permit(s) and geotechnical data); general and special provisions; a proposal form; and other standard contract forms provided by the City. HDR will prepare 60%, 100% (Pre-Final), and Final (Signed/Sealed) design submittals. For the 60% design submittal, HDR will provide preliminary drawings and a Table of Contents for the proposed technical specifications. For the 100% and Final design submittals, HDR will provide drawings and Proposal Packages for the City for interim and final review. A Project Checklist, Drawings Review Checklist, and Plan Executive Summary will be included with each submittal. The following sheets are estimated for the final plan set:

1) Cover Sheet	23) Placement Area (Beach Nour)
2) General Notes and Legend	24) Typical Sections and Details
3) Overall Existing Site Plan and Key Map	25) Typical Sections and Details
4) Enlarged Existing Site Plan 1	26) Typical Sections and Details
5) Enlarged Existing Site Plan 2	27) Dredging Cross Sections 1
6) Enlarged Existing Site Plan 3	28) Dredging Cross Sections 2
7) Enlarged Existing Site Plan 4	29) Dredging Cross Sections 3
8) Enlarged Existing Site Plan 5	30) Dredging Cross Sections 4
9) Enlarged Existing Site Plan 6	31) Dredging Cross Sections 5
10) Enlarged Existing Site Plan 7	32) Dredging Cross Sections 6
11) Enlarged Existing Site Plan 8	33) Dredging Cross Sections 7
12) Placement Area – Existing Conditions	34) Dredging Cross Sections 8
13) Placement Area – Existing Conditions	35) Dredging Cross Sections 9
14) Dredging Plan 1	36) Dredging Cross Sections 10
15) Dredging Plan 2	37) Dredging Cross Sections 12
16) Dredging Plan 3	38) Dredging Cross Sections 13
17) Dredging Plan 4	39) Dredging Cross Sections 14
18) Dredging Plan 5	40) Dredging Cross Sections 15
19) Dredging Plan 6	41) Dredging Cross Sections 16
20) Dredging Plan 7	42) Dredging Cross Sections 17
21) Dredging Plan 8	43) Dredging Cross Sections 18
22) Placement Area (Beach Nour)	44) Dredging Cross Sections 18

- HDR will coordinate with the City during the various review stages and provide clarifications as required. Note that the 100% Procurement Documents submittal will serve as a final review package; it will not be signed and sealed by a professional engineer until after the City's final review comments have been incorporated.
- With each (60%, 100%, and Final) Procurement Documents submittal, HDR will provide an opinion of probable construction cost (OPCC) that reflects the scope of construction. Developing the OPCC will include researching current market conditions for the

anticipated methods and timing of construction, and coordination with the City on project budget.

- HDR will participate in the following meetings under Task 2:
  - 60% Design Submittal Meeting
  - 100% Design Submittal Meeting

#### **Task 4: Bidding-Phase Services**

This task includes supporting the City during the bidding phase of the project. HDR's services under this task include the following:

- Participate in a pre-bid conference with prospective construction contractors and City staff. HDR will facilitate technical discussion and provide meeting notes to City. HDR will respond to questions asked during the pre-bid conference by preparing necessary changes to the plans and specifications.
- Support the City's solicitation process by assisting with the issuance of addenda and providing answers to technical questions from prospective contractors regarding the bid documents.
- Attend bid opening, review bid tabulation, and assist City in evaluating the qualifications of the prospective contractors, subcontractors, and suppliers.
- Prepare Letter of Recommendation for qualified low bidder.

#### **Task 5: Construction Administration Services (Time and Materials)**

This task includes construction administration and observation activities to review the status of construction and the construction contractor's (Contractor's) general compliance with the Contract Documents and design intent. The services under this task will include the following:

- Participate in a Pre-Construction Conference (PCC) with the City, the City's designated resident project representative (RPR), and selected Contractor.
- HDR has assumed general construction administration services will be required for up to 28 weeks (approximately 7 months). This task includes general construction administration including responding to RFI's, and issuing Engineer's Supplemental Instruction (ESI) and Work Change Directives (i.e., Engineer's Clarification-Interpretation) in accordance with the City's established process, as defined in the Contract Documents.
- HDR will review and process Contractor's submittals as may be required by the Contract Documents, including the Contractor's initial Schedule of Values and proposed construction schedule. HDR will also prepare a monthly submittal log to help track status of required submittals.
- HDR will review and process Contractor's construction surveys as may be required by the Contract Documents.
- HDR's project manager or project engineer will travel to the project site approximately once per month, plus perform five additional site visits, for a total of 12 site visits during active

construction (the duration of “active construction” is assumed to be 7 months). Seven (7) of these trips (or one per month) will be for combined site visits and routine construction progress meetings with Contractor, RPR, and the City. The remaining five trips will be for stand-alone site visits. During site visits, HDR will observe general status of work and assist RPR with monitoring the general progress of the construction activities. HDR will prepare a site visit report for each site visit and minutes for each of the construction progress meetings.

- Upon substantial completion of construction, HDR will visit the site, perform a substantial completion inspection with the RPR and the City, and issue a punch list for any remaining work items. Following the contractor’s completion of the punch list items, HDR will perform a final inspection with the RPR and the City. HDR will issue site visit reports for both inspections and prepare a Certificate of Substantial Completion and a Certificate of Final Completion for signature by HDR, Contractor, and the City.
- Upon completion of construction, HDR will obtain and review the “red-line” drawings prepared by Contractor and the City’s RPR. This information will then be applied by HDR to develop record drawings. The record drawings will be provided to the City in AutoCAD and PDF format. HDR will also prepare a Close Out Project Summary which will summarize all Change Orders issued by the City, including cause and cost.

#### **Task 6: Additional Services**

***Services described under Task 6 will not be performed unless requested in writing (or via email) by the City.***

##### ***6.1 Design Investigation for Alternative DMPA (NIC)***

~~As described under Task 3, only beach-quality sand will be considered for placement as beach nourishment. In the event that a dredged material placement area (DMPA) is required for non-beach-quality sediment, HDR will provide additional services to assist the City with identification of an alternative placement location. Conceptual-level analysis will be performed to determine DMPA capacity and size requirements; USACE permitting requirements; environmental constraints; constructability considerations; an opinion of probable construction cost; and potential fees for detailed design and regulatory services. Field data collection such as topographic/bathymetric surveys, utility investigations, geotechnical investigations, and formal environmental delineations will not be included. Results of the alternative DMPA investigation will be included in the Preliminary Design technical memorandum under Task 1. This task does not include detailed design or USACE permitting. If the City elects to proceed to detailed design and/or permitting for the alternative DMPA, these additional services would be provided under a separate scope and fee.~~

##### ***6.2 Warranty Phase Services (NIC)***

~~If requested by the City, HDR will visit the site towards the end of the Contractor’s one-year warranty period and perform a warranty inspection for the project. HDR will note defects requiring Contractor action to maintain, repair, fix, restore, patch, or replace completed work under the maintenance guarantee terms of the contract. HDR’s observations and recommendations will be documented in a warranty inspection report including the locations and conditions requiring action, and ground photographs of the observed project features.~~



### 6.3 *Assistance with Meetings and Presentations (Time and Materials)*

HDR proposes to provide the following services for assistance with up to four meetings:

- Participate in up to three pre-meetings at City Hall for preparation with City staff prior to scheduled meetings with other project stakeholders such as the Island Strategic Action Committee, the Watershore and Beach Advisory Committee, the Texas General Land Office, or City Council.
- Prepare up to three PowerPoint presentations.
- Attend and, if requested by City, provide presentations at up to three meetings to be held in Corpus Christi.

### **ASSUMPTIONS AND LIMITATIONS**

HDR's proposal for these services and fee are based on the following assumptions and limitations:

- As explained under Task 6, this scope does not include detailed design or USACE permit coordination for placement of non-beach quality material for habitat creation or placement into an upland dredged material placement area.
- A TxGLO lease will not be required for the beach nourishment.
- Review and/or analysis of potential foundation and structural impacts from previous or ongoing scour at the SH361 bridge is not included.
- This scope does not include recommendations, design, or U.S. Coast Guard coordination for replacement or upgrades to aids to navigation or other channel markers.
- This scope does not include surveying. Design-quality survey data will be provided to HDR by the City in AutoCAD or ASCII x,y,z format.
- This scope does not include a geotechnical investigation, sediment sampling, or sediment chemical analysis. Sediment sampling and chemical analysis will be performed by a third party under direct contract with the City. Results and data interpretation will be provided by City's third-party consultant.
- This scope does not include Texas Department of Licensing and Registration (TDLR) coordination or review.
- Except as described under Task 6.3, this scope does not include participation in meetings or presentations to City Council or other entities such as the Federal Emergency Management Agency (FEMA), the Watershore and Beach Advisory

Committee, the Texas General Land Office, or the Island Strategic Action Committee (ISAC).

- Identification of existing utilities will be based on information provided by the City and previous design drawings prepared by USACE. A subsurface utility investigation is not included as part of this scope.
- HDR has not budgeted for development of a formal design calculations summary package. If a design calculations package is desired by the City, this information can be prepared by HDR through a contract amendment.
- The OPCC will be developed on the basis of HDR's experience and qualifications, and will represent our judgment as experienced and qualified professional engineers generally familiar with this industry. However, because HDR has no control over the costs of labor, materials, equipment, or services furnished by others, or over the contractor's methods of determining prices, or over competitive bidding and market conditions, HDR cannot and does not guarantee that proposals, bids, or actual project costs will match our OPCC. If the City desires greater assurance on probable construction costs, consideration should be given to retaining an independent cost estimator.
- The City will distribute Procurement Documents (construction bid packages) to prospective contractors and coordinate with commercial plan rooms.
- City's construction department will review and process construction contractor's pay requests (invoices), and issue/process any needed construction change orders, without review or assistance from HDR.
- In the event the lowest responsible bidder's bid exceeds the City's project budget, HDR will confer with City staff on any desired revisions to the bid documents, and will then negotiate a contract amendment for implementation of these revisions and associated re-bidding.
- The timing and outcome of the permitting process is highly dependent on the availability and responsiveness of USACE and resource agencies. Both the City and HDR agree that the permits may ultimately not be issued, and the City agrees to pay HDR for applicable services provided regardless of the permitting outcome.
- Task 6.2 (Warranty Phase Services) does not include underwater or forensic inspections. HDR's inspection will be limited to above-water and above-ground features that can be readily observed during a site walk-through. HDR's warranty-phase services do not include communications and/or negotiations with the Contractor; engineering design; surveying; permitting; aerial photography; or construction observation of any corrective measures required after the warranty inspection.



### **FEE, DELIVERABLES, AND SCHEDULE**

HDR proposes to provide these services for a fee of **\$392,736** as shown in the table below. Except where noted above, all tasks will be performed on a Lump Sum basis. Tasks 2, 5, and 6.3 (USACE Regulatory Coordination, Construction Administration Services, and Assistance with Presentations and Meetings) will be performed on a Time and Materials basis in accordance with the rates listed in the attached rate schedule. The staff listed in this table will be supported by other HDR staff as needed. HDR will invoice for other staff at direct salary times a multiplier of 3.43, plus direct expenses. Please note that HDR's rates are subject to revision in January of each year. Any work outside the proposed Scope will be added, with authorization from the City, through a formal Scope Change Document and associated fee agreement. This proposal is valid for 45 days from the date of this letter.

Task	Deliverables	Approximate Schedule	Fee
1. 30% Preliminary Design	<ul style="list-style-type: none"> <li>- Project Kickoff Meeting Notes</li> <li>- Site Visit / Photographs and Notes</li> <li>- 30% Preliminary Design Memorandum (Draft)</li> <li>- 30% Preliminary Design Memorandum (Final)</li> </ul>	<ul style="list-style-type: none"> <li>- <u>Draft Memo</u>: 16 weeks from NTP</li> <li>- <u>Final Memo</u>: 3 weeks from receipt of City's review comments</li> </ul>	\$52,445 (Lump Sum)
2. USACE Regulatory Coordination	<p>Electronic copies (PDF) of the following deliverables will be provided under Task 2.2 for the Beach Maintenance Permit:</p> <ul style="list-style-type: none"> <li>- Draft JEM materials (exhibits) and mtg notes for City review.</li> <li>- Draft permit amendment, BA, and EOT request for City review.</li> <li>- Comment response matrix for agency comments on permit amendment request.</li> <li>- Draft response letters and material to address agency requests.</li> <li>- Draft Beach Maintenance Plan.</li> </ul> <p>Two hard copies and an electronic copy (PDF) of the following deliverables will be provided under Task 2.2:</p> <ul style="list-style-type: none"> <li>- Final Exhibits for JEM.</li> <li>- Permit amendment, BA, and EOT request for USACE submittal.</li> <li>- Final response letters and materials provided in response to agency comments on permit amendment request.</li> <li>- Final Beach Maintenance Plan.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>JEM</u> : 60 days from NTP</li> <li>- <u>Draft App</u>: 90 days from NTP</li> <li>- <u>Final App</u>: 120 days from NTP</li> </ul>	<p>Task 2.1: \$8,919 (T&amp;M)</p> <p>Task 2.2: \$80,167 (T&amp;M)</p>
3. Final Design	<p>Two hard copies and an electronic copy (PDF) will be provided for all of the following deliverables under Task 3:</p> <ul style="list-style-type: none"> <li>- <u>60% Submittal</u>: Drawings, specifications table of contents, and OPCC.</li> <li>- <u>100% (Pre-Final) Submittal</u>: Drawings, specifications, and OPCC at the Pre-Final stage. The drawings and specifications (including City-provided front end documents) will be included. The OPCC will be in the format of the Bid Tabulation.</li> <li>- <u>Final Submittal</u>: One 22"x34" (or 11"x17") unbound set of hard copy drawings, 8½"x11" unbound set of technical specifications and front-end documents, and bid form of the ISSUED FOR BIDS set, suitable for reproduction.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>60% Submittal</u>: 6 mos from NTP</li> <li>- <u>100% Submittal</u>: 8 mos from NTP</li> <li>- <u>Final Submittal</u>: 9 mos from NTP (dependent on USACE Permit timeline)</li> </ul>	\$186,325 (Lump Sum)
4. Bidding-Phase Services	<p>One digital copy in PDF format of the following:</p> <ul style="list-style-type: none"> <li>- Meeting notes from pre-bid conference;</li> <li>- Addenda and/or responses to questions required during the bidding phase.</li> <li>- Recommendation for Award.</li> </ul>	Schedule is dependent on City. Award recommendation letter will be provided within 14 days of HDR's receipt of bid results.	\$9,178 (Lump Sum)
5. Construction Administration Services	<p>One digital copy in PDF format of the following:</p> <ul style="list-style-type: none"> <li>- Meeting notes from construction progress meetings;</li> <li>- RFI's, Work Change Directives, and/or Change Orders required during construction;</li> <li>- Monthly Submittal Log;</li> <li>- Site Visit Reports;</li> <li>- Substantial Completion Certificate and Punch List;</li> <li>- Final Completion Certificate;</li> <li>- Record Drawings (record drawings will also be provided in AutoCAD format).</li> <li>- Close-Out Project Summary</li> </ul>	Schedule dependent on construction contract. Duration of active construction assumed to be 7 mos. Record drawings will be provided within 30 days of construction contract completion date.	\$44,932 (T&M)
6. Additional Services	<p>6.1 Design Investigation for Alt DMPA: (NIC)</p> <p>6.2 Warranty Phase Services: (NIC)</p> <p>6.3 Assistance with Presentations and Meetings: Meeting handouts in PowerPoint or PDF format.</p>	<ul style="list-style-type: none"> <li>- <u>Task 6.1</u>: (NIC)</li> <li>- <u>Task 6.2</u>: (NIC)</li> <li>- <u>Task 6.3</u>: Within 15 days of City's request to perform task.</li> </ul>	<p>6.1: (NIC)</p> <p>6.2: (NIC)</p> <p>6.3: \$10,770 (T&amp;M)</p>
<b>Total Proposed Fee:</b>			<b>\$392,736</b>
<b>Notes:</b> <ol style="list-style-type: none"> <li>Actual schedule for all deliverables is dependent on HDR's receipt of review comments and other needed feedback from City. <b>HDR has assumed three weeks for City review of deliverables.</b></li> <li>Tasks designated as "NIC" are not in contract.</li> </ol>			

Thank you again for considering us for this project. Please do not hesitate to contact Dan Heilman at 361-696-3344 if you have questions or require any additional information.

Sincerely,

HDR ENGINEERING, INC.



Daniel J. Heilman, P.E.  
Project Manager



Arthur B. Colwell, P.E.  
Managing Principal  
Vice President

Cc: Sarah West, P.E., City of Corpus Christi

Attachments:

Manhour and Expense Estimate (Dated 9/23/2019)  
HDR Rate Schedule (Dated 9/23/2019)

## **HDR Engineering, Inc.**

Rate Schedule for Professional Services to the City of Corpus Christi for  
Packery Channel Dredging and Beach Nourishment (19046A) Project

<b>Name &amp; Classification</b>	<b>Rate, \$/hr</b>
Engineer VIII (Project Manager)	264
Engineer VII (QC Lead)	242
Environmental Manager	216
Sr Environmental Scientist	144
Archeologist	174
Engineer III (Coastal Engineer)	122
Environmental Biologist	82
Technician III (CAD)	149
Technician III (GIS)	123
Technician I (Accounting)	88
Technician I (Administrative)	72

**PACKERY CHANNEL DREDGING AND BEACH NOURISHMENT  
PROJECT NO. 19046A  
SUMMARY OF FEES**

**Basic Services:**

1. Preliminary Design
2. Design Phase
3. Bid Phase
4. Construction Administration Phase (T&M)

**Subtotal Basic Services Fees**

**Additional Services:**

1. Permit Preparation
2. ROW Acquisition Survey
3. Topographic Survey and Parcel Descriptions
4. Environmental Issues (Time & Materials)
5. Public Involvement
6. Subsurface Utility Investigation
7. Design Investigation for Alternative DMPA
8. Warranty Phase
9. Assistance with Presentations and Meetings (T&M)

**Subtotal Additional Services**

**Summary of Fees**

Basic Services Fees

Additional Services Fees

**Total Authorized Fees**

Original Contract	Total Contract
\$52,445.00	\$52,445.00
\$186,325.00	\$186,325.00
\$9,178.00	\$9,178.00
\$44,932.00	\$44,932.00
<b>\$292,880.00</b>	<b>\$292,880.00</b>
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$89,086.00	\$89,086.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$0.00	\$0.00
\$10,770.00	\$10,770.00
<b>\$99,856.00</b>	<b>\$99,856.00</b>
\$292,880.00	\$292,880.00
\$99,856.00	\$99,856.00
<b>\$392,736.00</b>	<b>\$392,736.00</b>
Council Approval Pending	

**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					
<b>Basic Services:</b>									
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%
<b>Additional Services:</b>									
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%
<b>Summary of Fees:</b>									
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%
<b>Total of Fees</b>	\$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 C

### Insurance Requirements

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 Contracts and Procurement 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. **The City must be listed as an additional insured on the General liability and Auto Liability policies, and a waiver of subrogation is required on all applicable policies. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<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
Commercial General Liability including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$500,000 Combined Single Limit
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: Contracts and Procurement  
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 List the City and its officers, officials, employees and elected representatives as additional insured by endorsement, as respects operations, completed operation and activities of, or on behalf of, the named insured performed under contract with the City with the exception of the professional liability/Errors & Omissions policy;

1.6.2 Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;

1.6.3 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;

1.6.4 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.

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

**Table of Contents**

	<b>Page</b>
Article 1 – Definitions and Terminology .....	2
Article 2 – Preliminary Matters.....	8
Article 3 – Contract Documents: Intent, Requirements, Reuse.....	8
Article 4 – Commencement and Progress of the Work .....	9
Article 5 – Availability of Lands; Subsurface, Physical and Hazardous Environmental Conditions .....	9
Article 6 – Bonds and Insurance .....	10
Article 7 – Contractor’s Responsibilities .....	10
Article 8 – Other Work at the Site.....	10
Article 9 – Owner’s and OPT’s Responsibilities.....	10
Article 10 – OAR’s and Designer’s Status During Construction .....	11
Article 11 – Amending the Contract Documents; Changes in the Work .....	13
Article 12 – Change Management .....	13
Article 13 – Claims.....	14
Article 14 – Prevailing Wage Rate Requirements .....	16
Article 15 – Cost of the Work; Allowances; Unit Price Work.....	16
Article 16 – Tests and Inspections; Correction, Removal, or Acceptance of Defective Work .....	16
Article 17 – Payments to Contractor; Set-Offs; Completion; Correction Period .....	16
Article 18 – Suspension of Work and Termination .....	16
Article 19 – Project Management .....	16
Article 20 – Project Coordination.....	16
Article 21 – Quality Management .....	17
Article 22 – Final Resolution of Disputes .....	17
Article 23 – Minority/MBE/DBE Participation Policy .....	17
Article 24 – Document Management.....	17
Article 25 – Shop Drawings .....	17
Article 26 – Record Data .....	20
Article 27 – Construction Progress Schedule .....	21
Article 28 – Video and Photographic documentation .....	21
Article 29 – Execution and Closeout .....	21
Article 30 – Miscellaneous .....	22

## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 Defined Terms

- A. Terms with initial capital letters, including the term's singular and plural forms, have the meanings 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. §§5101 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 15.
- 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 17.12 or 17.13.
- 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, Registered Architects or Registered Landscape 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. The Progress Schedule must be a Critical Path Method (CPM) Schedule.
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**

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

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

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

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

##### 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
- 9.07 Modifications
- 9.08 Inspections, Tests, and Approvals
  - A. OPT's responsibility with respect to certain inspections, tests, and approvals are described in Paragraph 16.02.
- 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 16. OAR is to issue a Defective Work Notice to Contractor and document when Defective Work has been corrected or accepted in accordance with Article 16.

#### 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 Article 11.
- D. OAR's authority related to Applications for Payment is described in Articles 15 and 17.

#### 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 16.04, 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 – CHANGE MANAGEMENT

### 12.01 Requests for Change Proposal

- A. **Designer** will initiate Modifications by issuing a Request for a Change Proposal (RCP).
  - 1. **Designer** will prepare a description of proposed Modifications.
  - 2. **Designer** will issue the Request for a Change Proposal form to Contractor. A number will be assigned to the Request for a Change Proposal when issued.
  - 3. Return a Change Proposal in accordance with Paragraph 12.02 to the **Designer** for evaluation by the OPT.

### 12.02 Change Proposals

- A. Submit a Change Proposal (CP) to the **Designer** for Contractor initiated changes in the Contract Documents or in response to a Request for Change Proposal.
  - 1. Use the Change Proposal form provided.
  - 2. Assign a number to the Change Proposal when issued.
  - 3. Include with the Change Proposal:
    - a. A complete description of the proposed Modification if Contractor initiated or proposed changes to the OPT's description of the proposed Modification.
    - b. The reason the Modification is requested, if not in response to a Request for a Change Proposal.
    - c. A detailed breakdown of the cost of the change if the Modification requires a change in Contract Price. The itemized breakdown is to include:
      - 1) List of materials and equipment to be installed;
      - 2) Man hours for labor by classification;
      - 3) Equipment used in construction;
      - 4) Consumable supplies, fuels, and materials;
      - 5) Royalties and patent fees;
      - 6) Bonds and insurance;
      - 7) Overhead and profit;
      - 8) Field office costs;
      - 9) Home office cost; and
      - 10) Other items of cost.
    - d. Provide the level of detail outlined in the paragraph above for each Subcontractor or Supplier actually performing the Work if Work is to be provided by a Subcontractor or Supplier. Indicate appropriate Contractor mark-ups for Work

provided through Subcontractors and Suppliers. Provide the level of detail outline in the paragraph above for self-performed Work.

- e. Submit Change Proposals that comply with Article 15 for Cost of Work.
  - f. Provide a revised schedule. Show the effect of the change on the Project Schedule and the Contract Times.
- B. Submit a Change Proposal to the **Designer** to request a Field Order.
- C. A Change Proposal is required for all substitutions or deviations from the Contract Documents.
- D. Request changes to products in accordance with Article 25.

12.03 **Designer** Will Evaluate Request for Modification

- A. **Designer** will issue a Modification per Article 11 if the Change Proposal is acceptable to the Owner. **Designer** will issue a Change Order or Contract Amendment for any changes in Contract Price or Contract Times.
- 1. Change Orders and Contract Amendments will be sent to the Contractor for execution with a copy to the Owner recommending approval. A Work Change Directive may be issued if Work needs to progress before the Change Order or Contract Amendment can be authorized by the Owner.
  - 2. Work Change Directives, Change Orders, and Contract Amendments can only be approved by the Owner.
    - a. Work performed on the Change Proposal prior to receiving a Work Change Directive or approval of the Change Order or Contract Amendment is performed at the Contractor's risk.
    - b. No payment will be made for Work on Change Orders or Contract Amendments until approved by the Owner.
- B. The Contractor may be informed that the Request for a Change Proposal is not approved and construction is to proceed in accordance with the Contract Documents.

**ARTICLE 13 – CLAIMS**

13.01 Claims

13.02 Claims Process

- A. Claims must be initiated by written notice. Notice must conspicuously state that it is a notice of a Claim in the subject line or first sentence. Notice must also list the date of first occurrence of the claimed event.
- B. Claims by Contractor must be in writing and delivered to the Owner, **Designer** and the OAR within 7 days:
- 1. After the start of the event giving rise to the Claim; or
  - 2. After a final decision on a Change Proposal has been made.

- C. Claims by Contractor that are not received within the time period provided by section 13.02(B) are waived. Owner may choose to deny such Claims without a formal review. Any Claims by Contractor that are not brought within 90 days following the termination of the Contract are waived and shall be automatically deemed denied.
- D. Claims by Owner must be submitted by written notice to Contractor.
- E. The responsibility to substantiate a Claim rests with the entity making the Claim. Claims must contain sufficient detail to allow the other party to fully review the Claim.
  - 1. Claims seeking an adjustment of Contract Price must include the Contractor's job cost report. Provide additional documentation as requested by OAR.
  - 2. Claims seeking an adjustment of Contract Time must include native schedule files in Primavera or MS Project digital format. Provide additional documentation as requested by OAR.
- F. Contractor must certify that the Claim is made in good faith, that the supporting data is accurate and complete, and that to the best of Contractor's knowledge and belief, the relief requested accurately reflects the full compensation to which Contractor is entitled.
- G. Claims by Contractor against Owner and Claims by Owner against Contractor, including those alleging an error or omission by Designer but excluding those arising under Section 7.12, shall be referred initially to Designer for consideration and recommendation to Owner.
- H. Designer may review a Claim by Contractor within 30 days of receipt of the Claim and take one or more of the following actions:
  - 1. Request additional supporting data from the party who made the Claim;
  - 2. Issue a recommendation;
  - 3. Suggest a compromise; or
  - 4. Advise the parties that Designer is not able to make a recommendation due to insufficient information or a conflict of interest.
- I. If the Designer does not take any action, the claim shall be deemed denied.
- J. The Contractor and the Owner shall seek to resolve the Claim through the exchange of information and direct negotiations. If no agreement is reached within 90 days, the Claim shall be deemed denied. The Owner and Contractor may extend the time for resolving the Claim by mutual agreement. Notify OAR of any actions taken on a Claim.
- K. Owner and Contractor may mutually agree to mediate the underlying dispute at any time after a recommendation is issued by the Designer.



**ARTICLE 14 – PREVAILING WAGE RATE REQUIREMENTS**

**ARTICLE 15 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

**ARTICLE 16 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK**

**ARTICLE 17 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

**ARTICLE 18 – SUSPENSION OF WORK AND TERMINATION**

**ARTICLE 19 – PROJECT MANAGEMENT**

**ARTICLE 20 – PROJECT COORDINATION**

20.01 Work Included

20.02 Document Submittal

20.03 Communication During Project

- A. The OAR is to be the first point of contact for all parties on matters concerning this Project.
- B. The **Designer** will coordinate correspondence concerning:
  - 1. Documents, including Applications for Payment.
  - 2. Clarification and interpretation of the Contract Documents.
  - 3. Contract Modifications.
  - 4. Observation of Work and testing.
  - 5. Claims.

20.04 Requests for Information

- A. Submit Request for Information (RFI) to the **Designer** to obtain additional information or clarification of the Contract Documents.
  - 1. Submit a separate RFI for each item on the form provided.
  - 2. Attach adequate information to permit a written response without further clarification. **Designer** will return requests that do not have adequate information to the Contractor for additional information. Contractor is responsible for all delays resulting from multiple document submittals due to inadequate information.
  - 3. A response will be made when adequate information is provided. Response will be made on the RFI form or in attached information.
- B. Response to an RFI is given to provide additional information, interpretation, or clarification of the requirements of the Contract Documents, and does not modify the Contract Documents.
- C. **Designer** will initiate a Request for a Change Proposal (RCP) per Article 12 if the RFI indicates that a Contract Modification is required.

## **ARTICLE 21 – QUALITY MANAGEMENT**

## **ARTICLE 22 – FINAL RESOLUTION OF DISPUTES**

## **ARTICLE 23 – MINORITY/MBE/DBE PARTICIPATION POLICY**

## **ARTICLE 24 – DOCUMENT MANAGEMENT**

## **ARTICLE 25 – SHOP DRAWINGS**

### **25.01 Work Included**

- A. Shop Drawings are required for those products that cannot adequately be described in the Contract Documents to allow fabrication, erection, or installation of the product without additional detailed information from the Supplier.
- B. Submit Shop Drawings as required by the Contract Documents and as reasonably requested by the OPT to:
  - 1. Record the products incorporated into the Project for the Owner;
  - 2. Provide detailed information for the products proposed for the Project regarding their fabrication, installation, commissioning, and testing; and
  - 3. Allow the **Designer** to advise the Owner if products proposed for the Project by the Contractor conform, in general, to the design concepts of the Contract Documents.

### **25.02 Quality Assurance**

### **25.03 Contractor's Responsibilities**

### **25.04 Shop Drawing Requirements**

- A. Provide adequate information in Shop Drawings and Samples so **Designer** can:
  - 1. Assist the Owner in selecting colors, textures, or other aesthetic features.
  - 2. Compare the proposed features of the product with the specified features and advise Owner that the product does, in general, conform to the Contract Documents.
  - 3. Compare the performance features of the proposed product with those specified and advise the Owner that the product does, in general, conform to the performance criteria specified in the Contract Documents.
  - 4. Review required certifications, guarantees, warranties, and service agreements for compliance with the Contract Documents.

25.05 Special Certifications and Reports

25.06 Warranties and Guarantees

25.07 Shop Drawing Submittal Procedures

25.08 Sample and Mockup Submittal Procedures

25.09 Requests for Deviation

25.10 **Designer** Responsibilities

- A. Shop Drawings will be received by the **Designer**. **Designer** will log the documents and review per this Article for general conformance with the Contract Documents.
  - 1. **Designer**'s review and approval will be only to determine if the products described in the Shop Drawing or Sample will, after installation or incorporation into the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  - 2. **Designer**'s review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
  - 3. **Designer**'s review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- B. Comments will be made on items called to the attention of the **Designer** for review and comment. Any marks made by the **Designer** do not constitute a blanket review of the document submittal or relieve the Contractor from responsibility for errors or deviations from the Contract requirements.
  - 1. **Designer** will respond to Contractor's markups by either making markups directly in the Shop Drawings file using the color green or by attaching a Document Review Comments form with review comments.
  - 2. Shop Drawings that are reviewed will be returned with one or more of the following status designations:
    - a. Approved: Shop Drawing is found to be acceptable as submitted.
    - b. Approved as Noted: Shop Drawing is Approved so long as corrections or notations made by **Designer** are incorporated into the Show Drawing.
    - c. Not Approved: Shop Drawing or products described are not acceptable.
  - 3. Shop Drawing will also be designated for one of the following actions:
    - a. Final distribution: Shop Drawing is acceptable without further action and has been filed as a record document.
    - b. Shop Drawing not required: A Shop Drawing was not required by the Contract Documents. Resubmit the document per Article 26.

- c. Cancelled: This action indicates that for some reason, the Shop Drawing is to be removed from consideration and all efforts regarding the processing of that document are to cease.
  - d. Revise and resubmit: Shop Drawing has deviations from the Contract Documents, significant errors, or is inadequate and must be revised and resubmitted for subsequent review.
  - e. Resubmit with corrections made: Shop Drawing is "Approved as Noted," but has significant markups. Make correction and notations to provide a revised document with markup incorporated into the original document so that no markups are required.
  - f. Returned without review due to excessive deficiencies: Document does not meet the requirement of the Specifications for presentation or content to the point where continuing to review the document would be counterproductive to the review process or clearly does not meet the requirements of the Contract Documents. Revise the Shop Drawing to comply with the requirements of this Section and resubmit.
  - g. Actions a through c will close out the Shop Drawing review process and no further action is required as a Shop Drawing. Actions d through f require follow up action to close out the review process.
- 4. Drawings with a significant or substantial number of markings by the Contractor may be marked "Approved as Noted" and "Resubmit with corrections made." These drawings are to be revised to provide a clean record of the Shop Drawing. Proceed with ordering products as the documents are revised.
  - 5. Dimensions or other data that does not appear to conform to the Contract Documents will be marked as "At Variance With" (AVW) the Contract Documents or other information provided. The Contractor is to make revisions as appropriate to comply with the Contract Documents.
- C. Bring deviations to the Shop Drawings to the attention of the **Designer** for approval by using the Shop Drawing Deviation Request form. Use a single line for each requested deviation so the Status and Action for each deviation can be determined for that requested deviation. If approval or rejection of a requested deviation will impact other requested deviations, then all related deviations should be included in that requested deviation line so the status and action can be determined on the requested deviation as a whole.
  - D. Requested deviations will be reviewed as possible Modification to the Contract Documents.
    - 1. A Requested deviation will be rejected as "Not Approved" if the requested deviation is unacceptable. Contractor is to revise and resubmit the Shop Drawing with corrections for approval.
    - 2. A Field Order will be issued by the **Designer** for deviations approved by the **Designer** if the requested deviation is acceptable and if the requested deviation will not result in a change in Contract Price or Contract Times. Requested deviations from the Contract Documents may only be approved by Field Order.
    - 3. A requested deviation will be rejected if the requested deviation is acceptable but the requested deviation will or should result in a change in Contract Price or Contract Times.

Submit any requested deviation that requires a change in Contract Price or Contract Times as a Change Proposal for approval prior to resubmitting the Shop Drawing.

- E. Contractor is to resubmit the Shop Drawing until it is acceptable and marked Approved or Approved as Noted and is assigned an action per Paragraph 25.10.B that indicates that the Shop Drawing process is closed.
- F. Information that is submitted as a Shop Drawings that should be submitted as Record Data or other type of document, or is not required may be returned without review, or may be deleted. No further action is required and the Shop Drawing process for this document will be closed.

## **ARTICLE 26 – RECORD DATA**

26.01 Work Included

26.02 Quality Assurance

26.03 Contractor's Responsibilities

26.04 Record Data Requirements

26.05 Special Certifications and Reports

26.06 Warranties and Guarantees

26.07 Record Data Submittal Procedures

26.08 **Designer**'s Responsibilities

- A. Record Data will be received by the **Designer**, logged, and provided to Owner as the Project record.
  - 1. Record Data may be reviewed to see that the information provided is adequate for the purpose intended. Record Data not meeting the requirements of Paragraph 26.02 may be rejected as unacceptable.
  - 2. Record Data is not reviewed for compliance with the Contract Documents. Comments may be returned if deviations from the Contract Documents are noted during the cursory review performed to see that the information is adequate.
  - 3. Contractor's responsibility for full compliance with the Contract Documents is not relieved by the review of Record Data. Contract modifications can only be approved by a Modification.
- B. **Designer** may take the following action in processing Record Data:
  - 1. File Record Data as received if the cursory review indicates that the document meets the requirements of Paragraph 26.02. Document will be given the status of "Filed as Received" and no further action is required on that Record Data.
  - 2. Reject the Record Data for one of the following reasons:
    - a. The document submittal requirements of the Contract Documents indicate that the document submitted as Record Data should have been submitted as a Shop

Drawing. The Record Data will be marked "Rejected" and "Submit Shop Drawing." No further action is required on this document as Record Data and the Record Data process will be closed. Resubmit the document as a Shop Drawing per Article 25.

- b. The cursory review indicates that the document does not meet the requirements of Paragraph 26.02. The Record Data will be marked "Rejected" and "Revise and Resubmit." Contractor is to resubmit the Record Data until it is acceptable and marked "Filed as Received." When Record Data is filed, no further action is required and the Record Data process will be closed.
  - c. The Record Data is not required by the Contract Documents nor is the Record Data applicable to the Project. The Record Data will be marked "Rejected" and "Cancel - Not Required." No further action is required and the Record Data process will be closed.
- C. Contractor is to resubmit the Record Data until it is acceptable and marked "Filed as Received."

## **ARTICLE 27 – CONSTRUCTION PROGRESS SCHEDULE**

## **ARTICLE 28 – VIDEO AND PHOTOGRAPHIC DOCUMENTATION**

## **ARTICLE 29 – EXECUTION AND CLOSEOUT**

### **29.01 Substantial Completion**

- A. Notify the **Designer** that the Work or a designated portion of the Work is substantially complete per the General Conditions. Include a list of the items remaining to be completed or corrected before the Project will be considered to be complete.
- B. OPT will visit the Site to observe the Work within a reasonable time after notification is received to determine the status of the Project.
- C. **Designer** will notify the Contractor that the Work is either substantially complete or that additional Work must be performed before the Project will be considered substantially complete.
  - 1. **Designer** will notify the Contractor of items that must be completed before the Project will be considered substantially complete.
  - 2. Correct the noted deficiencies in the Work.
  - 3. Notify the **Designer** when the items of Work in the **Designer's** notice have been completed.
  - 4. OPT will revisit the Site and repeat the process.
  - 5. **Designer** will issue a Certificate of Substantial Completion to the Contractor when the OPT considers the Project to be substantially complete. The Certificate will include a tentative list of items to be corrected before Final Payment will be recommended.
  - 6. Review the list and notify the **Designer** of any objections to items on the list within 10 days after receiving the Certificate of Substantial Completion.

## 29.02 Final Inspections

- A. Notify the **Designer** when:
  - 1. Work has been completed in compliance with the Contract Documents;
  - 2. Equipment and systems have been tested per Contract Documents and are fully operational;
  - 3. Final Operations and Maintenance Manuals have been provided to the Owner and all operator training has been completed;
  - 4. Specified spare parts and special tools have been provided; and
  - 5. Work is complete and ready for final inspection.
- B. OPT will visit the Site to determine if the Project is complete and ready for Final Payment within a reasonable time after the notice is received.
- C. **Designer** will notify the Contractor that the Project is complete or will notify the Contractor that Work is Defective.
- D. Take immediate steps to correct Defective Work. Notify the **Designer** when Defective Work has corrected. OPT will visit the Site to determine if the Project is complete and the Work is acceptable. **Designer** will notify the Contractor that the Project is complete or will notify the Contractor that Work is Defective.
- E. Submit the Request for Final Payment with the closeout documents described in Paragraph 29.06 if notified that the Project is complete and the Work is acceptable.

## ARTICLE 30 – MISCELLANEOUS

### END OF SECTION



SUPPLIER NUMBER \_\_\_\_\_  
TO BE ASSIGNED BY CITY  
PURCHASING DIVISION

## 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:** HDR Engineering, Inc.

**P. O. BOX:** \_\_\_\_\_

**STREET ADDRESS:** 555 N Carancahua, Ste 1600 **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	Job Title and City Department (if known)
N/A	

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
N/A	

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	Board, Commission or Committee
N/A	

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
N/A	



### 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:** Arthur B. Colwell, P.E. **Title:** Vice President/Office Principal  
(Type or Print)

**Signature of Certifying Person:**



**Date:** 10/22/2019

### 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.