



4601 Padre Blvd
South Padre Island, Texas 78597
www.MySPI.org

Request for Qualifications Architectural, Engineering or Surveying Services

RFQ 2020-SL06 **Surveying Services for Land Purchase**

Statement of Qualifications
must be received before:
January 8, 2021
2:00 p.m. central time
City of South Padre Island
ATTN: City Secretary
4601 Padre Blvd.
South Padre Island, TX 78597

TABLE OF CONTENTS

GENERAL	3
DEFINITIONS	3
NOTICE to PROPOSERS	4
STANDARD TERMS and CONDITIONS	6
BACKGROUND and CURRENT CIRCUMSTANCES	14
SCOPE of WORK	15
SUBMISSION REQUIREMENTS	15
EVALUATION and SELECTION PROCESS	18
CERTIFICATION and ACKNOWLEDGMENT	30
STANDARD FORM of AGREEMENT	EXHIBIT A

GENERAL

The City of South Padre Island seeks to enter into an agreement with a qualified Individual, Firm or Corporation (Proposer) with substantial and relevant experience and expertise to provide **Surveying Services for the purchase of land.**

DEFINITIONS

The following definitions shall be used to identify terms throughout this Request for Qualifications:

A. AGREEMENT/CONTRACT

A mutually binding legal document obligating the Firm to furnish the professional services specified within this solicitation and obligating the City to pay for the professional services provided.

B. PROPOSAL/RESPONSE/OFFER

A complete, properly signed response to this solicitation that, if accepted, would bind the Respondent to perform the resulting contract.

C. PROPOSER/RESPONDENT/OFFERER

The Individual, Firm or Corporation (Proposer) that considers themselves qualified to provide the services specified herein, and are interested in making an offer to provide the services to the City.

D. CITY

The City of South Padre Island, located in Cameron County, Texas.

E. CITY COUNCIL

The elected officials of the City of South Padre Island, Texas, given the authority to exercise such powers and jurisdiction of all City business as conferred by the City Charter and State Constitution and Laws.

F. FIRM

The successful Proposer of this request for proposal.

G. PURCHASE ORDER

A purchase order records the financial obligation of the City to pay for services properly received; therefore, a purchase order is also required for all contracts with an expenditure of funds entered into by the City Manager or City Council.

H. REQUEST FOR QUALIFICATIONS (RFQ)

This Solicitation document issued by the City containing terms, conditions and request for qualifications for the services to be procured.

I. STATEMENT OF QUALIFICATIONS (SOQ)

A Firm's response to this solicitation

J. VENDOR/CONTRACTOR

Person or business enterprise providing professional services to the City as fulfillment of obligations arising from an agreement pursuant to this request for qualifications.

NOTICE TO PROPOSERS

A. NOTICE

Statement of Qualifications are due at **2:00 p.m. on January 8, 2021** after which time all qualified responses will be opened and acknowledged at 4601 Padre Blvd, South Padre Island, Texas 78597. Proposals received after the specified deadline will be returned unopened.

Sealed SOQs shall be clearly marked with the RFQ number and title and addressed to the City of South Padre Island – City Secretary. Proposals shall be delivered using one of the following:

Hand-deliver to:	Mail to:	Ship to (FedEx, UPS, DHL):
4601 Padre Blvd South Padre Island, TX 78597	4601 Padre Blvd. South Padre Island, TX 78597	4601 Padre Blvd. South Padre Island, TX 78597

Potential Respondents may receive notice of solicitations from the City of South Padre Island from a variety of channels. Approved methods of dissemination include: City of South Padre Island website or the City of South Padre Island City Secretary. The receipt of solicitations through any other means may result in the receipt of incomplete specifications or addenda which could ultimately render your proposal non-compliant. City of South Padre Island accepts no responsibility for the receipt or notification of solicitations through any other source.

B. QUESTIONS and INQUIRIES

Questions and inquiries about this Solicitation shall be submitted in writing to the following individual:

**Kristina Boburka
Shoreline Director
kboburka@myspi.org**

The deadline for written questions is **December 30, 2020 at @ 2:00 p.m.** central time. This deadline has been established in order to provide adequate time for City staff to prepare responses to questions from Proposers to the best of their ability in advance of the Pre-Proposal Conference meeting.

Proposers shall not attempt to contact City Council members, City staff or Management directly during the pre-proposal or post-proposal period. The City intends to respond to all appropriate questions or concerns; however, the City reserves the right to decline to respond to any question or concern. All material modifications, clarifications or interpretations will be incorporated into an addendum which will be publicly posted. All addenda issued prior to the due date and time for responses are incorporated into the RFQ and must be acknowledged in the SOQ response. Only written information provided shall be binding. Oral or other interpretations shall not be binding and are held without legal effect.

C. SCHEDULE OF IMPORTANT DATES

The City will generally comply with the following schedule for the selection process, subject to changes necessary to ensure fairness and to accommodate unanticipated events:

Release RFQ		December 24, 2020
Deadline for Questions and Inquiries	2:00 PM CST	December 30, 2020
Proposals Closing Date and Time	2:00 PM CST	January 8, 2021

D. CERTIFICATION

This Solicitation includes a certification page. Respondent must:

1. Furnish complete name, mailing address, telephone number and email of the individual duly authorized to execute contractual documents on behalf of the Respondent.
2. Furnish name of individual(s), along with respective telephone numbers and email addresses, who will be responsible for answering all questions.
3. Certify that they have not conspired with any other potential Respondents in any manner to attempt to control competitive pricing.
4. Certify that they are duly qualified, capable and otherwise qualified business entity not in receivership or contemplating same, and have not filed bankruptcy.

E. EXCEPTIONS

Any deviations from terms, conditions or request for qualifications contained herein must be clearly indicated in the Response to this Solicitation in writing at or before the due date and time. Any deviations or exceptions are subject to review by the City and may deem the Response disqualified or non-responsive. If no exceptions are stated, it will be understood that all general terms and conditions and specific requirements will be complied with, without exception.

F. DISCLOSURE OF INTERESTED PARTIES

Contracting hereunder may require compliance with §2252.908 Texas Government Code/Disclosure of Interested Parties for contracts that (1) require an action or vote by the City Council before the contract may be signed; or (2) has a value of at least \$1 million. The law provides that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency.

The process as implemented by the Texas Ethics Commission ("TEC") is as follows:

1. The disclosure of interested parties must be performed using the [Texas Ethics Commission's electronic filing application](#) listing each interested party of which the business entity is aware of Form 1295, obtaining a certification of filing number for this form from the TEC, and printing a copy of it to submit to the City.
2. The copy of Form 1295 submitted to the City must contain the unique certification number from the TEC. The form must be filed with the City pursuant to §2252.908 Texas Government Code, "at the time the business entity submits the signed contract" to the City.

The City, in turn, will submit a copy of the disclosure form to the TEC not later than the 30th day after the date the City receives the disclosure of interested parties from the business entity.

STANDARD TERMS and CONDITIONS

A. ADDENDA

If it becomes necessary to revise any part of this Solicitation, prior to the due date and time, a written addendum will be provided clarification to all known interested Respondents. The City is not bound by any oral representations, clarifications, or changes made in the Request for Qualifications by the

City's employees, unless such a change is provided to Respondents in written addendum form from the City.

Addenda will be transmitted to all that are known to have received a copy of the Request for Qualification. However, it shall be the sole responsibility of the Respondent to verify issuance of any addenda and to check all avenues of document availability prior to the opening date and time. Respondent shall provide written acknowledgment of all addenda.

B. ADVERTISING and PUBLICITY

Firm shall not advertise or otherwise publicize, without the City's prior written consent, the fact that the City has entered into the Agreement, except to the extent required by applicable law.

C. ASSIGNMENTS

The Agreement shall be binding upon and inure to the benefit of the City and the Firm, and their respective successors and assignees, provided however, that no right or interest in the Agreement shall be assigned and no obligation shall be delegated by the Firm without the prior written consent of the City. Any attempted assignment or delegation by the Firm shall be void unless made in conformity with this Paragraph. The Agreement is not intended to confer any rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there is no third party beneficiaries to the Agreement.

D. BUSINESS PRACTICES

Minority business enterprises and/or historically underutilized businesses will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, or national origin in consideration for an award.

E. CANCELLATION or TERMINATION

1. Termination For Cause:

In the event of default by the Firm, the City shall have the right to terminate the Agreement for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Firm, within such ten (10) day period cures such default, or provides evidence sufficient to prove to the City's satisfaction that such default does not, in fact, exist. In addition to any other remedies available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses incurred by the City as a result of the Firm's default, including without limitation, cost of cover, reasonable attorneys' fees, court costs and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of default by the Firm, the City may remove the Firm from the City's Vendor List and any Offer submitted by the Firm may be disqualified for up to three (3) years. All rights and remedies under the Agreement are cumulative and not exclusive of any other right or remedy provided by law.

2. Termination Without Cause:

The City shall have the right to terminate the Agreement, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Firm shall promptly cease all further work pursuant to the Agreement, with such exceptions, if any, specified in the notice of termination. The City shall pay the Firm, to the extent of funds appropriated or otherwise legally available for such purposes, for all products actually delivered and obligations incurred prior to the date of termination in accordance with the terms hereof.

3. Non-Appropriation:

The resulting Agreement is a commitment of the City's current revenues only. It is understood and agreed that the City shall have the right to terminate the Agreement if, for any reason, funds are not appropriated to continue this Agreement.

4. Cancellation:

The City reserves the right to cancel the Agreement for default for all or any part of the delivered portion of the deliverables if the Firm breaches any term hereof including warranties, or becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which the City may have in law or in equity.

F. CLAIMS

If a claim, demand, suit or other action is asserted against the Firm which arises under or concerns the Agreement, or which could have a material adverse effect on the Firm's ability to perform thereunder, the Firm shall give written notice to the City within ten (10) calendar days after receipt of notice by the Firm. Such notice to the City shall state the date of notification of any such claim, demand, suit or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted. Such notice shall be delivered to the City Manager, 4601 Padre Blvd, South Padre Island, TX 78597.

G. CODES, PERMITS, LICENSES

Firm shall comply with all federal, state and local standards, codes and ordinances, as well as other authorities that have jurisdiction pertaining to the products delivered and their application. None of the terms or provisions of the Agreement shall be construed as waiving any rules, regulations or requirements of these authorities. Firm shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

H. COLLUSION

Advanced disclosures of any information to any particular Respondent which gives that particular Respondent any advantage over any other interested Respondent in advance of the due date, whether in response to advertising or an informal request for proposals, made or permitted by a member of the governing body or an employee or representative thereof, will cause to void all responses to that particular solicitation or request.

I. COMMUNICATION

To ensure the proper and fair evaluation of this Proposal, the City prohibits ex parte communication (e.g., unsolicited) initiated by the Respondent to the City Official or Employee evaluating or considering the Responses prior to the time an award has been made. Communication between Respondents and the City will be initiated by the appropriate City Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the Statement(s) of Qualification. Ex parte communication may be grounds for disqualifying the offending Respondent from consideration or award, or any future Solicitation.

Unless otherwise specified, all requests for clarification or questions regarding a Solicitation must be directed as provided herein.

J. CONFIDENTIALITY

In order to provide the deliverables to the City, Firm may require access to certain of the City's and/or its licensors' confidential information (including, but not limited to, inventions, employee information, trade secrets, confidential know-how, confidential business information and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Firm acknowledges and agrees that the Confidential Information is the valuable property of the City and/or

its licensors, and any unauthorized use, disclosure, dissemination or other release of the Confidential Information will substantially injure the City and/or its licensors. The Firm (including its employees, subcontractors, agents or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate or otherwise use the Confidential Information without the prior written consent of the City, or in a manner not expressly permitted under the Agreement, unless the Confidential Information is required to be disclosed by law or as a result of an order of any court or other governmental authority with proper jurisdiction, provided the Firm promptly notifies the City prior to disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Firm agrees to use protective measures no less stringent than the Firm uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

K. DEFAULT

Firm shall be in default under the Agreement if the Firm (a) fails to fully, timely and faithfully perform any of its material obligations under the Agreement, (b) fails to fully, timely and faithfully perform any of its material obligations under any agreement Firm has with the City, (c) fails to timely pay any fees or taxes owed to the City, (d) becomes insolvent or seeks relief under the bankruptcy laws of the United States, or (e) makes a material misrepresentation in Respondent's Proposal, or in any report or deliverable required to be submitted by Firm to the City.

L. DELAYS

The City may delay scheduled deliveries or other due dates by written notice to the Firm if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Agreement, the City and the Firm shall negotiate an equitable adjustment for costs incurred by the Firm in the Agreement price and execute an amendment to the Agreement. The Firm must assert its right to an adjustment within ten (10) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution Process specified herein. However, nothing in this provision shall excuse the Firm from delaying the deliveries as notified.

M. DISCLOSURE

At the due date and time there will be no disclosure of contents of any Proposal to competing Proposers, and all Proposals will be kept confidential during the negotiation process. Except for trade secrets and confidential information which the Firm identifies as proprietary, all Proposals will be open for public inspection after the contract award.

N. DISCLOSURE OF PENDING LITIGATION:

Each Respondent shall include in its proposal a complete disclosure of any material civil or criminal litigation or pending investigation which involves the Respondent or in which the Respondent has been judged guilty.

O. DISPUTE RESOLUTION

If either the Firm or the City has a claim, dispute or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, in person or through generally accepted means, to resolve any claim, dispute, breach or other matter in

question that may arise out of, or in connection with, this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties in accordance with the Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute.

P. FORCE MAJEURE

Neither party shall be liable for any default or delay in the performance of its obligations under this Agreement if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond reasonable control. In the event of default or delay in performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

Q. FRAUD

Fraudulent statements by the Respondent in the Proposal or in any report or deliverable required to be submitted by the Firm to the City shall be grounds for termination of the Agreement for cause by the City and may result in legal action.

R. GRATUITIES

The City may, by written notice to the Firm, cancel the Agreement without liability if it is determined by the City that gratuities were offered or given by the Firm or any agent or representative of the Firm to any officer or employee of the City with the intent of securing the Agreement or securing favorable treatment with respect to awarding or amending or the making of any determinations with respect to performance of the Agreement. In the event the Agreement is cancelled by the City pursuant to this Section, the City shall be entitled, in addition to any other rights and remedies, to recover the benefits or payments to the Firm, as a result of the gratuities.

S. INDEPENDENT CONTRACTOR

Nothing in this Request for Qualifications is intended to be construed as creating an employer/employee relationship, a partnership or joint venture. The Firm's services shall be those of an independent contractor. The Firm agrees and understands that the Agreement does not grant any rights or privileges established for employees of the City. Firm shall not be within protection or coverage of the City's Worker Compensation Insurance, Health Insurance, Liability Insurance or any other insurance that the City, from time to time, may have in force.

T. INDEMNITY

FIRM SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY THE CONTRACTOR UNDER THIS CONTRACT.

U. INFRINGEMENT

Firm represents and warrants to the City that: (a) Firm shall provide the City good and indefeasible title to the deliverables and (b) the deliverables supplied by the Firm in accordance with the

specifications of the Agreement shall not infringe, directly or contributory, any patent, trademark, copyright, trade secret or any other intellectual property right of any kind of any third party; that no claims have been made by an person or entity with respect to the ownership or operation of the deliverables and the Firm does not know of any basis for any such claims. Firm shall, at its sole expense, defend, indemnify and hold the City harmless from and against all liability, damages and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (a) any claim that the City exercises anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverable infringes the intellectual property rights of any third party; or (b) Firm's breach of any of the Firm's representations or warranties stated in this Agreement. In the event of any such claim, the City shall have the right to monitor such claim or, at its option, engage its own separate counsel to act as co-counsel on the City's behalf. Further, Firm agrees that the City's specifications regarding the deliverables shall in no way diminish Firm's warranties or obligations under this Paragraph, and the City makes no warranty that the products, development or delivery of such deliverables will not impact such warranties of Firm.

V. INSURANCE REQUIREMENTS

Upon request, the Firm shall provide a copy of its insurance policies to the City.

W. INTERPRETATION

The Agreement is intended by both parties as the final, complete and exclusive statement of the terms of their Agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Agreement. Although the Agreement may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner fair to both parties, reading no provision more strictly against one party of the other. Whenever a term defined by the Uniform Commercial Code (the "UCC"), as enacted by the State of Texas, is used in the Agreement, the UCC definition shall control unless otherwise defined in the Agreement.

X. INVALIDITY

The invalidity, illegality or unenforceability of any provision of the Agreement shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace the stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is the essence of the Agreement be determined to be void.

Y. LIABILITY

Any person, firm or corporation party to the Agreement shall be liable for all damages incurred while in the performance of the Agreement. Firm assumes full responsibility for the terms contained herein and hereby releases, relinquishes, and discharges the City, its officers, agents and employees from all claims, demands and causes of action of any nature including the cost of defense thereof, for any injury to, including death of, any person whether that person be a third party, supplier or an employee of either of the parties hereto, and any loss of or damage to property, whether the same be that of either of the parties, caused by or alleged to have been caused by, arising out of or in connection with the issuance of the Agreement to the Firm and the negligence of the Firm, whether or not said claims, demands and causes of action in whole or in part are covered by insurance. Certificates of insurance

may be required for, but not limited to, Commercial General Liability, Business Auto Liability, Workers Compensation and Professional Liability Insurance.

Z. LIENS

Firm shall defend, indemnify and hold the City harmless from and against any and all liens and encumbrances for all services delivered under this Agreement. At the City's request, the Firm or its subcontractors shall provide a proper release of all liens or satisfactory evidence of freedom from liens shall be delivered to the City.

AA. MANAGEMENT

Should there be a change in ownership or management, the Agreement may be canceled unless a mutual Agreement is reached with the new owner to continue the Agreement with its present terms, conditions and pricing. The Agreement is nontransferable by either party.

BB. NOTICES

Unless otherwise specified, all notices, requests or other communications required or appropriate to be given under the Agreement shall be in writing and deemed delivered three (3) business days after postmarked if sent by US Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, fax, or other commercially accepted means. Notices to the Firm shall be sent to the address specified in the Firm's Statement of Qualifications or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to: City of South Padre Island, 4601 Padre Blvd., South Padre Island, TX 78597 and marked to the attention of the City Manager.

CC. OVERCHARGES

Firm hereby assigns to the City any and all claims for overcharges associated with this Agreement which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and/or which arise under the antitrust laws of the State of Texas, *Business and Commerce Code Ann.*, Section 15.01, et seq.

DD. PAYMENT TERMS

1. Tax Exempt Status:

The City is exempt from all federal excise, state and local taxes unless otherwise stated in this document. The City claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Texas Limited Sales Tax Exemption Certificates are furnished upon request. Firm will not charge such taxes. If billed, the City will not remit payment until a corrected invoice is received.

2. Invoicing Requirements:

Unless otherwise specified, all invoices shall be submitted to the City of South Padre Island, Accounts Payable, 4601 Padre Island, South Padre Island, TX 78597, and issued as required by the Purchase Order or Agreement. **Each invoice must reference the unique Purchase Order number, and include the Firm's complete name and remit to address.** If applicable, transportation and delivery charges must be itemized on each invoice.

3. Payment Terms:

All payments will be processed in accordance with Texas Prompt Payment Act, *Texas Government Code*, Subtitle F, Chapter 2251. The City will pay the Firm within thirty days after acceptance of goods or services delivered, or the day of receipt of a correct invoice, whichever is later. The Firm may charge a late fee (fee shall not be greater than that permitted under the Texas Prompt Payment Act) for payments not made in accordance with this prompt payment policy; however,

the policy does not apply to payments made by the City in the event: (a) there is a bona fide dispute between the City and Firm concerning the goods or services delivered, that causes the payment to be late; (b) the terms of a federal agreement, grant, regulation or statute prevents the City from making a timely payment with Federal funds; (c) there is a bona fide dispute between the Firm and a subcontractor and its suppliers concerning deliveries made, which caused the payment to be late; or (d) the invoice is not mailed to the City in strict accordance with instructions on the Purchase Order or Agreement, or other such contractual agreement.

4. Right To Audit:

The Firm agrees that the representatives of the City shall have access to, and the rights to audit, examine, or reproduce, any and all records of the Firm related to the performance under this Agreement. The Firm shall retain all such records for a period of four (4) years after final payment on this Agreement or until all audit and litigation matters that the City has brought to the attention of the Firm are resolved, whichever is longer. The Firm agrees to refund to the City any overpayments disclosed by any such audit.

5. Firm Pricing:

The price shall remain firm for the duration of the Agreement, or any extension period, unless expressly approved in writing. No separate line item charges shall be permitted for any extraneous charges. Firm further certifies that the cost proposal has been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other Respondent or with any competitor.

6. Price Warranty:

The Firm warrants the prices quoted are not materially higher than the Firm's current prices on services provided to others for like deliverables under similar terms of purchase. In addition to any other remedy available, the City may deduct from any amounts owed to the Firm, or otherwise recover, any amounts paid for services materially in excess of the Firm's current prices on services to others for like deliverables under similar terms of purchase.

7. Travel Expenses:

All travel, lodging and/or per diem expenses associated with providing the services specified must be included in the Agreement. All travel expenses are subject to review by the City and documentation of actual itemized expenses may be requested. No reimbursement will be made without prior authorization, or for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed.

EE. PERSONAL INTEREST

No employee or City Council Member of the City may have any financial interest, directly or indirectly, in any proposed or existing agreement, purchase, work, sale or service to, for, with or by the City.

FF. PRIORITY OF DOCUMENTS

In the event there are inconsistencies between the general provisions and special (or other) terms and conditions contained herein, the latter will take precedence.

GG. PROHIBITED FIRMS

The City of South Padre Island prohibits conducting business with Firms under the following conditions:

1. Respondents who have failed to comply with their state contracts and have been debarred from doing business with the State of Texas.
2. Respondents who boycott Israel. By signing and submitting this bid, Respondent certifies that:
 - a. Respondent does not boycott Israel; and
 - b. Respondents will not boycott Israel during the term of the agreement.

HH. PUBLIC INFORMATION

All Responses are subject to release as public information unless the Response or specific parts of the Response can be shown to be exempt from the Texas Public Information Act. Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. The City assumes no obligation or responsibility for asserting legal arguments on behalf of potential Respondents.

If a Respondent believes that a Response or parts of a Response are confidential, then the Respondent shall so specify. The Respondent shall stamp in bold red letters the term "**CONFIDENTIAL**" on that part of the Response, which the Respondent believes to be confidential. Vague and general claims as to confidentiality shall not be accepted. All Responses and parts of Responses that are not marked as confidential will be automatically considered public information.

II. REIMBURSEMENTS

There is no expressed or implied obligation for the City of South Padre Island to reimburse responding Firms for any expenses incurred in preparing SOQs in response to this Request for Qualification and the City will not reimburse responding Firms for these expenses, nor will the City pay any subsequent costs associated with the provision of additional information or presentation, or to procure a contract for these goods or services.

A. REPRESENTATIONS and RESPONSIBILITIES

By submitting a SOQ in response to this RFQ, Proposer represents that it has carefully read and understands all elements of this RFQ; has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations that in any manner may affect the cost, progress, or performance of the work; and has full knowledge of the scope, nature, quality and quantity of services to be performed.

The failure or omission of Proposer to receive or examine any form, instrument, addendum, or other documents or to acquaint itself with existing conditions or other details shall in no way relieve any Proposer from any obligations with respect to its proposal or to the contract.

JJ. RESERVATIONS

The City reserves the right to request clarification or additional information specific to any response after all Responses have been received and the solicitation due date has passed. Additionally, the City reserves the right to accept or reject all or part of any Response, waive any formalities or technical inconsistencies, delete any portion of the Scope of Work, or terminate the Solicitation when deemed to be in City's best interest.

KK. RESPONSES BECOME PROPERTY OF THE CITY

Submissions received in response to this Request for Qualification become the sole property of the City.

LL. RIGHT TO ASSURANCES

In the event the City, in good faith, has reason to question the intent of the Firm to perform, the City may demand written assurances of the intent to perform. In the event no written assurance is given within the time specified, the City may treat this failure as an anticipatory repudiation of the Agreement.

MM. SEVERABILITY

The invalidity or unenforceability of any provision herein shall not affect the validity or enforceability of any other provision.

NN. SURVIVABILITY OF OBLIGATIONS

All provisions of the Agreement that impose continuing obligations on the parties, including but not limited to the warranty, indemnity and confidentiality obligations of the parties, shall survive the expiration or termination of the Agreement.

OO. FIRM'S OBLIGATION

Firm shall fully and timely provide all deliverables described in this Solicitation, Firm's response must be in strict accordance with the terms, covenants and conditions of the Agreement and all applicable federal, state and local laws, rules and regulations.

PP. VENUE

This Agreement is fully performable in South Padre Island, Texas, and the venue for any action related to this Agreement shall be South Padre Island, Texas. All issues arising from this Agreement shall be resolved in the courts of Cameron County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or the ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein and does not waive the City's defense of sovereign immunity.

QQ. WAIVER

No claim or right arising out of a breach of the Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Firm or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Agreement, or an express or implied acceptance of any other existing or future default(s), whether of similar or different character.

RR. WITHDRAWAL

Respondents may request withdrawal of a sealed Statement of Qualifications prior to the scheduled opening time, provided the request for withdrawal is submitted to the City in writing.

BACKGROUND and CURRENT CIRCUMSTANCES

CURRENT CIRCUMSTANCES

The City of South Padre Island is currently in the process of purchasing land. The land will be used to construct a new public boat ramp and trailer-sized parking spaces. Part of this project will be funded through grant funds.

SCOPE OF WORK

- A.** A survey of the property needs to be acquired. The survey needs to include the site map with acreage.

SUBMISSION REQUIREMENTS

The City will not accept oral proposals, or proposals received by telephone or FAX machine. Proposals must be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet all requirements and specifications of this RFQ. Emphasis should be focused on completeness, clarity of content and responsiveness to all requirements of this RFQ.

The SOQ must be submitted in hard copy. Proposer shall submit 1 original and 2 copies of the entire proposal, plus 1 digital copy (on CD, DVD or thumb drive).

The City of South Padre Island requires comprehensive responses to every section within this RFQ. To facilitate the review of the responses, Respondents shall follow the described format. The intent of the proposal format is to expedite review and evaluation. It is not the intent to constrain Respondents with regard to content, but to assure that the specific requirements set forth in this RFQ are addressed in a uniform manner amenable to review.

Any SOQ that does not meet all of the minimum requirements contained herein will be considered non-responsive and will not be evaluated. These minimum requirements are considered pass or fail criteria and includes:

- 1. SOQ must be received by the due date and time;**
- 2. Certification must be signed and returned with SOQ; including acknowledgement of any addenda issued.**

SOQ's that pass the minimum requirements listed above will be evaluated, rated, and ranked, in accordance with the criteria provided below. The City may request additional information, site visits, interviews, or presentations from the Firm as part of the evaluation process.

The proposal format shall be clearly identified in the responses and conform to the criteria as outlined in "A" through "I" of each the criteria listed below.

A. Firm Introduction (10 points)

Briefly introduce your firm, providing a summary of the administration, organization and staffing of your firm, including multiple offices, if applicable. Provide an organizational chart indicating the positions and names of the core management team which will undertake this engagement.

B. Demonstrate the competence and qualifications of the individual who will be directly responsible for the management and delivery of the proposed work (10 points)

City is interested in the individual's experience as a project manager on projects similar to that described in the solicitation. Only one individual should be designated and must be a licensed architect, engineer, or surveyor in the State of Texas at the time of submission and must be employed by the Firm and not by a sub-consultant. Demonstrate project management experience, technical competency, qualifications and compliance with legal requirements.

- documented specialized design expertise demonstrating such specialized capabilities pertinent to similar work experience as described in the solicitation by the individual;
- descriptions and examples of specific projects or studies of a similar nature by the individual as described in the solicitation and their role in the work.
- educational background;
- license status, to include Texas registration number and expiration date of architect, engineer, or surveyor assuming professional responsibility on the project or study;

- (e) formal project management training and any certifications or accreditations offered by the Project Management Institute;
- (f) technical publications including books, papers or presentations.

C. Demonstrate the technical adequacy of the personnel and sub-consultants to be utilized for the proposed work (10 points)

City is interested in the technical qualifications and experience of the individual project team members of the Firm or sub-consultant firms who will actually be performing work on the project or study described in the solicitation. Demonstrate technical competency, qualifications and compliance with legal requirements.

- (a) documented specialized design expertise demonstrating such specialized capabilities pertinent to similar work experience as described in the solicitation by the individuals;
- (b) descriptions and examples of specific projects or studies of a similar nature by the individuals as described in the solicitation and their role in the work;
- (c) educational background;
- (d) license status, to include Texas registration number and expiration date of architects, engineers, or surveyors performing work and supervising subordinates in the production of design or study efforts;
- (e) technical publications including books, papers or presentations.

D. Demonstrate the experience of the Firm based upon previous work similar to that of the type considered (20 points)

City is interested in the Firm's history with similar projects or studies as described in the solicitation. **List no more than five projects or studies meeting these criteria which have been completed within the last five years.** Include the project or study description, name of the team leader, description of the Firm's role, cost of the project or study, year of the work, and name and phone number of the agency contact who can respond to questions about the work.

- (a) applicability of projects or studies similar in nature as described in the solicitation;
- (b) role of firm with the project or study.

E. Demonstrate the success of the Firm based upon the record of performance on other projects (both City of South Padre Island projects and projects for other entities) (15 points)

City is interested in the Firm's success and performance record related to projects or studies for the City of South Padre Island or other entities. List no more than five projects total. Projects other than those listed in Consideration Item (D) may be submitted which are not necessarily similar in nature to those described in the solicitation. For other projects or studies to be considered, include the project or study description, name of the team leader, and description of the Firm's role.

- (a) number of change orders;
- (b) examples of innovative solutions that resulted in a cost savings during construction and/or operation;
- (c) responsiveness during construction and commitment to continued involvement throughout the life of the project.

F. Demonstrate the Firm's history of accuracy of cost estimates and ability to perform within budget constraints (10 points)

City is interested in the accuracy and dependability of projected cost estimates and the ability of the Firm to be sensitive and responsive to project or study budget constraints. List project budgets, pre-bid cost estimates and bid ranges from low to high bid for projects listed in Consideration Item (D) or Consideration Item (E). Also provide a summary of the measures taken by the Firm to ensure the project was realized within the project budget.

G. Workload Capacity And History Of Performing Work Within A Specified Schedule (10 points)

City is interested in the ability of the Firm to dedicate the necessary resources to the work described in the Scope of Work. City reserves the right to visit the location of the Firm to verify the capabilities and resources. Include projects listed in Consideration Item (D) or Consideration Item (E) to demonstrate the firm’s ability to deliver projects within a specified schedule.

- (a) capabilities of the proposed project team and approach for handling multiple projects simultaneously at various stages of development;
- (b) demonstrate the Firm’s ability to deliver projects within a specified schedule;
- (c) contingency plan and ability of the Firm to sustain a loss of a key team member without compromising project quality, schedule or budget considerations.

H. Proposed Approach For The Design Project Or Study (15 points)

City is interested in the team’s organizational structure and work plan for accomplishing the work as described in the Scope of Work.

- (a) organization and structure of the project team including percentage of work proposed to be done by sub-consultants;
- (b) work plan indicating detailed approach for accomplishment of project, identified options, and proposed solutions;
- (c) approach to project management;
- (d) proposed project schedule should be supplied identifying the beginning and ending of each phase of the work proposed for this project.

I. COMMENTS/CHANGE REQUESTS to STANDARD FORM of AGREEMENT

A copy of the City's Standard Form of Agreement is attached to the RFQ. Please provide any comments or change requests to the Agreement with the proposal submittal. Failure to submit requested changes will affirm that the Firm willing to execute the Agreement without modification.

EVALUATION and SELECTION PROCESS

The City has attempted to provide a comprehensive Request for Qualifications through this solicitation for the work contemplated. Written proposals must present Proposer's qualifications and understanding of the work to be performed. Respondents are asked to address each evaluation criteria and to be specific in presenting their qualifications. Proposals must be as thorough and detailed as possible so that the City may properly evaluate capabilities to provide the requested services.

The City will first select the most highly qualified provider for the services on the basis of demonstrated competence and qualifications; and then attempt to negotiate with that provider a contract at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider for the services, the City will formally end negotiations with that provider; select the next most highly qualified provider; and attempt to negotiate a contract with that provider at a fair and reasonable price. The City will continue this process to select and negotiate with providers until a contract is entered into.

The City has established specific, weighted criteria for selection. This section presents the evaluation criteria, description, and relative weight assigned to each (100 points maximum). The City will evaluate each Proposer’s responses to the requirements contained in this RFQ.

Clarity and Quality of Proposal

Pass/Fail

Firms must provide comprehensive responses to every section within this RFQ in the described format. It is not the intent of the City to constrain Firms with regard to content, but to assure that the specific requirements set forth in this RFQ are addressed in a uniform manner amenable to review and evaluation. Failure to do so may result in your Proposal being disqualified from further review and consideration.

- A. (10 points) Firm Introduction
- B. (10 points) Demonstrated competence and qualifications of the individual who will be directly responsible for the management and delivery of the proposed work.
- C. (10 points) Demonstrated technical adequacy of the personnel and sub-consultants to be utilized for the proposed work.
- D. (20 points) Demonstrated experience of the Firm based upon previous work similar to that of the type considered.
- E. (15 points) Demonstrated success of the Firm based upon the record of performance on other projects (both City of South Padre Island projects and projects for other entities).
- F. (10 points) Demonstrated Firm’s history of accuracy of cost estimates and ability to perform within budget constraints.
- G. (10 points) Workload Capacity And History Of Performing Work Within A Specified Schedule
- H. (15 points) Proposed Approach For The Design Project Or Study

100 POINTS TOTAL POINTS AVAILABLE

By submission of a proposal, Proposer acknowledges acceptance of the evaluation process, the evaluation criteria, scope of work, approach and methodology, and all other terms and conditions set forth in this RFQ. Further, Firms acknowledge that subjective judgements must be made by the City during this process.

The City makes no guarantees or representations that any award will be made and reserves the right to cancel this solicitation for any reason, including:

- Reject any and all SOQs received as a result of this RFQ.
- Waive or decline to waive any informality and any irregularities in any proposal or responses received.
- Negotiate changes in the Scope of Work or services to be provided.
- Withhold the award of contract(s).
- Select Proposer(s) it deems to be most qualified to fulfill the needs of the City.
- Terminate the RFQ process.

CERTIFICATION and ACKNOWLEDGMENT

The undersigned affirms that they are duly authorized to submit this Proposal, that this Proposal has not been prepared in collusion with any other Respondent, and that the contents of this Proposal have not been communicated to any other Respondent prior to the official opening. To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Respondent certifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of the Agreement.

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Bid Address: _____

P.O. Box or Street City State Zip

Order Address: _____

P.O. Box or Street City State Zip

Remit Address: _____

P.O. Box or Street City State Zip

Federal Tax ID No.: _____

DUNS No.: _____

Date: _____

EXHIBIT A
STANDARD FORM OF AGREEMENT

GENERAL SERVICE CONTRACT

This General Service Contract is by and between the **City of South Padre Island**, a Texas Home-Rule Municipal Corporation (the “City”), and **Insert Contractor** (the “Contractor”), for the following work: **Insert Description of Work** as described in the Scope of Services attached as **Exhibit “A”**.

ARTICLE I
PAYMENT AND TERM

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor’s completion of work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **XXXXXXX and XX/100 Dollars (\$00,000.00)**.

1.2 Payment Application. Within **seven (7)** calendar days of completion of the services the Contractor will submit its payment application to the City.

1.3 City’s Payment and Approval. The City will pay Contractor as shown in **Exhibit “B”** Payment Schedule, for the services performed no later than **thirty (30)** calendar days from the date of the City's receipt of the payment application and the City’s approval of the services.

1.4 Time is of the Essence. The Contractor must complete all the services described in the Scope of Services by the following date: .

OR

1.4

1.5 Executed Contract. The “Notice to Proceed” will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

ARTICLE II
CHANGE ORDERS

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf

of the City or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

(a) City Manager Approval. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

(b) City Council Approval. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work.

(c) Increase in Scope. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in Article II of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.

(d) Dispute. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

ARTICLE III INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance, but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

3.2 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments

due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

ARTICLE IV INSURANCE

4.1 The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2 The Contractor's insurance shall list the City of South Padre Island, its officers, agents, volunteers, and employees as additional insureds. The Required Limits of Insurance are attached in **Exhibit "C"**. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "D"**.

ARTICLE V INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

ARTICLE VI GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services described in the Scope of Services in a professional manner and be fully qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing and the Contractor shall cease work immediately. Contractor shall be compensated for the services performed. Should the City terminate this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred before the date of termination.

6.3 Venue. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Cameron County, Texas.

6.4 Amendment. This Contract may only be amended by written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

6.6 Compliance with Laws. The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA.

6.7 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

6.8 Assignment. This Contract and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of City.

6.9 Invalid Provisions. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid

or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.10 Entire Agreement. This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

6.11 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.12 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.13 Notice. Any official notice under this Contract will be sent to the following addresses:

City of South Padre Island
Attn: City Manager
4601 Padre Blvd.
South Padre Island, TX 78597
Email@MySPI.gov

CONTRACTOR
Attn: {NAME}
{Address}
{City, State, Zip}
Email@contractor.com

6.14 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Contract as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Contract or by reform by a court of competent jurisdiction.

6.15 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.16 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

List of Exhibits

- A. Scope of Services
- B. Payment Schedule
- C. Insurance Requirements
- D. Certificates of Insurance

[NAME OF CONTRACTOR]

CITY OF SOUTH PADRE ISLAND

By: _____

By: _____

Printed Name: _____

Mayor

Date: _____

Title: _____

APPROVED:

Date: _____

City Manager

Date: _____

City Attorney

Date: _____

EXHIBIT A
SCOPE OF SERVICES

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

**EXHIBIT B
PAYMENT SCHEDULE**

The Contractor must submit *monthly* invoices to the City, accompanied by an explanation of charges, fees, services, and expenses. The City will pay such invoices in compliance with the Texas Prompt Payment Act.

-OR-

Payment is a fixed fee in the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Schedule of Payment for each phase:

EXHIBIT C
INSURANCE REQUIREMENTS

Throughout the term of this Agreement the Contractor must comply with the following:

I. Standard Insurance Policies Required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Workers' Compensation

II. General Requirements Applicable to All Policies:

- A. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent
- B. Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City's Representative at the time of execution of this Agreement; shall be attached to this Agreement as Exhibit D; and shall be approved by the City before work begins
- C. Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be listed on the Certificate of Insurance and are acceptable on a per-occurrence basis only
- D. The City will accept only Insurance Carriers licensed and authorized to do business in the State of Texas
- E. The City will not accept "claims made" policies
- F. Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City

III. Commercial General Liability

- A. General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- C. Limits of liability must be equal to or greater than \$1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000. Limits shall be endorsed to be per project.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- E. The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity

provided herein) Host Liquor Liability, and Personal & Advertising Liability.

IV. Business Automobile Liability

- A.** Business Automobile Liability insurance shall be written by a carrier rated “A:VIII” or better rating under the current A. M. Best Key Rating Guide.
- B.** Policies shall contain an endorsement naming the City as Additional Insured and further providing “primary and non-contributory” language with regard to self-insurance or any insurance the City may have or obtain
- C.** Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- D.** The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- E.** The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

V. Workers’ Compensation Insurance

- A.** Workers compensation insurance shall include the following terms:
 - 1.** Employer’s Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
 - 2.** “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04” shall be included in this policy
 - 3.** TEXAS must appear in Item 3A of the Workers’ Compensation coverage or Item 3C must contain the following: “All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY”

EXHIBIT D
CERTIFICATES OF INSURANCE