

**MASTER SERVICES AGREEMENT
BETWEEN THE
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS,
AND
AECOM TECHNICAL SERVICES, INC.
FOR
PROFESSIONAL ENGINEERING SERVICES
ON A
SERVICE ORDER BASIS**



PORTCORPUSCHRISTI

MASTER SERVICES AGREEMENT NO. 18-13

EFFECTIVE DATE MAY 2018

TABLE OF CONTENTS

ARTICLE 1..... 1

DEFINITIONS AND INTERPRETATION..... 1

Section 1.01 Certain Definitions.....1

Section 1.02 Terminology and Interpretation7

ARTICLE 2..... 8

SERVICES OF ENGINEER AND REPORTS 8

Section 2.01 Scope of Services8

Section 2.02 Service Order Procedure8

Section 2.03 Times for Rendering Services.....8

Section 2.04 PCCA Project Manual.....9

Section 2.05 No Guaranteed Amount of Services9

Section 2.06 Progress Reports.....9

ARTICLE 3..... 10

Section 3.01 Changes to Service Orders Requested by PCCA.....10

Section 3.02 Changes to Service Orders Requested by Engineer10

Section 3.03 Replacement of Personnel.....10

ARTICLE 4..... 10

PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES 10

Section 4.01 Methods of Compensation11

Section 4.02 Explanation of Compensation Methods11

Section 4.03 Standard Hourly Rates for Service Orders12

Section 4.04 Reimbursable Expenses13

Section 4.05 Invoice Procedure and Payment14

ARTICLE 5..... 14

Section 5.01 PCCA’s Responsibilities14

Section 5.02 Standards of Performance.....16

Section 5.03 Design without Construction Phase Services18

Section 5.04 Inspection and Acceptance.....18

ARTICLE 6..... 18

Section 6.01 *Term* 18
Section 6.02 *Renewal* 18
Section 6.03 *Termination* 18
Section 6.04 *Suspension* 19

ARTICLE 7 19

OPINIONS OF COST 19

Section 7.01 *Opinions of Probable Construction Cost* 19
 Section 7.02 *Opinions of Total Project Costs* 20
 Section 7.03 *Designing to Construction Cost Limit* 20

ARTICLE 8 21

REPRESENTATIVES AND MANAGERS 21

Section 8.01 *Contract Representatives* 21
 Section 8.02 *Designated Project Managers* 21
 Section 8.03 *Resident Project Representative* 22

ARTICLE 9 22

NOTICES 22

Section 9.01 *Notices* 22

ARTICLE 10 22

DOCUMENTS 22

Section 10.01 *Use of Documents* 22
 Section 10.02 *Records Retention* 23

ARTICLE 11 24

INSURANCE 24

Section 11.01 *Standard Insurance Policy Requirements* 24
 Section 11.02 *Additional Insurance Policies Required for Certain Work* 25
 Section 11.03 *General Insurance Requirements* 25

ARTICLE 12 25

RELEASE, INDEMNIFICATION AND MUTUAL WAIVER 25

Section 12.01 Release by Engineer.....26
Section 12.02 Indemnification by Engineer.....26
Section 12.03 Percentage Share of Negligence.....26
Section 12.04 Mutual Waiver26

ARTICLE 13..... 26

DISPUTE RESOLUTION..... 26

ARTICLE 14..... 27

GENERAL PROVISIONS 27

Section 14.01 Severability.....27
Section 14.02 No Waiver.....27
Section 14.03 Applicable Law27
Section 14.04 Agreement and Service Orders Control28
Section 14.05 Amendment of Agreement.....28
Section 14.06 Assignment.....28
Section 14.07 No Third-Party Beneficiaries.....28
Section 14.08 Force Majeure28
Section 14.09 Public Disclosure.....28
Section 14.10 Confidentiality29
Section 14.11 Certificate of Interested Parties.....29
Section 14.12 Engineer’s Certificate29
Section 14.13 No Organizational Conflict of Interest.....29
Section 14.14 Defamation.....30
Section 14.15 Parties Bound30
Section 14.16 Attorneys’ Fees; Default30

ARTICLE 15..... 30

EXHIBITS 30

Section 15.01 Suggested Form of Service Order30
Section 15.02 Exhibits Included.....30

ATTACHMENT ONE 1

SUGGESTED FORM OF SERVICE ORDER1
A1.01 Study and Report Phase Services.....1

A1.02 Preliminary Design Phase 3

EXHIBIT B **1**

Standard Hourly Rates Schedule 1

EXHIBIT C **1**

Reimbursable Expenses Schedule 1

 1

EXHIBIT D **1**

EXHIBIT E **1**

NOTICE OF ACCEPTABILITY OF WORK 1

EXHIBIT F **1**

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 18-13
FOR PROFESSIONAL ENGINEERING SERVICES**

THIS MASTER SERVICES AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES (“**Agreement**”) is made effective as of the 15th day of May 2018 (“**Effective Date**”) between the Port of Corpus Christi Authority of Nueces County, Texas, (“**PCCA**”) and AECOM Technical Services, Inc. (“**Engineer**”), each a “**Party**” and collectively the “**Parties**”.

RECITALS

(a) From time to time PCCA may request that the Engineer provide professional services for Specific Projects. Each engagement will be documented by a Service Order.

(b) This Agreement sets forth the general terms and conditions which shall apply to all Service Orders duly executed under this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

Section 1.01 Certain Definitions

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below shall have the meanings set forth in this Section, which are applicable to both the singular and plural thereof:

1. *Addenda.* Written or graphic instruments issued prior to the opening of Bids that clarify, correct, or change the Bid Documents or the proposed Construction Contract Documents.
2. *Agreement.* This “Master Services Agreement between PCCA and Engineer for Professional Engineering Services,” including all Attachments and Exhibits attached hereto.
3. *Bid.* The offer or proposal of the bidder submitted on the PCCA-prescribed form setting forth the prices and schedule for the Work to be performed.
4. *Bid Documents.* The notice or invitation to submit bids or proposals for construction of a Specific Project, including the instructions to bidders, the Bid form and attachments, the bid bond, if any, the Construction Contract Documents, and all Addenda, if any.

5. *Business Day.* means any day other than Saturday or Sunday or any other day on which banks in Texas are permitted or required to be closed.
6. *Change Order.* A document which is signed by a Contractor and PCCA and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal.* A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Ceiling Price.* The maximum amount PCCA will pay for the Work or phases of Work described in a Service Order.
9. *Commencement Date of a Service Order.* The date indicated in a Service Order on which the Service Order becomes effective; but if no such date is indicated, it means the date on which this Service Order is signed and delivered by the last of the two Parties to sign and deliver.
10. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes 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 federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
11. *Construction Contract.* The entire and integrated written contract between PCCA and Contractor concerning the Work.
12. *Construction Contract Documents.* The documents described in the Construction Contract as the “Contract Documents.”

13. *Construction Contract Price*—The money that PCCA has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
14. *Construction Contract Times*—The numbers of days or the dates by which a Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion, and (c) complete the Work.
15. *Construction Cost*. The cost to PCCA of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Service Order, including construction labor, services, materials, testing, equipment, insurance, and bonding costs, and allowances for contingencies. The Construction Cost does not include costs of Services of Engineer or other design professionals and Consultants; costs of land, rights-of-way, or compensation for damages to properties; or PCCA’s costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project; or the cost of services to be provided to PCCA by others. Construction Cost is one of the items comprising Total Project Costs.
16. *Constructor*. Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, PCCA’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.
17. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
18. *Contractor*. The individual or entity with which PCCA enters into a Construction Contract.
19. *Correction Period*. The time after Substantial Completion during which Contractor must correct, at no cost to PCCA, any Defective Work; normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Construction Contract Documents.
20. *Day*. For purposes of this Agreement and associated Service Orders, the term “day” means a calendar day of 24 hours.
21. *Defective Work*. Any part of the Work the Engineer or the RPR believes is defective under the terms and standards set forth in the Construction Contract Documents.

22. *Documents.* Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, generated, provided or furnished in appropriate phases by Engineer to PCCA pursuant to this Agreement and any attached Service Orders.
23. *Drawings.* That part of the Construction Contract Documents prepared or approved by Engineer that graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop drawings are not Drawings as so defined.
24. *Effective Date.* The date indicated in this Agreement on which it becomes effective; but if no such date is indicated, it means the date on which this Agreement is signed and delivered by the last of the two Parties to sign and deliver it.
25. *Engineer.* The individual or entity named as such in this Agreement.
26. *Engineer's Contract Representative.* The Engineer's Contract Representative is the person appointed to represent the Engineer's interests in this Agreement as more particularly described in Section 8.01(B).
27. *Field Order.* A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
28. *Final Acceptance.* That point in a Specific Project wherein PCCA considers the Project complete and PCCA issues a Certificate of Final Acceptance.
29. *General Conditions.* That part of the Construction Contract Documents that sets forth the terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to a Specific Project.
30. *Hourly Rates Service Order.* A Service Order under which PCCA agrees to pay Engineer based on the amount of time spent by the Engineer's employees in performing the Work described in the Service Order and for the Reimbursable Expenses incurred by Engineer in performing the services, but limited to the Ceiling Price specified in the Service Order.
31. *Laws and Regulations; Laws or Regulations.* Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
32. *Lump Sum Service Order.* A Service Order under which PCCA agrees to pay Engineer a specified agreed amount for the services described in the Service Order regardless of the number hours it takes to complete the work.
33. *Named Reimbursable Expenses.* Only the Reimbursable Expenses expressly listed, if any, in a Lump Sum Service Order.

34. *PCCA's Contract Representative.* PCCA's Contract Representative is the person appointed to represent PCCA's interests in this Agreement as more particularly described in Section 8.01(A).
35. *PCCA Parties.* PCCA and its agents, servants, representatives, employees, officers, directors, and Port Commissioners.
36. *Proposal.* Document representing technical qualifications, approach to specific work, and costs associated with construction of a Specific Project or project specific services.
37. *Record Drawings.* Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction and to depict the final state of work.
38. *Reimbursable Expenses.* The expenses incurred directly by Engineer in connection with performing or furnishing Services for a Specific Project for which PCCA will pay Engineer as indicated in the Service Order and **Exhibit C**.
39. *Resident Project Representative.* The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "**RPR**" includes any assistants or field staff of the RPR.
40. *Samples.* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
41. *Scope of Services.* The scope of the professional engineering services to be provided by Engineer for any Specific Project as outlined in the Service Order for that Project.
42. *Services.* The professional engineering services to be provided by Engineer under any Service Order.
43. *Service Order.* A document in the form of **Attachment One** executed by PCCA and Engineer pursuant to this Agreement, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services, deliverables, and other relevant information for a Specific Project.
44. *Shop Drawings.* All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to PCCA or Engineer to illustrate some portion of the Work.

Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

45. *Site.* Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by PCCA upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by PCCA which are designated for use of a Contractor for the construction of a Specific Project.
46. *Specific Project.* The total specific undertaking to be accomplished for PCCA by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Service Order are a part.
47. *Specifications.* That part of the Construction Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
48. *Standard Hourly Rates.* The Standard Hourly Rates listed in Engineer's Standard Hourly Rates Schedule attached hereto as **Exhibit B**.
49. *Subcontractor.* An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
50. *Substantial Completion.* The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of PCCA or Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
51. *Special Conditions.* That part of the Construction Contract Documents which amends or supplements the General Conditions.
52. *Term or Term of this Agreement.* The Term of this Agreement is the period from the Effective Date until the date on which this Agreement expires or is terminated in accordance with the provisions of this Agreement.
53. *Total Project Costs.* The total cost of planning, permitting, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or PCCA's costs

for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to PCCA.

54. *Work.* The entire construction or the various separately identifiable parts thereof required to be provided by Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, equipment, materials, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
55. *Work Change Directive.* A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by PCCA and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Capitalized terms in this Agreement which are not defined in Section 1.01 are defined in the text of this Agreement the first time they occur.

Section 1.02 Terminology and Interpretation

A. The terms defined in Section 1.01 or in the text of this Agreement shall apply throughout this Agreement. All references in this Agreement to “Section” or “Article” shall refer to a section or article of this Agreement, unless otherwise expressly stated. All references in this Agreement to “Paragraph” shall refer to a paragraph of a Service Order or a paragraph of an Exhibit to this Agreement, unless otherwise expressly stated. All references to “Exhibits” shall mean the exhibits attached to this Agreement. All such Exhibits and any other attachments to this Agreement are incorporated in this Agreement by this reference. All references to herein, hereof, hereto, hereunder or similar terms shall be deemed to refer to this Agreement in its entirety. As used in this Agreement, the term “including” shall mean “including but not limited to.” The headings of Articles and Sections in this Agreement and the headings of Paragraphs in the Service Order and the Exhibits to this Agreement shall be for convenience only and shall not affect the interpretation hereof.

B Words used in the singular number shall include the plural, and vice-versa, and any gender shall be deemed to include each other gender. Reference to any agreement means such agreement as amended or modified and in effect from time to time in accordance with the terms thereof.

C. Unless otherwise indicated, for purposes of this Agreement, a period of days shall be deemed to begin on the first day after the event that began the period and to end at 5:00 p.m. on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m. on the next Business Day. All references to time herein are to time in Corpus Christi, Texas.

**ARTICLE 2
SERVICES OF ENGINEER AND REPORTS**

Section 2.01 Scope of Services

A. Engineer's Services will be detailed in a duly executed Service Order for each Specific Project. The general format of a Service Order is shown in **Attachment One** to this Agreement. This Agreement shall be referred to in any Service Order issued pursuant hereto as "Master Services Agreement No. 18-13." Each Service Order will indicate the specific services to be performed, deliverables to be provided, schedule and specific compensation terms.

B. Engineer shall not be obligated to perform work under a prospective Service Order unless and until PCCA and Engineer agree as to the particulars of the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters and the specific Service Order is executed by both parties.

Section 2.02 Service Order Procedure

A. PCCA and Engineer shall agree on the scope, time for performance, and method of compensation for each Service Order. With respect to the scope of Engineer's services, each specific Service Order shall either (1) be accompanied by and incorporate a customized **Exhibit A**, "Engineer's Services for Service Order," prepared for the Specific Project, (2) state the scope of services in the Service Order document itself, or (3) incorporate by reference all or portions of **Exhibit A**, "Engineer's Services for Service Order," as attached to this Agreement. Each duly executed Service Order shall be subject to the terms and conditions of this Master Services Agreement, unless specifically modified within the Service Order.

B. Engineer shall provide, or cause to be provided, the services set forth in the fully executed Service Order.

Section 2.03 Times for Rendering Services

A. Engineer is not authorized to begin work or to incur costs under a Service Order until the time set forth in the Service Order.

B. The Commencement Date of each Service Order and the times for completing services or providing deliverables will be stated in each Service Order. Engineer is authorized to begin rendering services under a Service Order as of the Commencement Date of the Service Order unless otherwise specified in the Service Order.

C. Unless specific periods of time or specific dates for providing Services are specified in a Service Order, Engineer's obligation to render Services hereunder will be for a period which may reasonably be required for the completion of the Services.

D. If PCCA has requested changes in the scope, extent, or character of the Specific Project, the time of performance and completion of Engineer's Services may be adjusted equitably as agreed by the Parties.

E. If, through no fault of Engineer, the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for performance and completion of Engineer's services shall be adjusted equitably.

Section 2.04 PCCA Project Manual

In addition to the terms and conditions set forth herein and in associated Service Orders, the Engineer will perform Services in accordance with the latest version of the PCCA Project Manual issued prior to the date of the Service Order.

Section 2.05 No Guaranteed Amount of Services

Services pursuant to this Agreement will be required on an irregular and as needed basis during the Term of this Agreement, and PCCA has not made nor does it make any representation of any kind or guarantee regarding the amount of services PCCA will require from Engineer under this Agreement.

Section 2.06 Progress Reports

A. Unless otherwise provided in a Service Order, Engineer will provide PCCA with a monthly progress report ("**Monthly Progress Report**") on the services being performed or furnished by Engineer under each Service Order. At a minimum, the report shall cover the following items:

1. The percentage of Work performed during the previous month.
2. The total percentage of the Specific Project completed.
3. Significant findings, problems, delays, inclusions, events, trends, etc. of the reporting period which result from or affect the performance of the Construction Contract.
4. Specific actions required of PCCA, to assist in the resolution of a problem or to affect the timely progression of the Work
5. The percentage of the Service Order budget expended during the reporting period and total expended to-date.
6. A statement that Services are on schedule, or an explanation of variance and proposed corrective actions.

B. The Monthly Progress Report for each Specific Project shall be delivered to the PCCA Project Manager within ten working days following the end of the month being reported.

**ARTICLE 3
CHANGES TO SERVICE ORDERS AND PERSONNEL**

Section 3.01 Changes to Service Orders Requested by PCCA

PCCA may change the Scope of Services set forth in a Service Order, by sending written notice to Engineer. Should Engineer believe that such changes require an equitable adjustment in Engineer's agreed compensation and/or schedule for the Services or other terms of the Services, Engineer shall notify PCCA in writing of its request for such adjustments no later than fourteen (14) calendar days following its receipt of such requested changes from PCCA. Except as otherwise instructed in writing by PCCA, Engineer shall not commence the changed Services until PCCA and Engineer have mutually accepted Engineer's timely requested adjustments, if any, to its compensation or schedule for its Services or other terms of the Services and a written amendment to Service Order is executed by the Parties.

Section 3.02 Changes to Service Orders Requested by Engineer

Should an event or condition occur after the initiation of a Service Order, that in the opinion of the Engineer, will result in a change in scope, schedule and/or budget, the Engineer will provide timely written notice to PCCA stating: the nature of the event or condition; detailing the impact on scope, schedule and/or, budget; and providing the Engineer's recommendation or request for modification of the affected Service Order. Such notice will be provided upon recognition of the event or condition and prior to the completion of the services stated in the Service Order. PCCA will not consider a request for an increase in the Ceiling Price of a Service Order that is submitted after completion of the services stated in the Service Order, if PCCA determines, in its sole discretion, that the event or condition cited as the cause for the increase in the Ceiling Price was, or could reasonably have been, known in time to submit a change request prior to completion of the services stated in the Service Order. PCCA will review the Engineer's recommendation or request and provide a written response agreeing with the requested recommendation or request or not accepting said recommendation or request. Any changes or modification to the scope, schedule and/or budget will be detailed in a written modification to the Service Order. No changes to the Services shall be made by Engineer except with PCCA's prior written agreement.

Section 3.03 Replacement of Personnel

PCCA, in its sole discretion, shall have the right to demand that Engineer replace any personnel providing Services to PCCA under the terms of a Service Order. Upon receipt of PCCA's demand, Engineer will immediately replace the specified personnel with personnel substantially equal in ability and qualifications. The criteria for demanding replacement of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position qualifications, failure to perform an assignment, poor attendance, ethics violation, unsafe work habits, damage to PCCA property, or reasonable PCCA dissatisfaction.

**ARTICLE 4
PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**

Section 4.01 Methods of Compensation

A. The method of compensation for Services (including, if applicable, the method of compensation for individual phases of Services) shall be identified in each specific Service Order. PCCA shall pay Engineer for Services in accordance with the applicable method of compensation.

B. The method of compensation for services under a Service Order will be specified in that Service Order. The possible methods of compensation are as follows:

1. Lump Sum plus Named Reimbursable Expenses, if any;
2. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

Section 4.02 Explanation of Compensation Methods

A. Lump Sum plus Named Reimbursable Expenses

1. PCCA shall pay Engineer a Lump Sum amount for the specified services or category of services stated in a Service Order regardless of the amount of time it takes to complete the services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges. In other words, Engineer will only be reimbursed for the Named Reimbursable Expenses (see Section 4.02(A)(3)).
3. In addition to the Lump Sum, Engineer shall also be entitled to reimbursement from PCCA for the Named Reimbursable Expenses explicitly listed in the Service Order, if any, that are reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services (see **Exhibit C** for rates or charges for these specific expenses).
4. Progress payments may be allowed in a Lump Sum Service Order. If so, the portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period, subject to acceptance and approval of PCCA.

B. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price

1. For the specified services or category of services, the PCCA shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times the Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement from PCCA for the Reimbursable Expenses identified in **Exhibit C**, as the same may be modified in the individual Service Order. But the total amount payable to

Engineer for the services rendered under the Service Order plus the Reimbursable Expenses shall not exceed the Ceiling Price stated in the Service Order.

2. The Ceiling Price will be stated in the Service Order. It may be called the Ceiling Price or the “Not-to-Exceed Amount.”
3. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
4. Each Standard Hourly Rates Schedule attached hereto as **Exhibit B** shall remain in effect until changed in accordance with Section 4.03.
5. The Reimbursable Expenses Schedule attached hereto as **Exhibit C** shall remain in effect for the Term of this Agreement.
6. The total estimated compensation for the specified category of services shall be stated in the Service Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and Reimbursable Expenses (including Consultants' charges, if any).
7. The amounts billed by Engineer will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses (including Consultant's charges, if any), but PCCA shall not be required to pay more than the Ceiling Price stated in the applicable Service Order without a duly executed amendment to the Service Order.
8. For Service Orders that included definable deliverables to be provided to the PCCA, Engineer will continue to prosecute work necessary to provide those deliverables even when the Ceiling Price has been reached, at no additional cost to PCCA unless the parties agree in writing to modify the Ceiling Price.
9. Where no definable deliverable exists, the Engineer's services will terminate when the Ceiling Price is reached.

Section 4.03 Standard Hourly Rates for Service Orders

A. Engineer's Standard Hourly Rates Schedule are in **Exhibit B**. Engineer hereby certifies by its execution of this Agreement that the hourly rates in **Exhibit B** for each class of Engineer's employees are less than or equal to the lowest hourly rates Engineer is currently charging any of its other clients. Engineer agrees that if during the Term of this Agreement it charges any of its clients lower hourly rates than the rates in **Exhibit B**, then Engineer shall charge PCCA such lower hourly rate or rates for the services under any Service Order, current or future, for the remainder of the Term of this Agreement and such lower hourly rate or rates will be standard for the remaining Term of this Agreement.

B. The Engineer may adjust its Standard Hourly Rates as of the first day of each calendar year during the Term of this Agreement by submitting to PCCA a new **Exhibit B** with Engineer's new

Standard Hourly Rates on or before January 15th of such calendar year; provided, however, that the new Standard Hourly Rate for each class of Engineer's employees may not be more than five percent (5%) higher than previous Standard Hourly Rates for that class. The new Standard Hourly Rates will apply to all services performed by each class of Engineer's employees on and after the effective date of such new rates, but these adjustments will not affect the Ceiling Prices stated in the Service Orders executed under this Agreement.

C. Generally, the compensation method specified in a Service Order executed under this Agreement will be Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price. PCCA reserves the right, however, to issue Lump Sum Services Orders when they are deemed to be in the best interest of PCCA

Section 4.04 Reimbursable Expenses

A. Under the Lump Sum method of compensation to Engineer, unless expressly indicated otherwise, the following categories of expenses are included in the Lump Sum amount: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Consultant charges. **These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in the specific Service Order.**

B. Expenses eligible for reimbursement under the Standard Hourly Rates method of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services under a specific Service Order: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; Consultant charges; and any other expenses identified in **Exhibit C**. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges shall be the amount billed by such Consultants to Engineer times a factor of one hundred five percent (105%). In other words, the markup for Consultant services shall be five percent (5%).

C. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found on the Defense Travel Management Office's website. Engineer shall submit proper documentation of any such approved travel expenses to PCCA from time to time, and such costs and expenses shall be billed to PCCA at Engineer's actual cost.

Section 4.05 Invoice Procedure and Payment

A. Engineer shall submit invoices monthly to PCCA for work performed during the preceding calendar month. Such invoices shall be due and payable by PCCA within thirty (30) days after receipt and acceptance of the invoice by PCCA. Monthly compensation will be for the Services actually performed during the billing period, invoiced in accordance with the prices in the Fee Schedules. On a Lump Sum Service Order, monthly billing will be based on the percentage of work completed. Invoices shall also describe any work performed by subcontractors retained by Engineer and Reimbursable Expenses. Engineer will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At PCCA's request, Engineer will provide additional backup such as signed time sheets, invoices for materials and subcontracted service or other documentation sufficient to establish the accuracy of the invoices. Invoices are to be submitted in a format previously approved by PCCA. The Engineer's fees will cover all of Engineer's overhead costs, including office rent, long distance telephone charges, postage, and payroll.

B. Engineer will provide written notice to PCCA when the sum of previous payments and a current invoice meet or exceed 70% of the approved Ceiling Price of a Service Order. Engineer will include a statement that the remaining budget will be sufficient to complete the services, or provide an estimate of cost to complete, an explanation of the need for additional funding, and a request for a modification to the Service Order.

**ARTICLE 5
RESPONSIBILITIES AND STANDARDS OF PERFORMANCE**

Section 5.01 PCCA's Responsibilities

A. PCCA shall pay Engineer as set forth in each Service Order and Article 4.

B. PCCA shall be responsible for the requirements and instructions that it furnishes to the Engineer pursuant to this Agreement, and for the accuracy and completeness of the programs, reports, data, and other information furnished by PCCA to Engineer pursuant to this Agreement or any Service Order for use of Engineer in performing or furnishing services under any Service Order, subject to any express limitations or reservations applicable to the furnished items

C. PCCA shall give prompt written notice to Engineer whenever PCCA observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of a Specific Project of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work or the performance of any Constructor or consultant managed by the Engineer.

D. PCCA shall:

1. Provide Engineer with criteria and information as to PCCA's requirements for each Specific Project, including design objectives and constraints, space, capacity and

performance requirements, flexibility, and expandability, and any budgetary limitations.

2. Furnish Engineer with copies of design and construction standards that PCCA will require to be included in the Drawings and Specifications; and furnish copies of PCCA's standard forms, conditions, and related documents to be included in the Bid Documents and Construction Documents, as applicable.
3. Following the Engineer's assessment of initially available Specific Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Services, unless the Service Order requires Engineer to obtain this information from other sources. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land-use restrictions.
 - c. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - d. Explorations and tests of subsurface conditions at the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at the Site, or hydrographic surveys with appropriate professional interpretation thereof.
 - e. Environmental assessments, audits, investigations, impact statements, and other environmental or cultural studies relevant to the Specific Project and the Site.
 - f. Data or consultations as required for the Specific Project but not otherwise identified in this Agreement or the Exhibits thereto.
4. Arrange for access to and make provisions for Engineer to enter upon PCCA property as required for Engineer to perform Services under the Service Order.
5. Examine alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents required by the terms of the Service Order which are presented by the Engineer and render, in writing, timely decisions pertaining thereto.
6. Provide reviews, approvals, and permits from governmental authorities having jurisdiction to approve phases of the Specific Project designed or specified by Engineer, and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project, unless the Service Order requires Engineer to obtain these reviews, approvals, or consents from other sources.

7. Place and pay for advertisement of Bids in appropriate publications, as required, for a Specific Project.
8. Advise Engineer of the identity and scope of services of any independent consultants employed by PCCA to perform or furnish Services in regard to the Project, including cost estimating, project peer review, value engineering, and constructability review unless such Services are related to an issue under legal review or are included in the Engineer's Scope of Services.
9. Furnish to Engineer data as to PCCA's anticipated costs for Services to be provided by others for PCCA so that Engineer may make the necessary calculations to develop and periodically adjust Engineer's opinion of Total Project Costs as required by a specific Service Order.

Section 5.02 Standards of Performance

A. *Standard of Care:* Engineer shall perform the professional engineering and related services required by each Service Order issued under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

B. *Technical Accuracy:* PCCA shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in PCCA-furnished information or an identifiable and documented change in conditions or circumstances impacting the Engineer's work.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by PCCA.

D. *Reliance on Others:* Subject to the standard of care set forth in Section 5.02(A), Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Compliance with Laws and Regulations, and Policies and Procedures

1. Engineer and PCCA shall comply with applicable Laws and Regulations.
2. Engineer shall comply with the policies, procedures, and instructions of PCCA that are applicable to Engineer's performance of services under this Agreement and that PCCA provides to Engineer in writing, subject to the standard of care set forth in Section 5.02(A), and to the extent compliance is not inconsistent with professional practice requirements.

3. Each Service Order is based on Laws and Regulations and PCCA-provided written policies and procedures as of the Commencement Date of the Service Order. The following may be the basis for modifications to PCCA's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Commencement Date of the Service Order to Laws and Regulations; or
 - b. the receipt by Engineer after the Commencement Date of the Service Order of PCCA-provided written policies and procedures or changes to PCCA-provided policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. PCCA agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site of a Specific Project, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and PCCA's safety programs of which Engineer has been informed in writing.

Section 5.03 Design without Construction Phase Services

It is understood and agreed that if Engineer's Services under this Agreement do not include Project observation, review of Contractor's performance, or any other construction phase services, and that such services will be provided by PCCA, then PCCA assumes responsibility for interpretation of the Construction Contract Documents and for construction observation or review except where such interpretation is attributable to the design are an obvious design error or omission and requires correction by the Engineer of record.

Section 5.04 Inspection and Acceptance

Deliverables and/or services furnished under this Agreement shall be subject to review and inspection and, as applicable, test by PCCA at times and places covered under the period of performance for Services and the applicable Service Order. PCCA reserves the right to reject deliverables which do not conform to the Specifications, Drawings, and/or other data or which do not comply with the terms and conditions of this Agreement and individual Service Orders. If rejected after delivery, rejected deliverables will be returned to Engineer at Engineer's risk and expense. Payment for any Services or deliverables shall not be deemed acceptance thereof, and if such Services or deliverables are rejected after payment, PCCA shall be entitled to an equitable refund. Additional or varying acceptance terms may be mutually agreed under individual Service Orders.

**ARTICLE 6
TERM, RENEWAL, SUSPENSION OR TERMINATION**

Section 6.01 Term

A. This Agreement shall be effective and applicable to Service Orders issued hereunder for three (3) years from the Effective Date of this Agreement.

Section 6.02 Renewal

A. The Parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term, provided the terms and conditions, including insurance coverages, hourly and reimbursable rates and other particulars remain unchanged.

Section 6.03 Termination

A. PCCA may terminate a Service Order or this Agreement for convenience with seven (7) days prior written notice to Engineer of such action. Upon termination of this Agreement in accordance with this paragraph, PCCA will have no further obligation to the Engineer hereunder except to pay the Engineer unpaid fees and expenses which the Engineer can reasonably show to have been earned under this Agreement. **Under no circumstances may Engineer claim or recover consequential damages from PCCA.**

B. Either Party may terminate this Agreement by giving written notice to the other Party if the other Party (“**Defaulting Party**”): (a) materially breaches any term, condition or provision of this Agreement and fails to cure the breach to the satisfaction of the notifying Party within ten (10) days after the Defaulting Party receives a written notice of the breach from the notifying Party, or (b) becomes the subject of any proceedings under state or federal law for the relief of debtors or otherwise becomes insolvent, or bankrupt, or makes any assignments for the benefit of one or more creditors.

Section 6.04 Suspension

A. PCCA may suspend a Service Order for convenience with seven (7) days prior written notice to Engineer of such action.

B. If PCCA fails to give prompt written authorization to proceed with any phase of Services after completion of the immediately preceding phase, or if Engineer’s Services are delayed through no fault of Engineer, Engineer may, after giving seven (7) days written notice to PCCA, suspend Services under this Agreement.

C. PCCA may, upon written notice to the Engineer, suspend work on a Service Order until such time that PCCA determines that it is in the best interest of PCCA to resume the work or to terminate the Service Order.

D. In the event of suspension of Services, the Engineer shall resume the full performance of the Services when directed in writing to do so by PCCA. Suspension of the Services for reasons other than the Engineer’s negligence or failure to perform shall not affect the Engineer’s compensation as provided for in this Agreement. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to the Service Order in progress to reflect the suspension.

E. If Engineer’s Services are delayed or suspended in whole or in part by PCCA for more than ninety (90) days after the date of the beginning of the delay or suspension through no fault of Engineer, Engineer may be entitled to an equitable adjustment of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by Engineer in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised, to the extent that the Engineer can demonstrate that an actual increase in cost has been incurred and is equitable and compensable.

ARTICLE 7 OPINIONS OF COST

Section 7.01 Opinions of Probable Construction Cost

A. Engineer’s opinions (if any) of probable Construction Cost are to be made on the basis of Engineer’s experience and qualifications and represent Engineer’s judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor’s methods of determining prices, or over competitive bidding or market conditions, Engineer cannot

and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer.

B. PCCA reserves the right to request that the Engineer provide a written explanation of significant variations between the Engineer's opinion of probable Construction Cost and the actual Construction Cost.

Section 7.02 Opinions of Total Project Costs

A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the PCCA in tabulating the various categories that comprise Total Project Costs. Engineer's opinions (if any) of probable Total Project Costs are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that Total Project Costs will not vary from opinions of probable Total Project Costs prepared by Engineer.

Section 7.03 Designing to Construction Cost Limit

A. If a Construction Cost Limit for a Specific Project is established between PCCA and Engineer in a Service Order, then such Construction Cost Limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in the applicable Service Order.

B. If a Construction Cost Limit is set forth in a Service Order, then the Service Order will also specify a percentage bidding or negotiating contingency to be added to such Construction Cost Limit.

C. Should an opinion of Probable Construction Cost or a revised Opinion of Probable Construction Cost be provided by the Engineer during the execution of the Services that is in excess of the then established Construction Cost Limit, PCCA shall have the option of increasing the Construction Cost Limit, modifying the design criteria and Engineer's Scope of Services, or suspending or terminating the Service Order in accordance with terms herein. Alternately, PCCA may direct the Engineer to separate the work into a Base Bid with alternative or additive bid items that can be awarded at PCCA's discretion.

D. Engineer will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof, are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost Limit, subject to final approval and acceptance of PCCA. Engineer will present proposed changes in materials, equipment and component systems to PCCA for review and approval prior to incorporating such into the design.

E. If PCCA does not request Bids for a Project within six months after completion of the final design of the Project or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost Limit will not be binding on Engineer, and PCCA (i) may consent to an adjustment in such Construction Cost Limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the final design of the Project and the date on which Bids are requested, or (ii) may, at PCCA's sole discretion, terminate the Service Order in accordance with terms and conditions herein.

F. If the lowest *bona fide* Bid exceeds the established Construction Cost Limit, PCCA will: (1) give written approval to increase such Construction Cost Limit, (2) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices and re-advertise or re-bid the Project, or (3) provide direction to the Engineer to revise contract documents to include additive or alternative bid items or add such additive or alternative bid items and re-bid the project, or (4) elect not to award additive or alternative bid items to keep the Project within the Construction Cost Limit. In the case of (2), above, Engineer will modify the Drawings and Specifications as necessary to bring the Construction Cost within the Construction Cost Limit at no cost to PCCA, and the providing of such Services will be the limit of Engineer's responsibility in this regard; and, having done so, Engineer will not otherwise be liable for damages attributable to the lowest *bona fide* Bid exceeding the established Construction Cost Limit.

ARTICLE 8 REPRESENTATIVES AND MANAGERS

Section 8.01 Contract Representatives

A. PCCA shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of PCCA, coordinate with the Engineer and administer this Contract. It shall be the responsibility of the Engineer to coordinate all assignment-related activities under this Agreement with PCCA's Contract Representative. PCCA may change its Contract Representative at any time by giving the Engineer written notice of such change.

B. Engineer shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of Engineer, coordinate with PCCA and administer this Contract. The Engineer's Contract Representative and PCCA's Contract Representative will coordinate all assignment-related activities under this Agreement. Engineer may change its Contract Representative at any time by giving PCCA written notice of such change, provided the recommended replacement has similar qualification and experience as the original contract representative.

Section 8.02 Designated Project Managers

A. Contemporaneously with the execution of each Service Order, Engineer and PCCA will each designate a specific individual to act on its behalf as Project Manager with respect to the Services to be performed or furnished by Engineer and the responsibilities of PCCA under such Service Order.

The Project Managers for each Project will have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the Party appointing the Project Manager. Either Party may change that Party's designated Project Manager by giving the other Party written notice of the change as provided in Article 9.

Section 8.03 Resident Project Representative

A. The Service Order for a Specific Project shall state whether Engineer must furnish a Resident Project Representative (“**RPR**”) to assist Engineer in observing progress and quality of the Work on the Specific Project. The duties and responsibilities of the RPR, if any, will be as set forth in each Service Order.

**ARTICLE 9
NOTICES**

Section 9.01 Notices

A. All notices, demands or requests from Engineer to PCCA shall be given to PCCA's Contract Representative named on the signature page of this Agreement at (i) PCCA's address for notice provided on the signature page, or (ii) the facsimile number for PCCA's Contract Representative stated on the signature page, or to such other person, address or facsimile number as PCCA shall request in writing.

B. All payments, notices, demands or requests from PCCA to Engineer shall be given to Engineer's Contract Representative named on the signature page of this Agreement at (i) Engineer's address for notice provided on the signature page, or (ii) the facsimile number for Engineer's Contract Representative stated on the signature page, or to such other person, address or facsimile number as PCCA shall request in writing.

C. Notices required to be given to either Party may be given by certified first-class mail, by overnight delivery or by fax, to the appropriate Party at its address or fax number stated on the signature page of this Agreement. Notice may also be given by personal service. Any notice given by mail shall be deemed to have been given one day after such notice was deposited in the United States mail, certified and postage prepaid, properly addressed to the Contract Representative of the Party to be served. In all other cases, notice to a Party will be considered delivered when actually received by the Party's Contract Representative.

**ARTICLE 10
DOCUMENTS**

Section 10.01 Use of Documents

A. Upon payment of all fees owed for a Service Order, all Documents relative to that Service Order are the property of PCCA, including native files for each software package used.

B. Copies of PCCA-furnished data that may be used by Engineer are limited to the printed copies (also known as hard copies) that are delivered to Engineer by PCCA. Files in electronic media format of text, data, graphics, or of other types that are furnished by PCCA to the Engineer are only for convenience of Engineer. Any conclusion or information obtained or derived from such files, written or electronic, will be at the user's sole risk. Engineer will review documents provided by PCCA and determine applicability and usability of information. Engineer will request additional information as necessary.

C. Copies of Documents that may be relied upon by PCCA are limited to the printed copies (also known as hard copies) that are signed or sealed by Engineer. Files in electronic media format of text, data, graphics, or of other types that are furnished by Engineer to PCCA are only for convenience of PCCA. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Party receiving electronic files agrees that it will perform acceptance tests or procedures within 90 days, after which the receiving Party will be deemed to have accepted the data thus transferred. Any errors detected within the 90-day acceptance period will be corrected by the Party delivering the electronic files. Engineer is not responsible to maintain documents stored in electronic media format after acceptance by PCCA.

E. When transferring documents in electronic media format, neither PCCA nor Engineer make any representation to the other as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by PCCA or Engineer on the Effective Date.

F. Documents provided by Engineer are not intended or represented to be suitable for reuse by PCCA or others on extensions of the Project or on any other project. PCCA may, however, reuse such documents without any payment to Engineer. Any such reuse or modification without written verification or adaptation by Engineer, as appropriate for the specific purpose intended, will be at PCCA's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

Section 10.02 Records Retention

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Service Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Service Order. Upon PCCA's request, Engineer shall provide a copy of any such item to PCCA at cost.

**ARTICLE 11
INSURANCE**

Section 11.01 Standard Insurance Policy Requirements

A. Without limiting the indemnity obligations or liabilities of Engineer or its insurers, provided herein, Engineer agrees to carry and maintain at its sole expense during the Term of this Agreement the following policies of insurance (individually, a “*Policy*” and, collectively, the “*Policies*”) in at least the minimum amounts specified below.

B. At least five (5) days prior to execution of this Agreement by PCCA, Engineer will provide to PCCA’s Risk Program Manager certificates of insurance issued by each insurance company providing any of the required insurance coverage, and the text entered in each certificate must be acceptable to PCCA. The requirement to provide acceptable certificates of insurance is a material condition of this Agreement, and work under this Agreement and any associated Service Order may not commence until such certificates of insurance have been received, reviewed, and accepted by PCCA.

<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
1. Workers' Compensation	Statutory
2. Employer's Liability	\$1,00,000 per Occurrence \$1,00,000 Aggregate
3. Commercial General Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate
The CGL Policy will provide contractual liability coverage at the aforementioned limits.	
4. Business Automobile Liability	\$1,000,000 per Occurrence
Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.	
5. Professional Liability	\$2,000,000 per Claim and in the Aggregate
Engineer will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Agreement caused by any error, omission, or act for which the Engineer is legally liable. Policies written on a claims-made basis shall have an extended reporting period of at least two (2) years beyond termination of the Agreement.	
6. Umbrella Liability	\$5,000,000 per Occurrence

Umbrella liability coverage will apply to Employer's Liability, Commercial General Liability, and Business Automobile Liability.

Section 11.02 Additional Insurance Policies Required for Certain Work

A. Under certain circumstances, based on the scope and/or location of the services to be performed under a Service Order, the Service Order may require Engineer to carry and maintain some or all of the additional types of insurance policies described in this Section. If the Service Order for a Specific Project requires additional insurance, Engineer understands and agrees that it will not be allowed to commence any work under the Service Order until the additional insurance policies have been issued to the Company and the Company provides PCCA with appropriate Certificates of Insurance.

Section 11.03 General Insurance Requirements

A. Each Policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the PCCA Parties. Additionally, the PCCA Parties shall be designated as an additional insured either by a blanket additional insured or a specific endorsement on all Policies, except for Worker's Compensation, Employer's Liability, and Professional Liability.

B. In the event that the work of Engineer's employees falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Engineer shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts even if not specifically required by the PCCA.

C. Each Policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the Policy is primary to any other insurance available to the additional insureds with respect to claims arising under this Agreement.

D. The insurance required as listed above, shall apply to any Consultant performing for or on behalf of Engineer, and Engineer shall ensure that any such Consultant is aware of and complies with the insurance requirements during any period such Consultant is performing work under this Agreement.

E. The minimum insurance required may be increased periodically upon request by PCCA to commercially reasonable limits. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII".

F. Engineer's liability shall not be limited to the specified amounts of insurance required herein.

**ARTICLE 12
RELEASE, INDEMNIFICATION AND MUTUAL WAIVER**

Section 12.01 Release by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer hereby releases and discharges the PCCA Parties from liability for and assumes the risk of loss or damage to the property of Engineer and the injury or death of any person employed by Engineer.

Section 12.02 Indemnification by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless the PCCA Parties from all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable consultants' and attorneys' fees) (collectively, "Damages") arising from third-party claims or actions relating to this Agreement, any Service Order, or any Specific Project, but only to the extent that the Damages are caused by or result from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer or the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

B. Engineer's indemnity obligations under this Article 12 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Engineer to any employee of Engineer under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

C. The obligations of the Engineer under this Article 12 shall survive the end of the Term of this Agreement.

Section 12.03 Percentage Share of Negligence

A. The Engineer's total liability to the PCCA Parties for any Damages caused in part by the negligence of the Engineer Parties and in part by the negligence of the PCCA Parties or any other negligent entity or individual, shall not exceed the percentage share that the negligence of the Engineer Parties bears to the total negligence of all negligent parties.

Section 12.04 Mutual Waiver

A. To the fullest extent permitted by law, PCCA and Engineer waive against each other, and the other's employees, officers, Port Commissioners, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Service Order, or a Specific Project, from any cause or causes.

ARTICLE 13 DISPUTE RESOLUTION

A. In the event a dispute arises between the Parties regarding the application or interpretation of, or in any way relating to, this Agreement, the Parties agree to attempt to resolve all such

disputes arising hereunder promptly, equitably and in a good faith manner. If the Parties shall have failed to resolve the dispute within the ten (10) Business Days after any written notice of the dispute has been received by the other Party, then either Party may elect to refer the dispute to the respective upper management of the Parties by notice in writing to the other Party, and the appropriate upper management of the Parties shall meet within the ten (10) Business Days after the date of the notice, to resolve the dispute. If the dispute is not resolved within five (5) Business Days after such a meeting has commenced (but in any event within ten (10) Business Days after the date of the letter referring the matter to upper management), then either Party may at any time thereafter resort to mediation, under the remaining provisions of this Article.

B. PCCA and Engineer agree they will, before taking any other legal action, including the filing of an action in State or Federal Court, attempt in good faith, to mediate in Corpus Christi, Texas, any controversy or claim arising out of or related to this Agreement before a mediator to be agreed upon by PCCA and Engineer. PCCA and Engineer must use their best efforts to agree upon a mediator within fifteen (15) Business Days after a written request for mediation by either Party, and if PCCA and Engineer are unable to agree upon a mediator within such time either Party may request that the American Arbitration Association appoint a mediator. The mediator will schedule a mediation meeting at a time and place determined by the mediator. PCCA and Engineer will each pay one-half of the costs of mediation to the mediator. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available under this Agreement and at law or in equity.

ARTICLE 14 GENERAL PROVISIONS

Section 14.01 Severability

If any part of this Agreement is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Agreement, and this Agreement shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Agreement.

Section 14.02 No Waiver

Any waiver, expressed or implied, by either PCCA or Engineer to any breach of any agreement, covenant or obligation contained in this Agreement shall operate as such only in the specific instance, and shall not be construed as waiver to any subsequent breach of such agreement, covenant or obligation.

Section 14.03 Applicable Law

THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. PCCA and Engineer agree that if any controversy or claim

arising out of or related to this Agreement cannot be resolved pursuant to and in accordance with the deadlines set forth in Article 13, then either Party may elect to resolve the controversy or claim through litigation filed and maintained in the federal or state courts located in Corpus Christi, Nueces County, Texas. PCCA and Engineer each submits to the exclusive jurisdiction of said courts and waives the right to change venue.

Section 14.04 Agreement and Service Orders Control

In the event of a conflict between the wording of a Service Order and any purchase order issued by PCCA in connection with the Service Order, the wording of the Service Order will control.

Section 14.05 Amendment of Agreement

This Agreement may be changed or modified at the request of either the Engineer or PCCA, provided both Parties agree to the requested change, and a written amendment of this Agreement is prepared and executed by the Parties.

Section 14.06 Assignment

Neither PCCA nor Engineer may assign or transfer any rights under or interest in this Agreement without the written consent of the other.

Section 14.07 No Third-Party Beneficiaries

This Agreement will be for the sole and exclusive benefit of PCCA and Engineer and not for the benefit of any other party, person, or entity. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by PCCA or Engineer to any Consultant, Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

Section 14.08 Force Majeure

In the event either Party shall be delayed or hindered in or prevented from the performance required hereunder by reason of *force majeure*, which includes strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God, or other reason of like nature not the fault of the Party delayed in performing work or doing acts (herein "*force majeure*"), such Party shall be excused for the period of time equivalent to the delay caused by such *force majeure*, or the Agreement may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the PCCA.

Section 14.09 Public Disclosure

PCCA is a political subdivision of the state of Texas subject to the requirements of the Texas Open Meetings Act and the Texas Public Information Act (Texas Government Code, Chapters 551 and 552), and as such, PCCA is required to disclose to the public (upon request) this

Agreement, the Service Orders issued hereunder, and certain other information and documents relating to the services contemplated hereby. In this regard, Engineer agrees that the disclosure of this Agreement, the Service Orders issued hereunder, or any other information or materials related to the services contemplated hereby, to the public by PCCA as required by the Texas Open Meetings Act, the Texas Public Information Act, or any other law will not expose PCCA (or any party acting by, through or under PCCA) to any claim, liability, or action by Engineer.

Section 14.10 Confidentiality

Engineer will keep confidential all information in whatever form produced, prepared, observed or received from PCCA to the extent that such information is: (a) confidential by law; (b) marked or designated "Confidential" or words to that effect; or (c) information that Engineer is otherwise required to keep confidential by this Agreement. Notwithstanding the above, Engineer will be permitted to disclose any information required by law or court order.

Section 14.11 Certificate of Interested Parties

Engineer will comply with the provisions of Section 2252.908 of the Texas Government Code and Chapter 46 of the Texas Ethics Commission Rules by preparing a Texas Form 1295, "Certificate of Interested Parties" and submitting the signed and notarized form to PCCA at the time Engineer submits the signed Agreement to PCCA. A separate Form 1295 may be required for subsequent Service Orders, as required by the referenced code and rules issued thereunder.

Section 14.12 Engineer's Certificate

Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing this Agreement. For the purposes of this Section 14.12:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the execution of the Agreement;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of PCCA, or (b) to deprive PCCA of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

Section 14.13 No Organizational Conflict of Interest

Engineer hereby certifies that it has no actual or potential Organizational Conflict of Interest. "***Organizational Conflict of Interest***" means that because of other activities or relationships with other persons or entities, the Engineer is unable or potentially unable to render impartial assistance or advice to PCCA or the Engineer's objectivity in performing the services under this Agreement

and related Service Orders is or might otherwise be impaired. Engineer agrees to immediately notify PCCA of any actual or potential Organizational Conflict of Interest that develops during the Term of this Agreement. Engineer agrees that PCCA may terminate this Agreement immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Agreement.

Section 14.14 Defamation

The Parties covenant and agree that in no event, and at no time during the Term of this Agreement or at any time thereafter, shall either of them disparage, denigrate, slander, libel or otherwise defame the other or the other's businesses, services, properties or assets, or employees, personnel, agents, or representatives.

Section 14.15 Parties Bound

This Agreement binds and inures to the benefit of the Parties and their respective legal representatives, heirs, distributees, successors and assigns, where assignment is permitted by this Agreement.

Section 14.16 Attorneys' Fees; Default

In the event Engineer or PCCA breach any of the terms of this Agreement and the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting Party agrees to pay reasonable attorney's fees and costs incurred by the prevailing Party.

ARTICLE 15 EXHIBITS

Section 15.01 Suggested Form of Service Order

The Suggested Form of Service Order is attached as Attachment One, and shall be used as the basis for preparing a specific Service Order for each Specific Project under this Agreement.

Section 15.02 Exhibits Included

A. **Exhibit A**, *Engineer's Services for Service Order*. Services, tasks, and terms in **Exhibit A** as included with this Agreement are for reference in preparing the scope of services for specific Service Orders, and are contractually binding only to the extent expressly incorporated in a specific Service Order.

B. **Exhibit B**, *Engineer's Standard Hourly Rates for Work performed under the Service Order*. This Exhibit, as updated from time to time, applies to all Service Orders.

C. **Exhibit C**, *Engineer's Reimbursable Expenses Schedule for costs incurred by Engineer when performing Work under the Service Order*. The terms of **Exhibit C** that will be applicable to and govern compensation under a specific Service Order will be determined by the selection of

compensation methods made in Paragraph 5, “*Payments to Engineer,*” of the specific Service Order.

D. **Exhibit D**, *Duties, Responsibilities and Limitations of Authority of Resident Project Representative*. This Exhibit is not contractually binding except when expressly incorporated in a specific Service Order.

E. **Exhibit E**, *Notice of Acceptability of Work*. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if the form is expressly incorporated by reference in a specific Service Order, and Engineer’s scope of services in the specific Service Order includes providing such a Notice.

F. **Exhibit E**, *Amendment to Service Order*. PCCA and Engineer may use this form during a Specific Project to modify the specific Service Order.

[Signature page follows this page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

PCCA:

**Port of Corpus Christi Authority
of Nueces County, Texas**

By: _____

Name: Sean C. Strawbridge

Title: Chief Executive Officer

Date Signed: _____

Address for giving notice:

222 Power Street
Corpus Christi, Texas 78401
Attention: Director of Engineering Services

Engineer:

AECOM Technical Services, Inc.

By: 

Name: Rod McCrary

Title: Vice President,

Date Signed: 5/4/18

Address for giving notice:

605 Third Avenue
New York, New York 10158

PCCA's Contract Representative:

David L. Krams, P.E.

Title: Director of Engineering Services

Phone Number: 361-885-6134

Facsimile Number: 361-881-5161

E-Mail Address: krams@pocca.com

Engineer's Contract Representative:

Abbas Sarmad

Title: Senior VP – Global Director of Ports
and Marine

Phone Number: 212/973-2900

Facsimile Number: n/a

E-Mail Address: abbas.sarmad@aecom.com

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**ATTACHMENT ONE
TO MASTER SERVICES AGREEMENT NO. 18-13**

**SUGGESTED FORM OF SERVICE ORDER
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 18-13**

PROJECT NAME *(Insert Project name)*

PROJECT NO. *(Insert Project number)*

SERVICE ORDER NO. *(Insert Service Order number)*

COMMENCEMENT DATE *(Insert Commencement Date of Service Order)*

This Service Order is executed by any between the Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”) and AECOM Technical Services, Inc. (“**Engineer**”). PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 18-13 between PCCA and Engineer, as amended (“**Agreement**”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

[Insert a paragraph that describes the Specific Project that is the subject of this Service Order.]

2. Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are: *[Select one of the following options and delete the other.]*

- set forth in “Part 1—Services” of **Exhibit A**, “*Engineer’s Services for Service Order*,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

[or]

- as follows: [] *[Note: Insert detailed scope of services here.]*

B. Resident Project Representative (RPR) Services

If the scope of services established in Paragraph 2.A above includes RPR services, then **Exhibit D** of the Agreement is expressly incorporated in this Service Order by reference. The RPR shall provide *[Select one of the following options]:*

- full time representation; or
- part time representation as follows: _____.

[1. If RPR services are not in the scope of this Service Order, do not include any references to RPR services in Exhibit A (Paragraph A1.05(A)(1)) for this Service Order (or state “Does not apply” or similar), or in any other scope of services text or document.

2. If appropriate, modify Exhibit D for this specific Service Order, and attach it, rather than incorporating the Exhibit D that is included with the Agreement.]

C. Designing to a Construction Cost Limit

[If the design under this Service Order will be governed by a Construction Cost Limit, then include the following clause, with blanks filled in; if not, then delete the clause or indicate “Does not apply” or similar.]

Under this Service Order, Engineer will design to a Construction Cost Limit, subject to the terms of Section 7.03 of the Agreement. The Construction Cost Limit is \$_____. The bidding or negotiating contingency to be added to the Construction Cost Limit is _____ percent per PCCA’s Contingency Guidelines for General or Marine or Rehabilitation projects accordingly.

D. Other Services

Engineer shall also provide the following services:

[Summarize or provide a brief description of other services (if any) that are to be provided by Engineer, but have not been addressed in Paragraphs 2.A through 2.C.]

3. PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following: *[State any additions or modifications to Section 5.01 for this Specific Project here.]*

4. Service Order Schedule

In addition to any schedule provisions provided in **Exhibit A** or elsewhere, the parties shall meet the following schedule: *[Revise and amend for each specific Service Order.]*

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish [] review copies of the Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the Commencement Date of the Service Order.
PCCA	Submit comments regarding Report and other Study and Report Phase deliverables to Engineer.	Within [] days of the receipt of Report and other Study and Report Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Furnish [] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of PCCA's authorization to proceed with Preliminary Design Phase services.
PCCA	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within [] days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the 60% Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.

Engineer	Furnish [] copies of the 90% Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to PCCA.	Within [] days of PCCA's authorization to proceed with Final Design Phase services.
PCCA	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within [] days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to PCCA.	Within [] days of the receipt of PCCA's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

Should PCCA not return comments and/or instructions in the time listed in the schedule, the Engineer's schedule for subsequent items will be extended by the same number of days

by which PCCA comments or instructions exceed the scheduled review with no further recourse by the Engineer against PCCA.

5. Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation: *[Select one of the following options.]*

- Lump Sum plus Named Reimbursable Expenses, if any; or
- Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

B. If this is a Lump Sum Service Order, PCCA shall pay Engineer the following lump sum amount for the services described in this Service Order: \$ _____. In addition, PCCA shall reimburse Engineer for the following Named Reimbursable Expenses (if any): _____.

C. If this is an Hourly Rates Service Order, the Ceiling Price for this Service Order is \$ _____. In addition, PCCA shall reimburse Engineer for the Reimbursable Expenses described in Exhibit C.

D. If this is an Hourly Rates Service Order, the estimated amount of compensation payable for each category of services rendered under this Service Order is as follows:

[Notes: 1. Delete line items that do not apply to this Service Order. 2. Cross-references are to Exhibit A. Revise if necessary, or delete cross-references if Exhibit A is not used to establish the scope of services under this Service Order.]

Description of Service	Amount
Study and Report Phase (A1.01 of Ex. A)	\$[]
Preliminary Design Phase (A1.02 of Ex. A)	\$[]
Final Design Phase (A1.03 of Ex. A)	\$[]
Bidding or Negotiating Phase (A1.04 of Ex. A)	\$[]
Construction Phase (A1.05 of Ex. A)	\$[]
Resident Project Representative Services (A1.05(A)(1) of Ex. A)	\$[]
Post-Construction Phase (A1.06 of Ex. A)	\$[]
Commissioning Phase (A1.07 of Ex. A)	\$[]
Other Services (list as appropriate) (A2.01 of Ex. A)	\$[]
Reimbursable expenses (if any)	\$[]
ESTIMATED TOTAL COMPENSATION	\$[]

E. The terms of payment are set forth in Article 4 of the Agreement.

- 6. Consultants retained or that will be retained as of the Commencement Date of the Service Order: *[List name of Consultants, if any]***
- 7. Other Modifications to the Agreement or the Exhibits to the Agreement:**
[Supplement or modify the Agreement and Exhibits, if appropriate.]
- 8. Exhibits or Attachments to this Service Order:**
- 9. Documents (other than the Agreement) Incorporated by Reference:**
- 10. Terms and Conditions**

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

Engineer:

**Port of Corpus Christi Authority
of Nueces County, Texas**

AECOM Technical Services, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Address for giving notice:

222 Power Street
Corpus Christi, Texas 78401
Attention: Director of Engineering Services

Address for giving notice:

605 Third Avenue
New York, New York 10158

PCCA's Designated Representative:

Engineer's Designated Representative:

Title: _____

Title: _____

Phone Number: _____

Phone Number: _____

Facsimile Number: _____

Facsimile Number: _____

E-Mail Address: _____

E-Mail Address: _____

**EXHIBIT A TO SERVICE ORDER
ENGINEER'S SERVICES FOR SERVICE ORDER**

[Introductory Note to User: The parties should prepare a specific, modified Exhibit A for each specific Service Order, state the scope of services for the Specific Project directly in the specific Service Order, or incorporate all or portions of Exhibit A by reference.

The following text as published describes a variety of services that may be included, in whole or in part, in a specific Service Order issued under the Agreement. Until this exhibit is customized for inclusion in a specific Service Order, or some or all of the exhibit is incorporated in a specific Service Order by reference, it has no legal or contractual effect.

Not all possible services are included in this exhibit. Language provided is intended to provide a basic framework, ideas for inclusion, and to avoid omissions; none, any, or most of this language may be applicable to a Specific Project. The user should revise and supplement the descriptions of services provided here for purposes of drafting the scope of Engineer's Services for each specific Service Order.]

PART 1—SERVICES

A1.01 Study and Report Phase Services

- A. As Study and Report Services, Engineer shall:
1. If PCCA has already identified one or more potential solutions to meet its Specific Project requirements, Engineer will proceed with the study and evaluation of: *[List the specific potential solutions here.]*
 2. If PCCA has not identified specific potential solutions to meet its Specific Project requirements, Engineer will identify up to ____ potential solution(s) and then proceed with the study and evaluation of these potential solution(s).
 3. Visit the Site, or potential Specific Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
 4. Advise PCCA of any need for PCCA to obtain, furnish, or otherwise make available to Engineer additional Specific Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to PCCA's Specific Project requirements, and preparation of a related report.
 5. After consultation with PCCA, recommend to PCCA the solution(s) which in Engineer's judgment meet PCCA's requirements for the Specific Project.

6. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Specific Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Specific Project.
 7. Prepare a report (the “**Report**”) which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer’s recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by PCCA, a tabulation of other items and services included within the definition of Total Project Costs.
 8. Review available survey, geotechnical, environmental, and other data and recommend additional investigations, studies, tests, professional services that may be required to support design of the alternatives.
 9. When mutually agreed, assist PCCA in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of PCCA’s facilities.
 10. If requested to do so by PCCA, assist PCCA in identifying opportunities for enhancing the sustainability of the Specific Project, and pursuant to PCCA’s instructions plan for the inclusion of sustainable features in the design.
 11. Pursuant to the Service Order schedule, furnish the required number of review copies of the Report and any other Study and Report Phase deliverables to PCCA, and review it with PCCA. PCCA shall submit to Engineer any comments regarding the furnished items within the time established in the Service Order schedule.
 12. Pursuant to the Service Order schedule, revise the Report and any other Study and Report Phase deliverables in response to PCCA’s comments, as appropriate, and furnish the required number of copies of the revised Report and any other Study and Report Phase deliverables to the PCCA.
- B. Engineer’s services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Report and any other Study and Report Phase deliverables.

A1.02 *Preliminary Design Phase*

A. Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Specific Project.
2. In preparing the Preliminary Design Phase documents, use any specific applicable Specific Project Strategies, Technologies, and Techniques authorized by PCCA during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to PCCA's instructions.
3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by PCCA pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
5. Advise PCCA if additional reports, data, information, or services necessary so support final design and assist PCCA in obtaining such reports, data, information, or services. Include as appropriate scope for:
 - (a) geotechnical for investigation
 - (b) topographical surveys
 - (c) utility mapping
6. Continue to assist PCCA with Specific Project Strategies, Technologies, and Techniques that PCCA has chosen to implement.
7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist PCCA in tabulating the various cost categories which comprise Total Project Costs.
8. Pursuant to the Service Order schedule, furnish the required number of review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to PCCA, and review them with PCCA. Within the time established in the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items.

9. Pursuant to the Service Order schedule, revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to PCCA's comments, as appropriate, and furnish to PCCA the required number of copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and revised estimate of design and related professional services, and any other Preliminary Design Phase deliverables.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 ***Final Design Phase***

- A. Engineer shall:
1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
 3. Provide technical criteria, written descriptions, and design data for PCCA's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist PCCA in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
 4. Advise PCCA of any recommended adjustments to the opinion of probable Construction Cost as design progresses.
 5. Assist PCCA in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
 6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from PCCA.
 7. Prepare or assemble 60% Design documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
 8. Prepare or assemble 90% Design and bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific

bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.

9. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
 10. Pursuant to the Service Order schedule, furnish for review by PCCA, the required number of copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, and review them with PCCA. Within the time required by the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions sealed by Registered Professional Engineer licensed to practice in the State of Texas.
 11. Pursuant to the Service Order schedule, revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the PCCA, as appropriate, and submit the required number of final copies of such documents to PCCA after receipt of PCCA's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to PCCA the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

A1.04 *Bidding or Negotiating Phase*

- A. Engineer shall:
1. Attend pre-bid conference and provide a presentation of the technical aspect of the project.
 2. Prepare and issue Addenda as appropriate, and as requested by PCCA, to clarify, correct, or change the issued documents.
 3. Provide information or assistance needed by PCCA in the course of any review of proposals or negotiations with prospective contractors.
 4. Consult with PCCA as to the qualifications of prospective contractors.

5. Consult with PCCA as to the qualifications of Subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.01(A)(16) of this **Exhibit A**.
 7. Attend the bid opening, and assist PCCA in evaluating bids or proposals, assembling final contracts for the Work for execution by PCCA and Contractor, and in issuing notices of award of such contracts.
 8. If PCCA engages in negotiations with bidders or proposers, assist PCCA with respect to technical and engineering issues that arise during the negotiations.
 9. Engineer shall prepare and submit issued for construction drawings and specifications incorporating addenda issued during the Bid phase. Issued for Construction Drawings shall be sealed by Registered Professional Engineer licensed to practice in the State of Texas.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if a Construction Cost limit is a part of this Service Order).

A1.05 Construction Phase

A. Engineer shall:

1. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in **Exhibit D**. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in **Exhibit D**. *[If Engineer will not be providing the services of an RPR, then delete this Paragraph 2 by inserting the word "DELETED" after the paragraph title, and do not include Exhibit D in the Task Order.]*
2. *Selection of Independent Testing Laboratory:* Assist PCCA, as requested, in the selection of an independent testing laboratory to perform the testing services identified in the contract documents.
3. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

4. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with PCCA and Contractor jointly develop such protocols for transmittals between and among PCCA, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
5. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
6. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
7. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - (a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep PCCA informed of the progress of the Work.
 - (b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for PCCA a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes

responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

8. *Defective Work:* Recommend rejection of Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to PCCA regarding whether Contractor should correct such Work or remove and replace such Work, or whether PCCA should consider accepting such Work as provided in the Construction Contract Documents.
9. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform PCCA of such incompatibility, and provide recommendations for addressing such Work.
10. *Clarifications and Interpretations:* Accept from Contractor and PCCA submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or an amendment or supplement to the Construction Contract Documents.
11. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to PCCA, as appropriate, and support preparation of Change Orders and Work Change Directives as required.
12. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for PCCA's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.
13. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

14. *Substitutes and “or-equal”*: Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor.
15. *Inspections and Tests*:
 - (a) Receive and review certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer’s review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - (b) Pursuant to the terms of the Construction Contract, recommend additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
16. *Change Proposals and Claims*: (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor’s supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to PCCA and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to PCCA regarding engineering or technical matters pertaining to Claims.
17. *Applications for Payment*: As requested by PCCA, review Contractor’s applications for payment and provide PCCA with a recommendation to pay, partially pay, or request a revised pay application.
18. *Contractor’s Completion Documents*: As required and directed by PCCA, review, and transmit to PCCA maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided from Contractor. Review, and transmit to PCCA the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment.
19. *Substantial Completion*: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with PCCA and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary

certificate of Substantial Completion, punch list of items to be completed, PCCA's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist PCCA regarding any remaining engineering or technical matters affecting PCCA's use or occupancy of the Work following Substantial Completion.

20. *Final Notice of Acceptability of the Work:* Conduct a final visit to the specific Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to PCCA and Contractor in the form attached hereto as **Exhibit E** ("Notice of Acceptability of Work") that the Work is acceptable.
 21. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to PCCA or Contractor.
 22. Preparing Record Drawings, and furnishing such Record Drawings to PCCA.
 23. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, PCCA, utility companies, and other reliable sources.
 24. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, PCCA, utility companies, and other sources; revise and supplement Record Drawings as needed.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the specific Project involves more than one prime contract then Construction Phase services may be rendered at different times in respect to the separate contracts.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from PCCA during the Post-Construction Phase, Engineer shall:
 1. Together with PCCA, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of Defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist PCCA in consultations and discussions with Contractor concerning correction of any such Defective Work and any needed repairs.

2. Together with PCCA, visit the Project within one month before the end of the Construction Contract's Correction Period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
- B. The Post-Construction Phase services may commence during the Construction Phase and will terminate twelve months after the commencement of the Construction Contract's Correction Period.

A1.07 *Commissioning Phase*

A. Engineer shall:

1. Assist PCCA in connection with the adjusting of Specific Project equipment and systems.
2. Assist PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
3. Prepare operation and maintenance manuals.
4. Assist PCCA in developing procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related record-keeping.
5. Prepare and furnish to PCCA, in the format agreed to, Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

PART 2—OTHER SERVICES

A2.01 *Other Services Required to be Listed in the Service Order*

- A. Each specific Service Order may include Services that do not fit into the categories described in Part 1, such as the types of Services listed in this Part 2. Such services should be expressly stated in the specific Service Order itself.
1. Preparation of applications and supporting documents (in addition to those furnished under Services) for private or governmental grants, loans, or advances in connection with the Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Specific Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Specific Project.

2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by PCCA or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Specific Project designed or specified by Engineer, or the Specific Project's design requirements, including, but not limited to, changes in size, complexity, PCCA's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Commencement Date of the Service Order or are due to any other causes beyond Engineer's control.
4. Providing renderings or models for PCCA's use, including services in support of building information modeling or civil integrated management.
5. Undertaking investigations and studies including, but not limited to:
 - a) detailed consideration of operations, maintenance, and overhead expenses;
 - b) based on the engineering and technical aspects of the Project, the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c) evaluating processes available for licensing, and assisting PCCA in obtaining process licensing;
 - d) detailed quantity surveys of materials, equipment, and labor; and
 - e) audits or inventories required in connection with construction performed or furnished by PCCA.
6. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by PCCA; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
7. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Section 3.02.
8. Preparation of operation, maintenance, and staffing manuals.

9. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
10. Assistance to PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
11. Assistance to PCCA in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
12. Preparing to serve or serving as a consultant or witness for PCCA in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project.
13. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05(A)(6), and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
14. Provide assistance in responding to the presence of any Constituent of Concern at any Site, in compliance with current Laws and Regulations.
15. Services in connection with Work Change Directives and Change Orders to reflect changes requested by PCCA.
16. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
17. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
18. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
19. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.

**EXHIBIT B
TO MASTER SERVICES AGREEMENT NO. 18-13**

Standard Hourly Rates Schedule

The Standard Hourly Rates Schedule for Services performed under this Agreement is:

Title	Billing Rate/ Hour
Administrative/Clerical Staff	\$90
Asset Management Lead	\$240
Assistant Engineer	\$120
CAD/GIS Technician	\$90
Cost Estimates Engineer	\$150
Cost Estimates Lead	\$260
Department Manager - Mooring Analysis	\$200
Deputy Project Manager	\$165
Economist	\$120
Engineer	\$150
Engineer Associate 1	\$100
Environmental Specialist	\$120
Senior Environmental Specialist	\$140
Senior Environmental Engineer	\$170
HD Modeler	\$140
HD Modeling Lead	\$190
Planner	\$140
Principal - Environmental	\$250
Principal Engineer - Electrical	\$240
Principal Engineer - Marine structures	\$260
Principal Engineer - Mechanical	\$240
Principal Engineer - Piping	\$200
Principal-in-Charge	\$250
Program Manager	\$250
Project Controls	\$120
Project Engineer	\$100
Project Manager - Docks	\$240
Project Manager - FS	\$160
Project Manager - Rail	\$240
Public Involvement	\$160
Senior CAD/GIS Technician	\$160
Senior Economist	\$190
Senior Engineer	\$160
Senior Engineer - Corrosion Prevention	\$210
Senior Engineer - Marine Structure	\$180
Senior Engineer - Rail	\$220
Senior Engineer - Traffic	\$175
Senior Engineer - Utilities	\$175
Senior Project Manager	\$240
Senior Planner	\$175
Senior Public Involvement	\$190
Senior Scientist	\$150
Simulation Lead	\$250
Technical Advisor	\$275
Underwater Inspection Lead	\$200

Note:

Additional resource categories will be provided for design and construction services when required.

**EXHIBIT C
TO MASTER SERVICES AGREEMENT NO. 18-13**

Reimbursable Expenses Schedule

The Reimbursable Expenses Schedule for Services performed under the Agreement is:

Fax	\$0.15
Copies 8½" x 11"	\$0.10
Copies of Drawings 24" x 36"	\$0.45
Copies of Drawings 11" x 17"	\$0.20
Mileage	\$ @ IRS rate
Long Distance Phone Calls	At Cost
Meals & Lodging	At Cost
Travel Expenses (other than mileage)	At Cost
Sub-consultants	At Cost + 5%

**EXHIBIT D
TO MASTER SERVICES AGREEMENT NO. 18-13**

**SCHEDULE OF DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY
OF RESIDENT PROJECT REPRESENTATIVE**

The following duties, responsibilities, and limitations of authority may be incorporated in the Service Order for a Specific Project:

Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“**RPR**”) to assist Engineer in observing progress and quality of the Work. The RPR shall provide full-time or part-time representation as indicated in the Service Order. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for PCCA against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of PCCA and the Contractor. RPR shall generally communicate with PCCA only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer and PCCA concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor’s safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison*
 - a. Serve as Engineer's and PCCA's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as PCCA's liaison with Contractor when Contractor's operations affect PCCA's on-Site operations.
 - c. Assist in obtaining from PCCA additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer and PCCA regarding such RFIs. Report to Engineer and PCCA when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's and PCCA's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer and PCCA. Transmit Engineer's and PCCA's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work*
 - a. Report to Engineer and PCCA whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract

Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer and PCCA of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer and PCCA for addressing such Work; and
- c. Advise Engineer and PCCA of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups*

- a. Consult with Engineer and PCCA in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate PCCA's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer and PCCA appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer and PCCA.

11. *Records*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more

detail as in the case of observing test procedures; and send copies to Engineer and PCCA.

- c. As requested by PCCA to Engineer, photograph or video work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Specific Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer and PCCA.

12. *Reports*

- a. Furnish to Engineer and PCCA periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer and PCCA proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and PCCA copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer and PCCA of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to PCCA, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Construction Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Construction Contract Documents, and have these documents delivered to Engineer for review and forwarding to PCCA prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's and PCCA's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion, submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's and PCCA's visit to the Site in the company of, PCCA, and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer and PCCA concerning acceptance and issuance of the Notice of Acceptability of the Work (**Exhibit E**).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of PCCA or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer and/or PCCA.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

**EXHIBIT E
TO MASTER SERVICES AGREEMENT NO. 18-13**

NOTICE OF ACCEPTABILITY OF WORK

PROJECT TITLE:

PCCA PROJECT NUMBER:

MASTER SERVICES AGREEMENT NO.:

SERVICE ORDER NO.:

DATE OF CONSTRUCTION AGREEMENT:

DATE OF NOTICE

To: Port of Corpus Christi Authority (PCCA)

And To: *(Insert name of Contractor)* (Contractor)

From: *(Insert name of Engineer)* (Engineer)

The undersigned (Engineer) hereby gives notice to PCCA and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Construction Contract Documents and the terms and conditions set forth on the reverse side hereof. Engineer further recommends PCCA issue a Notice of Final Acceptance to the Contractor.

Engineer: _____

By: _____

Name: _____

Title: _____

Date: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work (“**Notice**”) on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of Engineer.
3. Said Notice is given as to the best of Engineer’s knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the Scope of Services Engineer has been employed by PCCA to perform or furnish during construction of the Project (including observation of the Contractor’s Work) under Engineer’s Agreement with PCCA and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under Engineer’s Agreement with PCCA and the Construction Contract referenced on the reverse hereof.
5. Said Notice affirms Contractor’s performance under the Construction Contract referenced on the reverse hereof but is not an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents.
6. Said Notice affirms that the design of the Project complies with all City of Corpus Christi building codes regardless of whether or not the Project is located within the city limits of the City of Corpus Christi.

**EXHIBIT F
TO MASTER SERVICES AGREEMENT NO. 18-13
AMENDMENT TO SERVICE ORDER NO. _____**

1. Background Data:

- a. Commencement Date of Service Order:
- b. PCCA:
- c. Engineer:
- d. Specific Project:

2. Description of Modifications

[Include the following paragraphs that are applicable and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform the following Services: []
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Service Order and previous amendments, if any, is modified as follows: []
- c. The responsibilities of PCCA with respect to the Service Order are modified as follows: []
- d. For the additional services or the modifications to services set forth above, PCCA shall pay Engineer the following additional or modified compensation: []
- e. The schedule for rendering services under this Service Order is modified as follows: []
- f. Other portions of the Service Order (including previous amendments, if any) are modified as follows: []

[List other Attachments, if any]

3. Service Order Summary (Reference only)

- a. Original Service Order amount: \$[]
- b. Net change for prior amendments: \$[]
- c. This amendment amount: \$[]
- d. Adjusted Service Order amount: \$[]

The foregoing Service Order Summary is for reference only and does not alter the terms of the Service Order.

PCCA and Engineer hereby agree to modify the above-referenced Service Order as set forth in this Amendment. All provisions of the Agreement and Service Order not modified by this or previous Amendments remain in effect. The effective date of this Amendment is _____.

PORT OF CORPUS CHRISTI AUTHORITY

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date
Signed: _____

Date
Signed
: _____