



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

Request for Qualifications Architectural, Engineering or Surveying Services

RFQ 2021-SL05 **Marisol Boating Access Engineering and** **Permitting Services**

Statement of Qualifications
must be received before:
November 24th, 2021
2:00 p.m. central time
City of South Padre Island
ATTN: City Secretary
4601 Padre Blvd.
South Padre Island, TX 78597

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GENERAL

The City of South Padre Island seeks to enter into an agreement with a qualified Individual, firm or corporation (Proposer) with substantial and relevant experience and expertise to provide services for the **Marisol Boating Access** project.

DEFINITIONS

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

A. AGREEMENT/CONTRACT

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

B. PROPOSAL/RESPONSE/OFFER

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

C. PROPOSER/RESPONDENT/OFFERER

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

D. CITY

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

E. CITY COUNCIL

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

F. FIRM

The successful Proposer of this request for proposal.

G. PURCHASE ORDER

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

H. REQUEST FOR QUALIFICATIONS (RFQ)

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

I. STATEMENT OF QUALIFICATIONS (SOQ)

A Firm's response to this solicitation

J. VENDOR/CONTRACTOR

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

NOTICE TO PROPOSERS

A. NOTICE

Statement of Qualifications are due at **2:00 p.m. on November 24, 2021**, after which time all qualified responses will be opened and acknowledged at 4601 Padre Blvd, South Padre Island, Texas 78597. Proposals received after the specified deadline will be returned unopened.

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

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

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

B. QUESTIONS and INQUIRIES

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

Erika Hughston
Coastal Coordinator
ehughston@myspi.org

The deadline for written questions is **November 16, 2021 at @ 2:00 p.m.** central time. This deadline has been established in order to provide adequate time for City staff to prepare responses to questions from Proposers to the best of their ability.

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

C. SCHEDULE OF IMPORTANT DATES

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

Release RFQ		November 10, 2021
Deadline for Questions and Inquiries	2:00 PM CST	November 16, 2021
Proposals Closing Date and Time	2:00 PM CST	November 24, 2021
City's Review of SOQs		November 24 - 29, 2021
Earliest Award by City		December 2021

D. CERTIFICATION

This Solicitation includes a certification page. Respondent must:

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

E. EXCEPTIONS

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

F. DISCLOSURE OF INTERESTED PARTIES

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

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

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

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

STANDARD TERMS and CONDITIONS

A. ADDENDA

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

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

B. ADVERTISING and PUBLICITY

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

C. ASSIGNMENTS

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

D. BUSINESS PRACTICES

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

E. CANCELLATION or TERMINATION

1. Termination For Cause:

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

2. Termination Without Cause:

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

3. Non-Appropriation:

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

4. Cancellation:

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

F. CLAIMS

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

G. CODES, PERMITS, LICENSES

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

H. COLLUSION

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

I. COMMUNICATION

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

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

J. CONFIDENTIALITY

In order to provide the deliverables to the City, Firm may require access to certain of the City's and/or its licensors' confidential information (including, but not limited to, inventions, employee information, trade secrets, confidential know-how, confidential business information and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Firm acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors, and any unauthorized use, disclosure, dissemination or other release of the Confidential Information will substantially injure the City and/or its licensors. The Firm (including its employees, subcontractors, agents or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate or otherwise use the

Confidential Information without the prior written consent of the City, or in a manner not expressly permitted under the Agreement, unless the Confidential Information is required to be disclosed by law or as a result of an order of any court or other governmental authority with proper jurisdiction, provided the Firm promptly notifies the City prior to disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Firm agrees to use protective measures no less stringent than the Firm uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

K. DEFAULT

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

L. DELAYS

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

M. DISCLOSURE

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

N. DISCLOSURE OF PENDING LITIGATION:

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

O. DISPUTE RESOLUTION

If either the Firm or the City has a claim, dispute or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, in person or through generally accepted means, to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with, this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties in accordance with the Arbitration Rules of the American Arbitration Association or other

applicable rules governing mediation then in effect. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute.

P. FORCE MAJEURE

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

Q. FRAUD

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

R. GRATUITIES

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

S. INDEPENDENT CONTRACTOR

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

T. INDEMNITY

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

U. INFRINGEMENT

Firm represents and warrants to the City that: (a) Firm shall provide the City good and indefeasible title to the deliverables and (b) the deliverables supplied by the Firm in accordance with the specifications of the Agreement shall not infringe, directly or contributory, any patent, trademark, copyright, trade secret or any other intellectual property right of any kind of any third party; that no claims have been made by an person or entity with respect to the ownership or operation of the deliverables and the Firm does not know of any basis for any such claims. Firm shall, at its sole

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

V. INSURANCE REQUIREMENTS

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

W. INTERPRETATION

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

X. INVALIDITY

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

Y. LIABILITY

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

Z. LIENS

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

AA. MANAGEMENT

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

BB. NOTICES

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

CC. OVERCHARGES

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

DD. PAYMENT TERMS

1. Tax Exempt Status:

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

2. Invoicing Requirements:

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

3. Payment Terms:

All payments will be processed in accordance with Texas Prompt Payment Act, *Texas Government Code*, Subtitle F, Chapter 2251. The City will pay Firm within thirty days after acceptance of goods or services delivered, or the day of receipt of a correct invoice, whichever is later. The Firm may charge a late fee (fee shall not be greater than that permitted under the Texas Prompt Payment Act) for payments not made in accordance with this prompt payment policy; however, the policy does not apply to payments made by the City in the event: (a) there is a bona fide dispute between the City and Firm concerning the goods or services delivered, that causes the payment to be late; (b) the terms of a federal agreement, grant, regulation or statute prevents the City

from making a timely payment with Federal funds; (c) there is a bona fide dispute between the Firm and a subcontractor and its suppliers concerning deliveries made, which caused the payment to be late; or (d) the invoice is not mailed to the City in strict accordance with instructions on the Purchase Order or Agreement, or other such contractual agreement.

4. Right To Audit:

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

5. Firm Pricing:

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

6. Price Warranty:

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

7. Travel Expenses:

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

EE. PERSONAL INTEREST

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

FF. PRIORITY OF DOCUMENTS

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

GG. PROHIBITED FIRMS

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

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

HH. PUBLIC INFORMATION

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

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

II. REIMBURSEMENTS

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

A. REPRESENTATIONS and RESPONSIBILITIES

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

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

JJ. RESERVATIONS

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

KK. RESPONSES BECOME PROPERTY OF THE CITY

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

LL. RIGHT TO ASSURANCES

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

MM. SEVERABILITY

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

NN. SURVIVABILITY OF OBLIGATIONS

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

OO. FIRM'S OBLIGATION

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

PP. VENUE

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

QQ. WAIVER

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

RR. WITHDRAWAL

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

BACKGROUND

The City of South Padre Island (City) has partnered with the Texas Parks and Wildlife Department. The granting allows for preliminary planning and engineering design for public boating access. The selected consultant will need to provide surveying, engineering, and design services for proposed improvements at the site. The enhancements will include a boat ramp, kayak launch, bulkhead improvements, transient boat docks, and vehicle-trailer sized parking.

This project is funded (in part) by the Texas Parks and Wildlife Department, the following information is to be released with this publication:

Federal Funding Allocation:	75% Total Project Cost	\$140,625.00
Local Funding Allocation:	25% Total Project Cost	\$46,875.00

SCOPE OF WORK

The scope of this Grant Agreement includes professional services needed to assess the feasibility of construction the Marisol Boating Access. This includes design, engineering, and other pre-construction expenses related to state/federal environmental and cultural/historical requirements associated with the Marisol Boating Access located at 200 Marisol St, South Padre Island, TX. Additional scope includes the completion of a USACE 404 Clean Water Act Permit, Texas Department of Licensing and Regulation: Elimination of Architectural Barriers, and a National Marine Fisheries Service Pile Driving Noise Assessment SAJ-82. TPWD reporting has been attached as “**Exhibit A**”

This project must be completed by the end of **July 2022** for final grant close out. The selected consultant will be required to work closely with the City’s Shoreline and Building Departments along with the Texas General Land Office (GLO)’s, Texas Parks and Wildlife Department, and possibly the United States Army Corps of Engineers.

SUBMISSION REQUIREMENTS

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

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

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

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

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

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

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

A. Firm Introduction (5 points)

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

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

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

- (a) Documented specialized design expertise demonstrating such specialized capabilities pertinent to similar work experience as described in the solicitation by the individual;
- (b) Descriptions and examples of specific projects or studies of a similar nature by the individual as described in the solicitation and their role in the work.
- (c) Educational background;
- (d) License status, to include Texas registration number and expiration date of architect, engineer, or surveyor assuming professional responsibility on the project or study;
- (e) Formal project management training and any certifications or accreditations offered by the Project Management Institute;
- (f) Technical publications including books, papers or presentations.

C. Demonstrate the technical adequacy of the personnel and sub-consultants to be utilized for the proposed work (15 points)

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

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

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

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

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

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

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

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

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

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

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

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

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

H. Proposed Approach for the Design Project or Study (15 points)

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

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

I. COMMENTS/CHANGE REQUESTS to STANDARD FORM of AGREEMENT

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



EVALUATION and SELECTION PROCESS

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

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

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

Clarity and Quality of Proposal

Pass/Fail

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

- | | |
|-----------------------|--|
| A. (5 points) | Firm Introduction |
| B. (10 points) | Demonstrated competence and qualifications of the individual who will be directly responsible for the management and delivery of the proposed work. |
| C. (15 points) | Demonstrated technical adequacy of the personnel and sub-consultants to be utilized for the proposed work. |
| D. (20 points) | Demonstrated experience of the Firm based upon previous work similar to that of the type considered. |
| E. (15 points) | Demonstrated success of the Firm based upon the record of performance on other projects (both City of South Padre Island projects and projects for other entities). |
| F. (10 points) | Demonstrated Firm's history of accuracy of cost estimates and ability to perform within budget constraints. |
| G. (10 points) | Workload Capacity And History Of Performing Work Within A Specified Schedule |
| H. (15 points) | Proposed Approach For The Design Project Or Study |

100 POINTS

TOTAL POINTS AVAILABLE

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

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

City of South Padre Island

RFQ No. 2021-SL05 – Marisol Boating Access Engineering and Permitting Services

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

CERTIFICATION and ACKNOWLEDGMENT

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

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Bid Address: _____
P.O. Box or Street City State Zip

Order Address: _____
P.O. Box or Street City State Zip

Remit Address: _____
P.O. Box or Street City State Zip

Federal Tax ID No.: _____

DUNS No.: _____

Date: _____

EXHIBIT A
GRANT WORKPLAN

TEXAS PARKS AND WILDLIFE

Recreation Grant Agreement Federal Planning Sub-Award

TPWD P.O. Number: CA-0002391

Project Number: FD-TX F317-B-1

Sponsor Name: City of South Padre Island - Shoreline Department

Project Name: Marisol Boating Access

Federal Award Identification Number (FAIN): F21AF03508

Sponsor Unique Entity Identifier: 038350005

Assistance Listings (Formerly CFDA): 15.605

Agreement Term / Period of Performance: 08/01/2021 - 08/11/2022

Federal Share: \$140,625.00

Sponsor Share: \$46,875.00

Total Project Cost: \$187,500.00

SECTION 1 - PROJECT DESCRIPTION AND LOCATION

This subaward agreement (Grant Agreement) is entered into by the Texas Parks and Wildlife Department (Department), and the City of South Padre Island - Shoreline Department (Sponsor). This sub-award is funded through Sport Fish Restoration (Coastal) Grant Program issued to the Department on 08/09/2021.

The scope of this Grant Agreement includes professional services needed to assess the feasibility of constructing the Marisol Boating Access . This includes design, engineering, and other pre-construction expenses related to state/federal environmental and cultural/historical requirements associated with the Marisol Boating Access located at 200 Marisol Street, South Padre Island, Cameron County, Texas, 78597. GPS Coordinates: 26.096688 / -97.167418

This sub-award is not for research and development.

SECTION 2 - SPECIAL CONDITIONS APPLICABLE TO THIS AGREEMENT

N/A

SECTION 3 - PRE-AWARD INCURRENCE OF COSTS

N/A

SECTION 4 - APPROVED INDIRECT COST RATE

N/A

SECTION 5 - KEY OFFICIALS

Key officials are essential to ensure maximum coordination and communications between the parties and the work being performed. They are:

FOR TEXAS PARKS AND WILDLIFE DEPARTMENT:

Dana Lagarde
Director of Recreation Grants
4200 Smith School Road
Austin, Texas 78744
(512)389-8224
Dana.Lagarde@tpwd.texas.gov

Grant Manager:

Dana Lagarde
Recreation Grants Branch
4200 Smith School Road
Austin, Texas 78744
(512) 389-8224
dana.lagarde@tpwd.texas.gov

Grant Coordinator:

Renan Zambrano
Recreation Grants Branch
4200 Smith School Road
Austin, Texas 78744
(512) 389-8224
renan.zambrano@tpwd.texas.gov

FOR PROJECT SPONSOR:

Official Point of Contact

Erika Hughston
shoreline grants and special project administrator
4601 Padre Boulevard
South Padre Island, Texas, 78597
(956) 761-3837
ehughston@myspi.org

Project Coordinator

Erika Hughston
shoreline grants and special project administrator
4601 Padre Boulevard
South Padre Island, Texas, 78597
(956) 761-3837
ehughston@myspi.org

Fiscal Contact

Kristina Boburka
Shoreline Director
4601 Padre Boulevard
South Padre Island, Texas, 78597
(956) 761-3837
kboburka@myspi.org

SECTION 6 - AWARD AND PAYMENT

- A. The Department will provide funding to the Sponsor in an amount not to exceed \$140,625.00 for the project described under Project Description and Location above and in accordance with the Department-approved budget summary attached.
- B. The Sponsor shall obtain prior approval from the Department for budget and program revisions, and shall request reimbursement via payment in accordance with the most current version of the Instructions for Approved Projects Recreation Grant Programs on form PWD BK P4000-1146.
- C. In order to receive a financial assistance award and to ensure proper payment, it is required that Sponsor maintain their registration with the System for Award Management (SAM), accessed at <http://www.sam.gov>. Failure to maintain registration can impact obligations and payments under this Grant Agreement and/or any other financial assistance or procurement documents the Sponsor may have with the Federal government.
- D. Expenses charged against awards under the Grant Agreement may not be incurred prior to the beginning of the Grant Agreement, unless approved in Section 3, and may be incurred only as necessary to carry out the approved objectives, scope of work and budget with prior approval from the Department Key Officials. The Sponsor shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date stipulated in the award.
- E. Indirect costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the award.
- F. The Sponsor must meet their cost share commitment over the life of the award, as specified in section 2 of this agreement. Non-federal cost-share is required for costs incurred under this Grant Agreement.

SECTION 7 - MODIFICATION, REMEDIES FOR NON-COMPLIANCE TERMINATION

- A. This Grant Agreement may be modified only by a written instrument executed by the parties. Modifications will be in writing and approved by the Department and the authorized representative of Sponsor.
- B. Additional conditions may be imposed by the Department if it is determined that the Sponsor is non-compliant with the terms and conditions of this agreement.
- C. The Department may suspend program assistance under the project pending corrective action by the Sponsor or pending a decision to terminate the grant by the Department.
- D. The Sponsor may unilaterally terminate the project prior to the first payment on the project or within 90 days of the TPWD Approval Date, whichever occurs earlier. After the initial payment, the project may be terminated, modified, or amended by the Sponsor only by agreement with the Department.
- E. The Department may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the Sponsor has failed to comply with the conditions of the grant. The Department will promptly notify the Sponsor in writing of the determination and the reasons for termination, together with the effective date. Payments made to the Sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
- F. The Department or Sponsor may terminate grants in whole, or in part, at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portions to be terminated. The Sponsor shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Department may allow full credit to the Sponsor for the State/Federal share of the non-cancelable obligations, property incurred by the Sponsor, pending written receipt of the determination and the reasons for termination, together with the effective date. Payments made to the Sponsor or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
- G. Termination either for cause or for convenience requires that all funds provided by the Department be

returned.

- H. If the Sponsor does not comply with provisions as set forth in the grant agreement and the Recreation Grants Manual regarding both active project compliance and compliance at previously assisted grant sites, the following actions may be taken:
1. The Department may withhold payment to the Sponsor;
 2. The Department may withhold action on pending projects proposed by the Sponsor

SECTION 8 - CLOSEOUT

Sponsor will follow closeout procedures in the Instructions for Approved Projects Recreation Grant Programs.

SECTION 9 - TERMS OF ACCEPTANCE

By accepting funds under this grant, the Sponsor agrees to comply with the terms and conditions of this Grant Agreement, and the terms and conditions of all attachments that are applicable to the Sponsor. Sponsor also agrees to comply with assurances and certifications made in its approved grant application submitted via Recreation Grants Online, and applicable federal statutes, regulations and guidelines. Sponsor agrees to fulfill the grant in accordance with the approved grant application, budgets, supporting documents, and all other representations made in support of the approved grant application.

Signature Authority

The person or persons signing this Grant Agreement on behalf of the Sponsor hereby warrant and guarantee that they are duly authorized by the Sponsor to execute this Grant Agreement on behalf of the Sponsor and to validly and legally bind the Sponsor to all the terms of this agreement.

Entire Agreement; Modifications Must Be in Writing

This Grant Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered unless with prior written approval by both parties.

Venue; Governing Law

This Grant Agreement shall be governed by the laws of the State of Texas. The proper place of venue for suit on or in respect of the Agreement shall be Travis County.

SECTION 10 – ATTACHMENTS INCORPORATED BY REFERENCE

The Federal regulations titled “2 CFR, Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” are incorporated by reference into this Agreement (full text can be found at <http://www.ecfr.gov>)

The following completed documents are attached to and made part of this Agreement:

- Budget Summary
- Certification Regarding Lobbying (Required Signature)
- Texas Assurances for Federal Sub Awards
- Federal Grant Notice of Award
- Instructions for Approved Projects
- Assurances for Non-Construction Projects (Required Signature)

SECTION 11 – SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

TEXAS PARKS AND WILDLIFE DEPARTMENT

Signature: Dana Lagarde

Date: 10/19/2021

SAM Date/Initials: 10/13/2021 / R.Z.

Federal Aid Date/Initials: 10/19/2021 / B.C.

City of South Padre Island - Shoreline Department

Name: William R. Smith

Title: City Manager

Signature: _____

Date: _____

Proposed Project Details

City of South Padre Island - Shoreline Department

BA-2021-SPI_Shoreline-00006

Proposed Project Components

	For RENOVATION/REPAIR of Current Facilities	For NEW Construction of Facilities
Boat Ramp	[]	[✓]
Boat Trailer Parking	[]	[✓]
Bulkhead	[✓]	[]
Campground (only accessible by boat)	[]	[]
Courtesy Dock(s)	[]	[✓]
Dredging (for boating lane(s) only)	[✓]	[]
Floating Restroom (only accessible by boat)	[]	[]
Lighting	[]	[✓]
Permanent Program Sign (permanently maintained)	[]	[✓]
Single Car Parking	[]	[]
Temporary Project Sign (during construction)	[]	[✓]

Project Schedule (Construction Projects)

Describe (4000 characters or less) the estimated time schedule for implementing the proposed Project. Applicants are allowed approximately three years from the date of USFWS approval to complete all project elements. Approved projects should be accomplished in a timely manner by the Applicant, unless delays result from extraordinary circumstances beyond the Applicant's control. 'Planning Grant Only' projects may type N/A in the text box below.

Failure to meet the grant time frames may be grounds for the Department to initiate cancellation of the project, or to deny requests for additional grant funds for new projects. ('Planning Grant Only' projects may type N/A in the text box below)

Marisol Boat Ramp Project Schedule

2021 May
Grant Awarded
2021 June
Notify SLTF/CC
Prepare RFQ
2021 July
Post RFQ
2021 August
Grade RFQ Submissions and Rank
Take to STLF/CC
2021 September
Take and Sign TPWD Contract to CC
Sign Engineering Contract
2021 October
Begin immediate USACE permits
Begin immediate TGLO lease
2021 November
Biological Assessment
Marine/Environmental Assessment
2021 December
2022 January
Complied Bio/Marine/Environmental Reports

Proposed Project Details

City of South Padre Island - Shoreline Department

BA-2021-SPI_Shoreline-00006

2022 February
Preliminary Plans
2022 March
TPWD Preliminary Plans Review/Comments
2022 April
Mitigation Plan
2022 May
Final Plans sent to TPWD for Final Comments
2022 June
TX Dept of Licensing Applications
SPI Permits
2022 July
Final Engineering Design
2022 August
Grant Signage posted
Final Grant Closeout

Proposed Project Benchmarks

FINAL DESIGNS SUBMITTED TO TPWD: (ALL projects)	7/31/2022
PROJECT REGISTRATION WITH TEXAS DEPARTMENT OF LICENSING AND REGULATIONS (TDLR) (ALL projects)	6/30/2022
CORPS OF ENGINEERING PERMIT/ENVIRONMENTAL COMPLIANCE SUBMITTED TO TPWD (ALL projects)	5/31/2022
FINAL BUDGET (ALL projects)	9/30/2021
PHOTOS OF THE PROPOSED SITE (ALL projects)	10/31/2021
CULTURAL/ENVIRONMENTAL SURVEYS (if required)	11/30/2021
BIDDING PROCESS, AWARD OF CONSTRUCTION CONTRACT (projects with CONSTRUCTION elements)	
ESTIMATED CONSTRUCTION CONSTRUCTION/ INSTALLATION START - <i>Six months preferred</i> (projects with CONSTRUCTION elements)	
ESTIMATED COMPLETION OF PROJECT (ALL projects)	8/31/2022

Management Experience

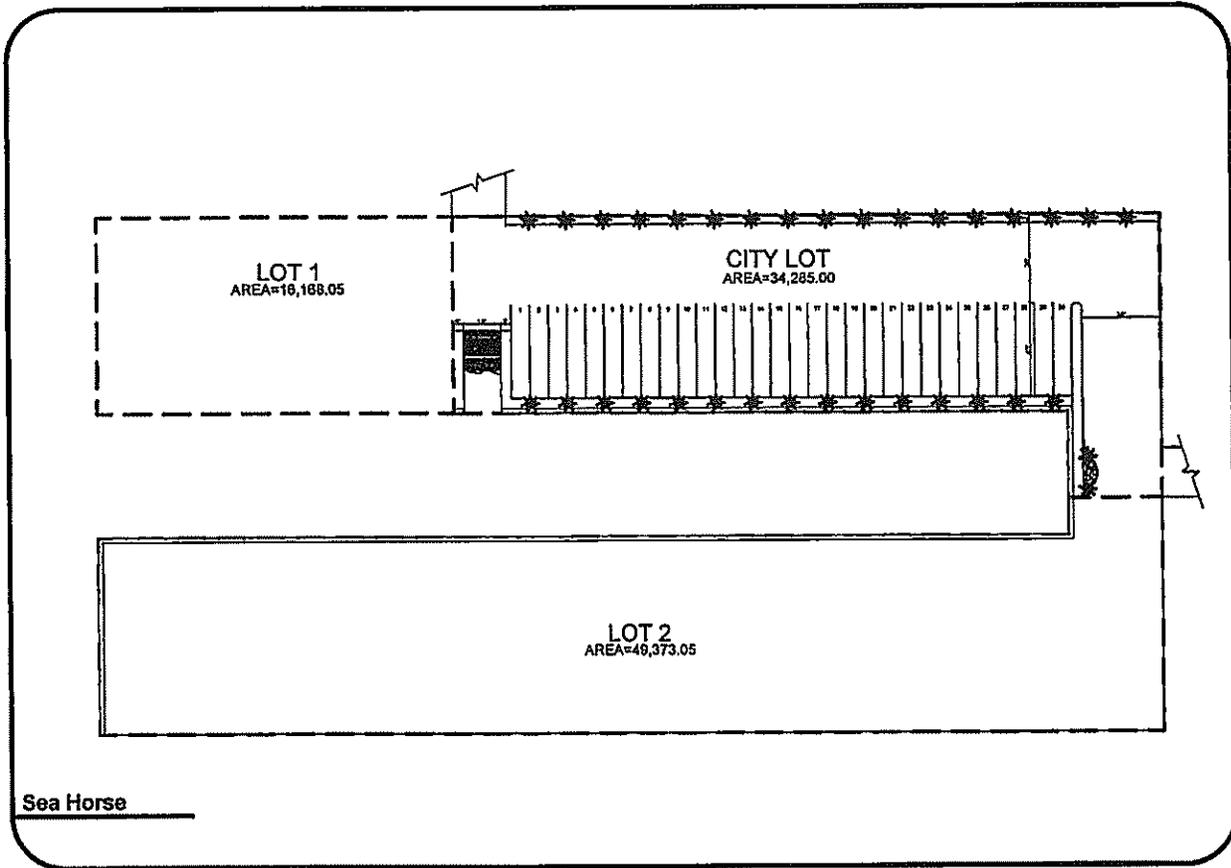
Describe the Primary Contact's Grant Management/Federal Fund Management Experience (1000 characters or less) The information should be provided about the Day-to-Day contact identified above.

This should include, at a minimum:

1. Years of grant management experience,
2. Past or current experience with TPWD grants,
3. Past or current experience with other federal/state grants,
4. Knowledge of the key elements of the construction contract process, and
5. Other information related to this contact and is relevant to this project is encouraged

18 months of grant management experience
Current grant funding opportunity with TPWD
Current grant experience with the Texas GLO through the Coastal Management Program and the Nation Fish and Wildlife Foundation

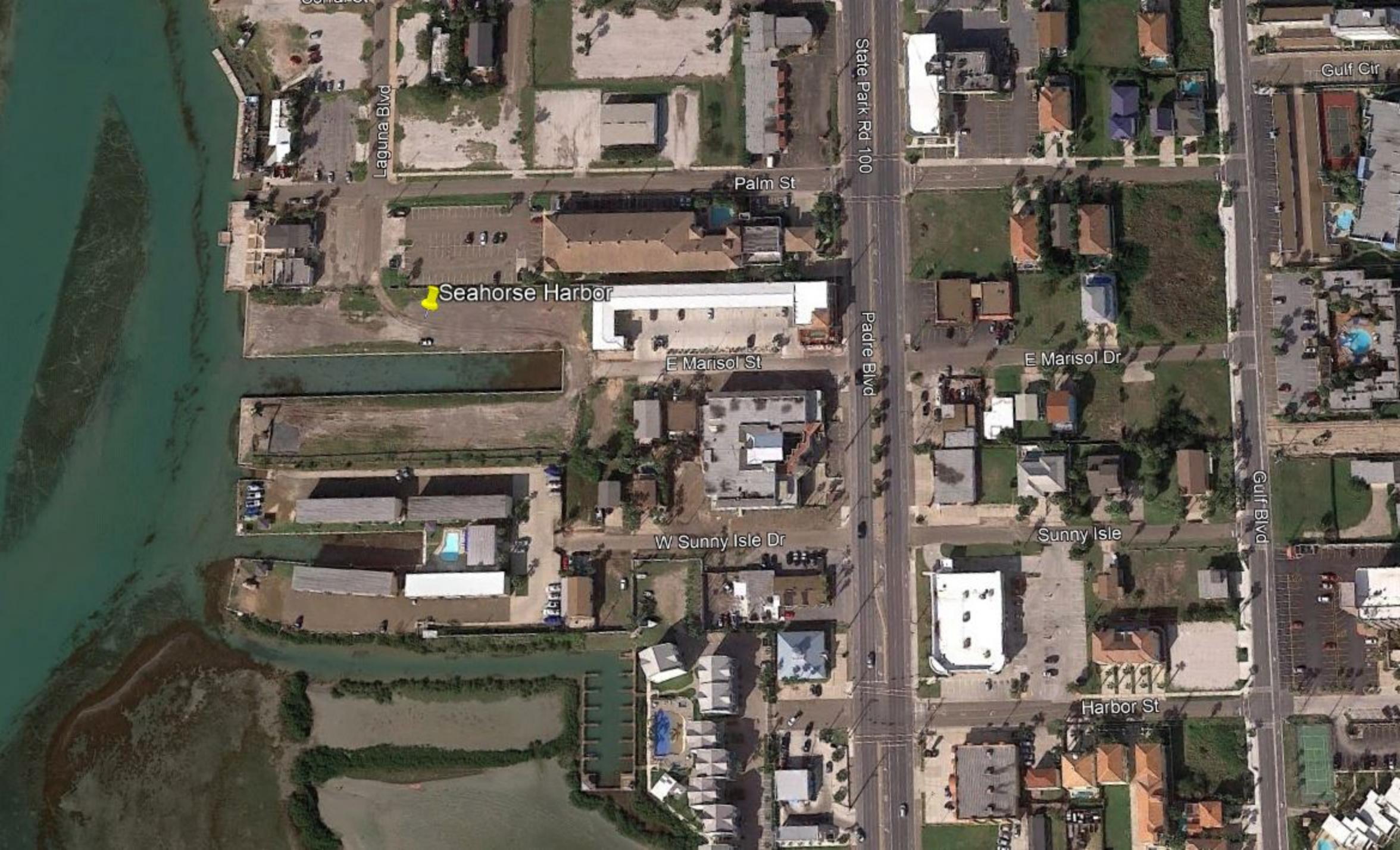
Attachment



Paetz



3/3



Laguna Blvd

Palm St

State Park Rd 100

Gulf Cir

Seahorse Harbor

E Marisol St

Padre Blvd

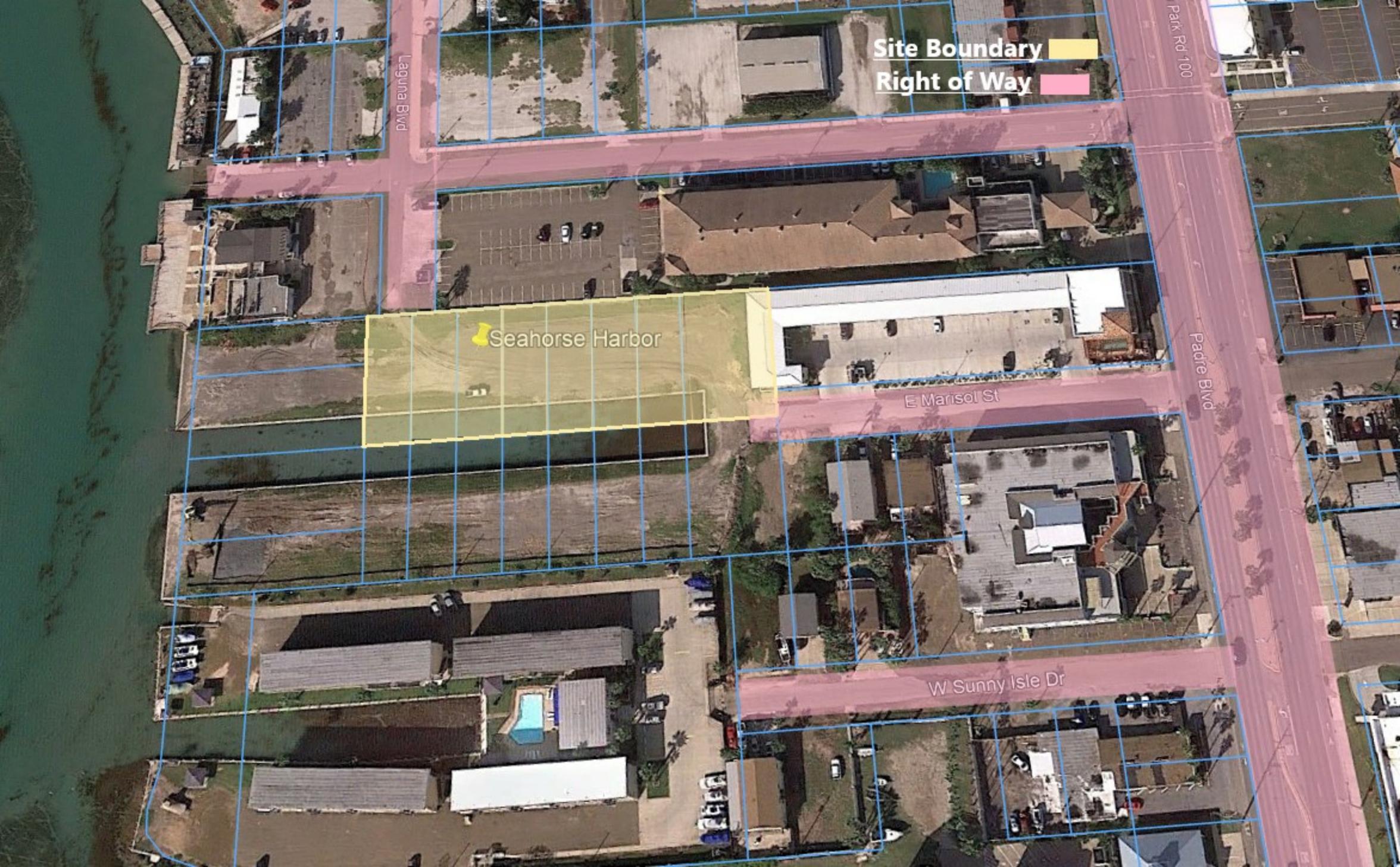
E Marisol Dr

Gulf Blvd

W Sunny Isle Dr

Sunny Isle

Harbor St



Site Boundary 
Right of Way 

Laguna Blvd

Park Rd 100

 Seahorse Harbor

E Marisol St

Padre Blvd

W Sunny Isle Dr



Construction Plans & Specifications Instructions

Introduction to Construction Plans & Specification Methods

The procurement methods, plans, specifications, and related construction documents must be reviewed by Recreation Grants Staff prior to receiving a notice to proceed. All sponsors of local park grant projects must follow the Local Government Code of the State of Texas, plus any local rules, policies, ordinances, or regulations that are more restrictive than the state code.

Typical methods of construction include:

- Contract bid construction
- In-house construction:
 - o Force account construction
 - o Construction by donation
- Turnkey purchases and installation:
 - o Local government purchasing cooperative
 - o Small procurements
- In rare cases:
 - o Construction manager-agent
 - o Design build
- A combination of methods

If you use more than one method of construction, you will need to follow all required steps for each method.

The [Texas Municipal League](#) publishes two papers that can be used as a reference in navigating relevant portions of State Code when selecting and administering construction and procurement methods:

- [Municipal Procurement Made Easy](#)
- [Design-Build Handbook](#)

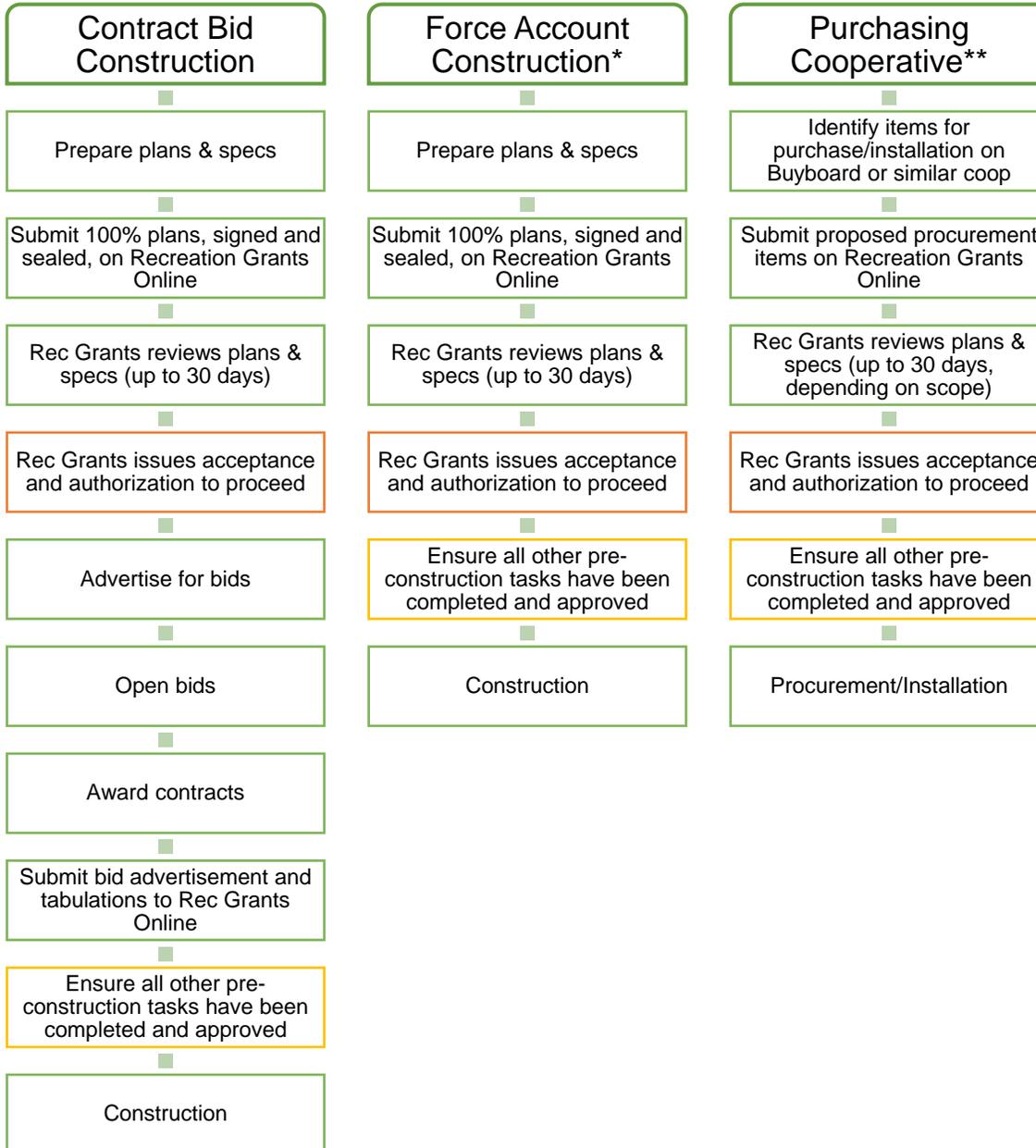
Before proceeding to construction or installation of small items, every project sponsor is responsible for ensuring that all pre-construction tasks have been submitted to Recreation Grants Online and reviewed and accepted by Recreation Grants Staff. Typical pre-construction tasks include appraisals and acquisition, environmental permitting, interlocal agreements, cultural resource permitting and clearance, registration and compliance with TDLR. Some tasks, such as a TCEQ Stormwater PPP, may be included in a construction contractor's scope of work and can be submitted after awarding contract.

Note: *No construction at the site may be initiated until 1) the grant agreement is active and executed, 2) the pre-construction tasks have been completed, 3) the plans and specifications have been accepted by Recreation Grants Staff. Beginning construction before these steps may jeopardize your funding.*



Construction Plans & Specifications Instructions

Construction Plans & Specifications Approval Flow



*Construction by donation follows same flow as force account

**Small procurement follows same flow as purchasing cooperative



Construction Plans & Specifications Instructions

Design/Development Instructions

The Recreation Grants Staff reviews all plans and specifications. Plans and specifications must be uploaded on our Online Grants Management System at: <https://tpwd-recgrants.intelligrants.com/login2.aspx>

100% Signed and Sealed Plans: Plans and specifications must bear the registration seal and signature of the designer, who is reminded that ethically their seal should appear only on documents for which they are personally responsible for and technically proficient. Plans may be developed by a licensed architect, landscape architect, or engineer.

All plans and specifications must be accepted by the Department prior to awarding of the construction contract, or if by force account, the construction of the elements. Staff primarily reviews construction plans and specifications to ensure compliance with the scope of work as set out in the grant agreement. Further design consultation is available upon request.

Pre-Construction Tasks: Permits or letters of approval must be uploaded, processed, and approved before construction plans and specifications can be accepted. Examples: Army Corps of Engineers evaluation and permit, U.S. Fish & Wildlife survey and permit.

Overmatch in Bid Proposals: Bid proposals must identify costs of any portion of the work not supported by Fund assistance. These costs must be easily separated for audit purposes.

Local Purchasing Cooperative: Recreation Grants staff may require plans and specifications for items purchased through a local purchasing cooperative such as Buyboard depending on the size, scope, and intensity of the items procured.

Each item selected through a local purchasing cooperative must be submitted to Recreation Grants staff for review and acceptance before it is purchased. All documentation from the cooperative must be included. All quotes from vendors must clearly state the cooperative contract number. Recreation Grants staff must be able to determine that the vendor selection process was achieved through the purchasing cooperative. Providing evidence of the vendor's registration on the cooperative is not enough to warrant acceptance by Recreation Grants staff.

Small Purchases: Plans and specifications are not required on items such as playground equipment, picnic tables, and benches to be purchased when the invoice amount is \$50,000 or less. However, information for small purchases must be submitted through Recreation Grants Online for approval.

Required information includes manufacturer's name, model number, as well as any relevant information required by the grant agreement scope, such as material composition. Tear sheets or other manufacturer documentation is the preferred submission item.

Installation Plans for Local Purchasing Cooperatives and Small Purchases: Each park construction project needs to provide construction plans and specifications that can be



Construction Plans & Specifications Instructions

registered with the Texas Division of Licensing and Registration and reviewed for accessibility requirements. This is required for all projects, even those that may not include contractor bid or force account construction. In addition, Recreation Grants staff needs to understand where elements are to be installed and how they will work in context of the overall project. Construction elements involving water or other sensitive resources may require more detailed documentation.

Detailed Definitions of Construction Methods

CONTRACT BID CONSTRUCTION

Political subdivisions must comply with the Local Government Code Chapters 252, 262, and 375 requirements governing advertisement of bids. It is the responsibility of the sponsor to adhere to all local, state, and federal laws and regulations regarding bidding procedures.

These procedures generally require award of a construction contract to the lowest qualified bidder. If applicable, the sponsor must submit written justification as to why the contract should not be awarded to the lowest bidder; the Department must concur with the justification.

The Department requires that a copy of the bid advertisement and the tabulation of all bids received before reimbursing any contract expenditures. Executed contract change orders relating to construction of grant elements must be forwarded to the Department for review.

Sponsors of funded projects must, at minimum, follow these purchasing requirements:

Expenditure Amount	Requirement
\$50,000 or less	May award to vendor of choice
\$50,000.01 or more	Formal bids required

It is the responsibility of the sponsor to determine if local codes or regulations require formal bids at a lower price point.

It is the responsibility of the sponsor to manage the formal bid process according to the stipulations provided in the Local Government Code and local regulations.

Multiple purchasing or phased purchasing to avoid the bidding process is specifically prohibited by the Local Government Code. For example, purchasing \$60,000 worth of material in two \$30,000 lots to avoid soliciting bids as required above is not allowed.

FORCE ACCOUNT CONSTRUCTION

Construction performed by the sponsor's own work force including work provided by other governments must be recorded and certified on work record forms.

Fringe benefits paid by the sponsor such as FICA, insurance, and retirement, are allowable expenses, but the method of determination must be documented. Fringe benefits may be



Construction Plans & Specifications Instructions

computed on a percentage of total payroll, provided the method of determination is approved. The sponsor's payroll records may be verified at the final audit/inspection.

CONSTRUCTION BY DONATION

The value of donations may be used only to meet cost sharing or matching requirements. The Department must be assured that the donation is at actual cost. The sponsor may not make a profit from any donation claimed on the grant.

Labor or Services: Donated labor or services will be recognized for matching purposes at the local common laborer wage, minimum wage or wage the sponsor pays that type of employee or service.

Volunteer labor is valued at minimum wage unless an individual is donating labor or services in their trade such as an electrician, brick layer, carpenter, etc. In that case, reimbursement will be based on the prevailing wage paid in the locality for that specialized trade. The "Certification of Donated Labor or Service" form must be completed and submitted with a signed force account work record.

The force account work record form may be used for documenting donated labor provided the individual donating the labor or service certifies by signature that the hours worked are correct. The sponsor's project officer or supervisor is also required to certify the work record.

Labor performed by individuals from correctional institutions must be documented in writing by an officer of the correctional institution.

Materials: Donated materials will be recognized for matching purposes at the actual cost or at the normal price charged by a vendor. All vendors donating materials must submit an invoice and a signed letter stating that they are making a donation and that the invoiced amount is the actual price of goods or services normally charged all customers.

Equipment: Donated equipment use will be recognized for matching purposes at rates established by the Department, providing that the firm is not in the equipment rental business. If equipment is donated from a rental agency, the donor must submit an invoice and signed letter stating that the invoiced amount is the normal price charged all customers.

LOCAL GOVERNMENT PURCHASING COOPERATIVE

The Local Government Purchasing Cooperative is an administrative agency created in accordance with Texas Government Code Chapter 791 (Inter-local Cooperation Contracts):

"A local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services."



Construction Plans & Specifications Instructions

Its purpose is to obtain the benefits and efficiencies that can accrue to members or a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services. Membership is free and open to all local governments, non-profits, and other political subdivisions of the state of Texas.



United States Army Corp of Engineer: Section 404 Permitting Guidelines:

Section 404 of the Clean Water Act:

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

The basic premise of the program is that no discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation's waters would be significantly degraded. In other words, when you apply for a permit, you must first show that steps have been taken to avoid impacts to wetlands, streams and other aquatic resources; that potential impacts have been minimized; and that compensation will be provided for all remaining unavoidable impacts.

Proposed activities are regulated through a permit review process. An individual permit is required for potentially significant impacts. Individual permits are reviewed by the U.S. Army Corps of Engineers (USACE), which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines, regulations promulgated by EPA. Some states have assumed this permitting authority and regulate these activities.

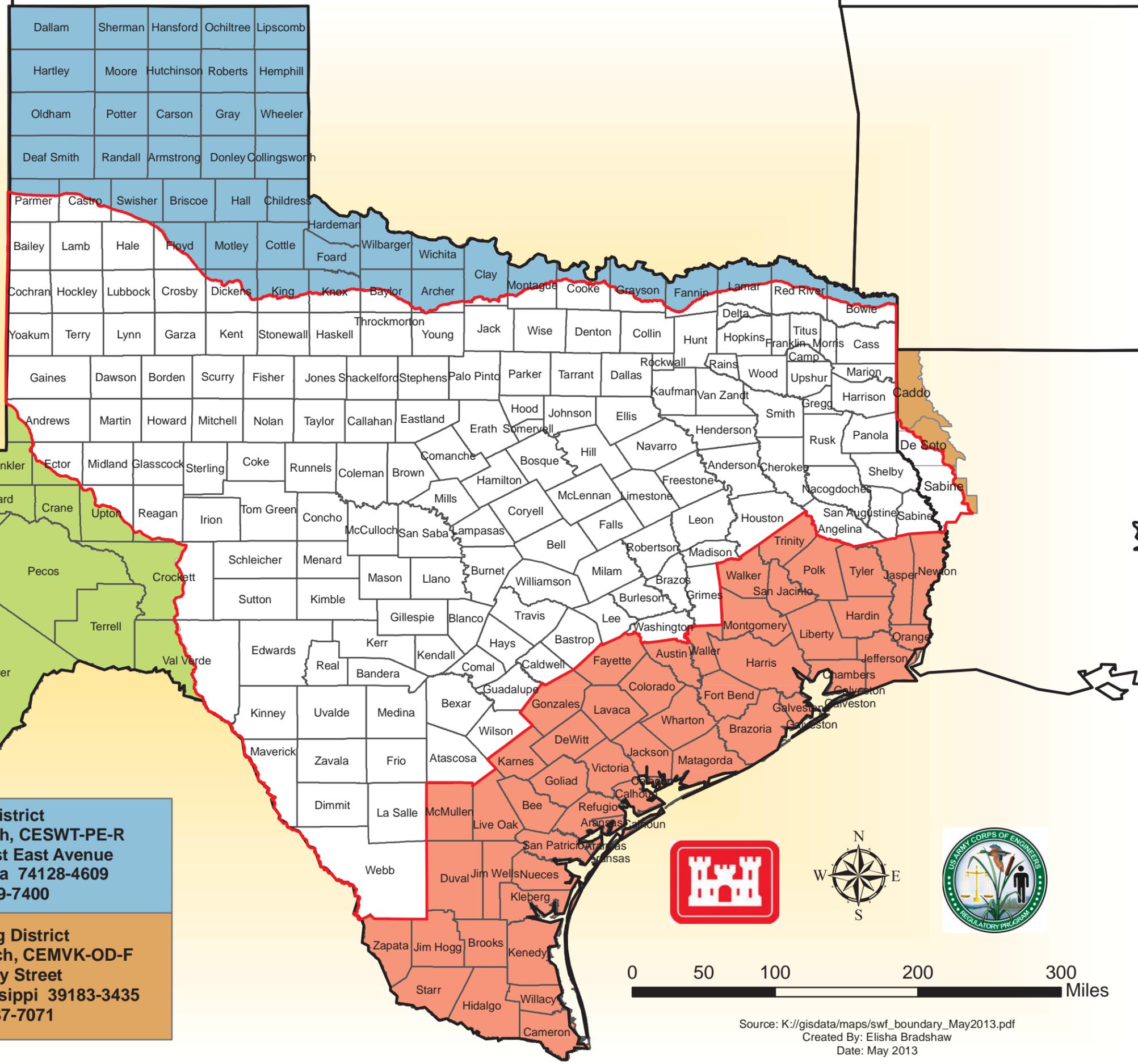
For most discharges that will have only minimal adverse effects, a general permit may be suitable. General permits are issued on a nationwide, regional, or state basis for particular categories of activities. The general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met. For example, minor road activities, utility line backfill, and bedding are activities that can be considered for a general permit. States also have a role in Section 404 decisions, through State program general permits, water quality certification, or program assumption.

[Click Here to find the 404 Application Form/Application Instructions](#)

Attached Documents Include:

- Texas USACE Regional Map with Contact Information
- 404 Regulatory Authority Fact Sheet

**U.S. Army Corps of Engineers
Fort Worth District
Regulatory Boundary**



**Fort Worth District
Regulatory Division, CESWF-DE-R**
819 Taylor Street, Room 3A37
P.O. Box 17300
Fort Worth, Texas 76102-0300
(817) 886-1731

**Albuquerque District
Las Cruces Regulatory Office, CESP-AR**
505 S. Main St. Suite 142
Las Cruces, New Mexico 88001
(575) 556-9939

**Galveston District
Regulatory Branch, CESWG-PE-R**
2000 Fort Point Road
P.O. Box 1229
Galveston, Texas 77553-1229
(409) 766-3930

**Tulsa District
Regulatory Branch, CESWT-PE-R**
1645 South 101st East Avenue
Tulsa, Oklahoma 74128-4609
(918) 669-7400

**Vicksburg District
Regulatory Branch, CEMVK-OD-F**
4155 Clay Street
Vicksburg, Mississippi 39183-3435
(607) 637-7071



Source: K://gisdata/maps/swf_boundary_May2013.pdf
Created By: Elisha Bradshaw
Date: May 2013



Wetland Regulatory Authority

Regulatory Requirements

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

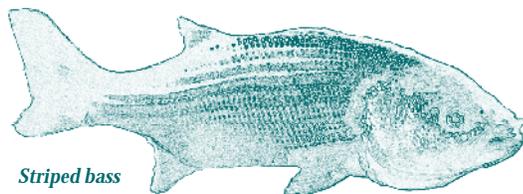


Wetlands subject to Clean Water Act Section 404 are defined as "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."

The basic premise of the program is that no discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation's waters would be significantly degraded. In other words, when you apply for a permit, you must show that you have, to the extent practicable:

- Taken steps to avoid wetland impacts;
- Minimized potential impacts on wetlands; and
- Provided compensation for any remaining unavoidable impacts.

Proposed activities are regulated through a permit review process. An *individual permit* is required for potentially significant impacts. Individual permits are reviewed by the U.S. Army Corps of Engineers, which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. However, for most discharges that will have only minimal adverse effects, a *general permit* may be suitable. General permits are issued on a nationwide, regional, or State basis for particular categories of activities. The general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met. For example,



Striped bass

minor road activities, utility line backfill, and bedding are activities that can be considered for a general permit. States also have a role in Section 404 decisions, through State program general permits, water quality certification, or program assumption.

Agency Roles and Responsibilities

The roles and responsibilities of the Federal resource agencies differ in scope.

U.S. Army Corps of Engineers:

- Administers day-to-day program, including individual and general permit decisions;
- Conducts or verifies jurisdictional determinations;
- Develops policy and guidance; and
- Enforces Section 404 provisions.

U.S. Environmental Protection Agency:

- Develops and interprets policy, guidance and environmental criteria used in evaluating permit applications;
- Determines scope of geographic jurisdiction and applicability of exemptions;
- Approves and oversees State and Tribal assumption;
- Reviews and comments on individual permit applications;
- Has authority to prohibit, deny, or restrict the use of any defined area as a disposal site (Section 404(c));
- Can elevate specific cases (Section 404(q));
- Enforces Section 404 provisions.

U.S. Fish and Wildlife Service and National Marine Fisheries Service:

- Evaluates impacts on fish and wildlife of all new Federal projects and Federally permitted projects, including projects subject to the requirements of Section 404 (pursuant to the Fish and Wildlife Coordination Act); and
- Elevates specific cases or policy issues pursuant to Section 404(q).

Manual for Identifying Wetlands

The U.S. EPA and U.S. Army Corps of Engineers use the 1987 *Corps of Engineers Wetlands Delineation Manual* to identify wetlands for the CWA Section 404 permit program. The 1987 manual organizes the environmental characteristics of a potential wetland into three categories: soils, vegetation, and hydrology. The manual contains criteria for each category. Using

this approach, an area that meets all three criteria is considered a wetland.

Wetlands on Agricultural Lands

Farmers who own or manage wetlands are directly affected by two important Federal programs—Section 404 of the CWA and the Swampbuster provision of the Food Security Act. The Swampbuster provision withholds certain Federal farm program benefits from farmers who convert or modify wetlands. The U.S. EPA, U.S. Army Corps of Engineers, U.S. Department of Agriculture, and U.S. Fish and Wildlife Service have established procedures to ensure consistency between the programs. Many normal farming practices are exempt from Section 404.



Water lilies

The Wetland Fact Sheet Series

EPA843-F-04-001
Office of Water

Wetlands Overview
Types of Wetlands
Threats to Wetlands
Wetland Restoration
Funding Wetland Projects

Functions and Values of Wetlands
Teaching About Wetlands
Wetland Regulatory Authority
Wetlands Compensatory Mitigation
Benefits of Wetland Monitoring

For more information, call EPA’s Wetlands Helpline at 1-800-832-7828

Wetland Resources

On the Internet

- EPA’s Wetlands Website www.epa.gov/owow/wetlands/regs/
- Section 404 of the Clean Water Act www.epa.gov/owow/wetlands/laws/
- Wetland Delineation Manual www.wes.army.mil/el/wetlands/wlpubs.html
- U.S. Army Corps of Engineers Regulatory Program..... www.usace.army.mil/inet/functions/cw/cecwo/reg/
- U.S. Army Corps of Engineers’ Waterways
Experiment Station Environmental Laboratory www.wes.army.mil/el/wetlands/wetlands.html
- Environmental Law Institute www.eli.org

In Print

- America’s Wetlands: Our Vital Link Between Land and Water.* For a copy, order from EPA’s publications web site at <http://yosemite.epa.gov/water/owrcatalog.nsf> or call the EPA Wetlands Helpline at 1-800-832-7828.
- Wetlands Deskbook*, 2nd Edition, Margaret N. Strand. Available from the Environmental Law Institute. Call 1-800-433-5120; fax your request to (202) 939-3868; or e-mail to orders@eli.org.
- Our National Wetland Heritage: A Protection Guide*, 2nd Edition, Jon A. Kusler, Ph.D., Executive Director, Association of State Wetland Managers. Available from the Environmental Law Institute. Call 1-800-433-5120; fax your request to (202) 939-3868; or e-mail to orders@eli.org.



Texas Department of Licensing and Regulation (TDLR): Elimination of Architectural Barriers

All Local Park Grant projects are required to comply with the Texas Accessibility Standards (TAS) established by the Texas Department of Licensing and Regulation (TDLR) under the Elimination of Architectural Barriers Act, Texas Government Code, Chapter 469 and Texas Occupations Code, Chapter 51.

To ensure compliance with these regulations, TPWD requires all funded applicants to register their project with the TDLR and submit their construction plans to a Registered Accessibility Specialist (RAS) for review. Once construction is complete, the RAS will conduct a site visit and file an inspection report.

To learn more about the TDLR registration process, please visit:

[Elimination of Architectural Barriers website](#)

From this link, sponsors will be able to:

- Review and download the 2012 Texas Accessibility Standards
- Register/Search Projects and Licenses
- Search for Registered Accessibility Specialists
- Find Forms, FAQs, Rules, Laws, and Memos

Any questions related to processing and fees, please contact TDLR directly at:

Texas Department of Licensing and Regulation

920 Colorado

Austin, Texas 78701 ([see a map](#))

Lobby walk-in hours are from 8 am to 5 pm Monday through Friday excluding holidays.

Mailing Address:

Texas Department of Licensing and Regulation

P.O. Box 12157

Austin, Texas 78711

Telephone: (512) 463-6599

Toll-Free (in Texas): (800) 803-9202

Relay Texas-TDD: (800) 735-2989

Hours of operation by phone are 7 am to 6 pm Monday through Friday excluding holidays.

For more relevant links regarding accessibility standards for recreation facilities, please visit:

[Chapter 10: Recreation Facilities \(pp. 179-204\)](#) from the 2012 Texas Accessibility Standards

[United States Access Board – Guidelines and Standards – Recreation Facilities](#)



Instructions for Finding a Licensed Registered Accessibility Specialist (RAS):

1. Visit the [Texas Department of Licensing and Regulation Database](#) (TDLR)
2. Click on the drop-down menu titled, "Inquire by License Type"
 - a. **Select** "Registered Accessibility Specialists"
3. Click on the drop-down menu titled, "Inquire by Location (City)" **OR**
4. Click on the drop-down menu titled, "Inquire by Location (County)"

***TIP:** Searching by County may yield more results, this will allow a sponsor to request quotes from multiple Registered Accessibility Specialists*

5. Once a RAS is selected, be sure to write down their License#. This is needed to register a project with TDLR.



Instructions for Registering a Project in the Texas Architectural Barriers Online System (TABS):

1. Visit the [Texas Architectural Barriers Online System](#) (TABS)
2. From here either Register a New User, or Login using an existing account
3. The TABS Dashboard will appear, click the "Click here to Manage Projects" link
4. Then click the, "Register New Project" link
5. Provide the, "Estimated Construction Cost", then click, "Online Registration"
6. Enter the pre-determined Registered Accessibility Specialist (RAS) License Number, or use the Search link to find a licensed RAS. Once a RAS is selected, click," Verify RAS Information"
7. Click, "Continue with RAS" link when a RAS is selected and verified for the project
8. Enter the project information, then click "Save and Continue"
9. Enter the project contacts information, this may include:
 - a. Building or Facility Owner
 - b. Owner's Designated Agent
 - c. Design Firm
 - d. Tenant (if other than Owner)
10. Click "Save Contacts and Continue"
11. Review registration information, once verified click, "Confirm Project Registration"
12. Pay the \$175.00 TDLR Project Filing Fee
13. Once Registered TDLR will send a confirmation page that will look like the example. This is the document that is uploaded in the Recreation Grants Online (RGO) portal for approval.

Architectural Barriers Project Registration Online Receipt

Your project has been successfully registered! However, this is only the registration of the construction project. The building/facility owner is responsible for ensuring that the registration number, project details and construction documents are mailed, scanned, or hand delivered to the Registered Accessibility Specialist (RAS) for the required review and inspection of the project.

Your project registration number is **TABS2019** [REDACTED]

Project Name

[REDACTED] Park

Project Number

TABS2019 [REDACTED]

Receipt Number

[REDACTED]

Reference Number

[REDACTED]

Receipt Date

[REDACTED]

Fee Description

Project Registration Fee

Amount

\$175.00

Billing Name

[REDACTED]

Address

[REDACTED]

Phone Number

[REDACTED]

Email

[REDACTED]

Please print this page for your records. A reference e-mail has also been sent to the email provided above. If you have any questions, please call TDLR at 1-877-278-0999.

 [Print this page](#)

[Return to Dashboard \(/TABS/Home/Dashboard\)](#)

BOATING ACCESS ENVIRONMENTAL COMPLIANCE REQUIREMENTS

Sponsor Responsibility. As part of a grant requirements, the sponsor must submit to the Department appropriate environmental documentation. The scope, content and objectivity of the document shall comply with NEPA, CEQ Regulations.

GRANT ELEMENT REQUIREMENTS as per U.S. Fish and Wildlife Service (FWS)

Design Standards

Boating access facilities should be attractive to the public and harmonious with the natural environment. In general, new development and improvements should be designed to avoid or minimize harm to the natural setting, accommodate the number and types of proposed uses, and be consistent with topographic limitations of the site. Emphasis should be given to public health, safety, the natural environment, barrier-free access, and the protection of recreational and community values of the area.

Facilities supported with State Boating Access Program funds should consist of a concrete ramp (each lane 12' to 15' wide), a parking area with at least 20 car-trailer spaces per launching lane (10' x 40' each), an access road, and necessary support facilities. Boat docks and parking lots must be designed and constructed in a barrier-free manner pursuant to state law, and overhead utility lines are prohibited in the fund-assisted project area. (NOTE: Overhead utilities which are in place prior to application submission will be evaluated during the pre-award site visit and sponsors will be advised if such utilities may remain, or if they must be buried/relocated)

Boat docks, parking lots, and restrooms must be designed and constructed for barrier-free access, and overhead utility lines are prohibited in the fund-assisted project area. (NOTE: Overhead utilities in place prior to application submission will be addressed during the pre-award site visit, and sponsors will be advised if such utilities may remain, or if they must be buried/relocated.)

Sponsors must comply with the [Local Government Code](#) for [municipalities](#) and [counties](#), the requirement governing advertising for bids by counties and cities. If a contract is to be awarded to anyone other than the lowest bidder, information must be furnished to the Department as to the reason the contract should not be awarded to the lowest bidder. (NOTE: It is the sponsor's responsibility to adhere to all local, state, and federal laws and regulations).

After the project is designed, sponsors must contact the U.S. Army Corps of Engineers (Corps) to determine which permits (if any) are needed. A Corps permit, or letter stating that a permit is not required, must be obtained before a grant contract is executed with the sponsor. To find out which Corp district has jurisdiction you're your project, please visit their website at: <http://www.swf.usace.army.mil/pubdata/enviro/regulatory/introduction/districtboundaries2feb52002.pdf>

- **Environmental Compliance.** Policy concerning the assessment of the environmental impact of federal and federally funded actions is contained in the National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190, as amended; 82 Stat. 852, as amended; 42 U.S.C. 4321-4347).

All Boating Access Grant actions are subject to the provisions of NEPA and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (CEQ Regulations 40 CFR 1500-1508).

- Section 7 Consultation – Endangered Species Act: Section 7 (a)(2) The Endangered Species Act (ESA) directs all Federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the Act, called "Interagency

Cooperation," is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species.

<https://www.fws.gov/midwest/endangered/section7/index.html>

- **National Environmental Policy Act (NEPA)**
The National Environmental Policy Act (NEPA) of 1969 is one of the first and most significant pieces of environmental legislation enacted in the U.S. NEPA provides the basic national charter for protection of the environment. The law is intended to ensure that information regarding environmental effects of an agency's development proposal and alternative actions are available to inform agency decision makers and the public.
<https://www.fws.gov/ecological-services/habitat-conservation/NEPA.html>

- **Army Corps of Engineering (COE)**
 - Nationwide Permit; or
 - Specific Location Permit
 - National Marine Fisheries Service (NMFS) Required for all coastal projects.

All projects that are considered "Coastal" **MUST** submit information regarding the National Marine Fisheries Service (NMFS) – Pile Driving Noise Assessment for SAJ-82 that addresses Sea Turtle and Smalltooth Sawfish to the US Army Corps of Engineering during the permitting process and adhere to all the special conditions during construction.

- **IPAC Report**
U.S. Fish and Wildlife Service online service to assist with the environmental review process into your project design. IPaC offers: (a) Endangered Species (b) Mapping of proposed improved site and (c) Report of Impact analysis
<https://ecos.fws.gov/ipac/>

- **Environmental Assessments (EA).**
An EA should cover the points listed below in sufficient detail to resolve the test of "major and significant" (CEQ Regulations, Section 1508.18 and 1508.27) and provide a basis for deciding whether to prepare an environmental impact statement (EIS) on the project. Such assessments generally need be no more than two or three pages in length, except when complex projects are involved.

An EA should not be prepared if the need for an EIS is self-evident.

Format and Content. Pertinent information of sufficient scope and depth must be provided in an EA to allow the Department to accurately ascertain the impact of the project and to determine whether an EIS is needed. Whenever possible, an environmental impact should be quantified. In all cases the level of activities involved should be given (number of trees to be removed, cubic yards of debris to be removed, and cubic yards of fill to be required, etc.). For projects with property rights outstanding, the environmental information must also explain how the sponsor plans to assure that the environment will not be affected significantly. An EA should cover the following points:

- (1) **Description of the Proposed Project.** This section should include a brief description of all elements of the project for which assistance is requested, and how the project elements will be carried out.

- (2) **Description of the Site and Environment.** The actual project site(s) and surrounding area(s) should be described in this section. Information regarding vegetation, topography, water resources, access, outstanding characteristics, existing structures and improvements, utilities and easements, surrounding land uses, current property ownership, etc., should be

addressed. If the project site(s) contain threatened or endangered species of flora or fauna, significant mineral values, unique geologic formations, unique animal or plant ecosystems, or cultural/archeological/historical sites, they should be addressed.

Illustrations, graphics, photographs, etc., regarding elements addressed in this section should be included.

- (3) Floodplain and Wetland Documentation. This documentation is only necessary if a project involves a floodplain or wetland area, pursuant to Executive Orders 11988 and 11990. There are no exemptions from this documentation.

The following documentation should be included in the EA:

- (a) Public Notification. The sponsor must inform the public that the project will be located in a floodplain/wetland area, and that the project will have certain environmental impacts on the floodplain/wetland area. A public hearing must be held to allow public comment, application materials and plans must be available for public review, and copies of the published notice and public comments must be included with the application for Boating Access assistance.

- (b) Supplemental Information to the EA. The following information on the floodplain or wetland area must be included:

- (1) The extent of direct and indirect impacts of the project on the floodplain/wetland area;
- (2) Measures to be taken to minimize harm to lives and property, and to the natural and beneficial floodplain/wetland values;
- (3) Alternative actions and locations considered in the event of an adverse impact of the project;
- (4) Assurances that all state, federal, and local floodplain/wetland regulations are being met;
- (5) A map delineating the floodplain/wetland area as it applies to the project.

- (4) Environmental Impacts of the Proposed Project. This section should identify effects, or impacts, which are anticipated to result from the proposed project. Short and long term impacts, plus off-site impacts on land uses, fish and wildlife, vegetation, geology, soils and mineral resources, air and water quality, water resources/hydrology, cultural resources, transportation and access to the site, consumption of energy resources, socio-economic effects, etc., should be considered and addressed. State whether impacts will be beneficial or adverse.

"Impacts" are defined as causing direct or indirect changes in the existing environment, whether beneficial or adverse, which are anticipated as a result of the proposed action or related future actions. To the extent appropriate, the document will discuss impacts of the action, including environmental damage which could be caused by users, upon the physical and biological environment as well as upon cultural, aesthetic, and socio-economic conditions. Elements of impacts which are unknown or only partially understood should be indicated.

- (5) Mitigating Measures for Adverse Impacts. Adverse impacts can have either short or long-term effects and should be so identified in this section. For those impacts considered "adverse" and caused as a result of the project, explain how they will be mitigated, eliminated or minimized. "Adverse" impacts which cannot be mitigated should be addressed in the next section.

- (6) Unavoidable Adverse Impacts. Adverse impacts which cannot be mitigated or eliminated should be addressed in this section. The effects should be weighed against the beneficial impacts of the project.

(7) Alternatives to the Project. This section will include a brief description of alternatives as required by NEPA Section 102(2)(E), which states:

Study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

The environmental impacts of the proposal and the alternatives should be presented in comparative form and should define the issues, pros and cons, of a reasonable range of alternatives, and provide a clear basis for choice between them by the Department and the public.

(8) A listing of agencies and persons consulted.

C. Points to Keep in Mind:

(1) Environmental documentation should be free of project justification and personal bias. The project should be justified elsewhere in the grant application.

(2) Do not rely on generalities. Specific facts are essential. All statements and conclusions should be supported, and quantified where possible.

(3) Use graphics to help explain the project.

(4) Be concise, clear and to the point.

(5) Adverse impacts should be addressed as fairly as beneficial impacts.

Finding of No Significant Impact (FONSI). If the Department, after reviewing the environmental assessment, determines that the proposed project will not have a significant effect on the quality of the human environment and that an EIS is therefore unnecessary, no further environmental documentation will be required from the sponsor.

Guidelines to Determine When an Environmental Impact Statement Should Be Prepared. The Department will require sufficient environmental data from the sponsor to prepare an EIS on a proposed Boating Access project deemed to be a major action having a significant impact on the physical, biological, and/or socio-economic environment of the project site and/or surrounding area. Cumulative impacts and/or subsequent actions must be considered in environmental data submitted.

A. Factors to Consider. The occurrence of one or more of the following factors indicates that an EIS may be needed:

(1) Marshes, or wetlands, unique animal or plant ecosystems, lakes, streams, or marine areas are affected significantly.

(2) The proposed project would or might result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes, within the project area or its immediate environs.

(3) An archeological or historical site identified as a State Archeological Landmark, or eligible for SAL listing would be subjected to significant adverse effects by the proposed project. The procedures to follow for such a site are covered in Chapter 650.4.

(4) Highly controversial issues involving the environmental effects of the project exist or are expected.

(5) The project site contains threatened or endangered species of flora or fauna, significant mineral values, or a unique geologic formation.

(6) Actions which foreclose other beneficial uses of mineral, agricultural, timber, water, energy, or transportation resources critical to the nation's or a state's welfare.

The Department may determine that a proposed project, even though not involving any of the above factors, requires preparation of an EIS.

Adoption of Previous Statement.

In accordance with 40 CFR 1506.3, an EIS prepared for another grant program not administered by the Department may be adopted by the Department if adequate to meet the requirements of a proposed Boating Access action.

All pre-award professional cost that have been approved **MUST** be submitted for reimbursement no later than 90 days after the execution of the TPWD local grant agreement. If these cost have not been submitted within the 90 day period, these cost could be considered forfeited and deemed not eligible. FWS is now requiring financial activity on all grants within the first 90 day grant period

After the project is designed, sponsors must contact the U.S. Army Corps of Engineers (Corps) to determine which permits (if any) are needed. ***A Corps permit, or letter stating that a permit is not required, must be obtained before a grant contract is executed with the sponsor.*** To find out which Corp district has jurisdiction you're your project, please visit their website at: <http://www.swf.usace.army.mil/pubdata/environ/regulatory/introduction/districtboundaries2feb52002.pdf>.

Funded projects must be reviewed by the Texas Historical Commission and Texas Parks & Wildlife Department to determine potential impacts to natural and cultural resources. ***Written clearances or permits must be obtained from each agency prior to initiating any construction activities. The sponsor will be responsible*** to submitted their project to the Texas Historical Commission for a cultural resource review and to TPWD resource staff for a natural resource review. If these reviews uncover sensitive resources at a proposed project site, the project applicant will immediately be notified as to the situation and what actions are necessary to mitigate the situation.

eTRAC system | THC.Texas.gov - Texas Historical Commission

The review by the Texas Historical Commission focuses primarily on whether the project will impact known archeological sites or if the site's location and character are likely to contain archeological deposits. If the site contains, or likely contains, archeological deposits, a field survey by a qualified archeologist is usually required.

The review by the TPWD resource staff focuses primarily on whether the project site has known existence of animal and/or plant species listed as threatened or endangered, or habitat to support such species. If this is the case, a field survey by a qualified biologist is required and the project's impact on the listed species is assessed. If the rare species is federally listed, the U.S. Fish and Wildlife Service must approve the project for it to proceed. If a site has not previously undergone natural and cultural resource survey, we recommend budgeting funds in the project proposal for surveys.

Applicants will be required to remedy all resource impact concerns prior to initiating work on the project. Sometimes a simple relocation of grant element can avoid sensitive areas will allow a project to proceed, in other cases the remedy is much more time consuming and costly. If the remedy costs are too great (over 15% of total project costs), the sponsors will have the following options: a) cover the costs of the mitigation overruns themselves or b) withdraw their application.

EXHIBIT B
STANDARD FORM OF AGREEMENT

PROFESSIONAL SERVICES CONTRACT
ARCHITECTS & ENGINEERING

This Contract is between the **City of South Padre Island**, a Texas home-rule municipal corporation, (the “City”) and _____, a _____ corporation (the “Consultant”), whereby the Consultant agrees to provide the City with certain professional services as described herein and the City agrees to pay the Consultant for those services.

ARTICLE I
Scope of Services

1.01 In consideration of the compensation stated in paragraph 2.01 below, the Consultant agrees to provide the City with the professional services as described in **Exhibit “A”**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: _____

_____ (the “Project”).

ARTICLE II
Payment

2.01 In consideration of the Consultant’s provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit “B”**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed _____
_____ and ___/100 **Dollars**
(\$_____).

ARTICLE III
Time of Performance and Construction Cost

3.01 The Consultant shall complete the professional services within the times set forth below and in Section 3.02. Consultant expressly agrees that such times are as expeditious as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Furthermore, the Consultant shall perform with the professional skill and care

ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

[Conceptual Design: **calendar days** after the authorization to commence planning]

[Preliminary Design: **calendar days** after authorization to commence PPD]

[Final Design: **calendar days** after authorization to commence final design]

- 3.02 All design work and other professional services provided under this Contract must be completed by the following date: _____.
- 3.03 **Time is of the essence of this Contract.** The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant's services to meet the City's project milestone dates which are included in this Contract. The Consultant's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Consultant has control shall not be exceeded without written approval from the City.
- 3.04 The Consultant's services consist of all of the services required to be performed by Consultant, Consultant's employees and Consultant's sub-consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Consultant shall contract and employ at its expense sub-consultants necessary for the design of the Project, and such sub-consultants shall be licensed as required by the State of Texas and approved in writing by the City.
- 3.05 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, be in charge of Consultant's services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.
- 3.06 Consultant shall be responsible for the coordination of all drawings and design documents relating to Consultant's design and used on the Project, regardless of whether such drawings and documents are prepared by Consultant. Consultant shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Consultant and for its compliance with all applicable codes, ordinances, regulations, laws and statutes.

- 3.07 Consultant's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Consultant's best judgment as a design professional familiar with the construction industry.
- 3.08 The construction budget for this Project, which is established as a condition of this Contract is \$_____. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE IV
Conceptual Design

- 4.01 Upon the Consultant's receipt from the City of a letter of authorization to commence planning, the Consultant shall meet with the City for the purpose of determining the nature of the Project. The Consultant shall inquire in writing as to the information it believes the City may have in its possession that is necessary for the Consultant's performance. The City shall provide the information within its possession that it can make available to the Consultant. The City shall designate a representative to act as the contact person on behalf of the City.
- 4.02 The Consultant shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Consultant shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Consultant shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Consultant shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Consultant shall confirm that the Project can be designed and constructed for the dollar amount of the Project budget, if applicable.
- 4.03 The Consultant shall prepare a Conceptual Design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The Conceptual Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Consultant shall meet with City staff and the City Council to make a presentation of its report.

ARTICLE V
Preliminary Design

- 5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to

commence Preliminary Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

- 5.02 The Consultant shall prepare the Preliminary Design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Consultant shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.
- 5.03 Upon completion of the Preliminary Design of the Project, the Consultant shall so notify the City. Upon request the Consultant shall meet with the City staff and City Council to make a presentation of its Preliminary Design of the Project. The Consultant shall provide an explanation of the Preliminary Design and cost estimate and shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VI

Final Design

- 6.01 The City shall direct the Consultant to commence work on the Final Design of the Project by sending to the Consultant a letter of authorization to begin work on the Final Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with Final Design of the Project, the Consultant shall immediately prepare the Final Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Final Design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.
- 6.02 Notwithstanding the City's approval of the Final Design, the Consultant warrants that the Final Design will be sufficient and adequate to fulfill the purposes of the Project.
- 6.03 The Consultant shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the construction contractor. The Consultant hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.

- 6.04 The Consultant shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon request of the City, the Consultant shall meet with City staff and the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design and cost estimate.

ARTICLE VII
Bid Preparations & Evaluation

- 7.01 The Consultant shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Consultant shall meet with City staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.
- 7.02 The Consultant shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Consultant shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the Final Design of the Project, then the Consultant, at its sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the Final Design of the Project.
- 7.03 Where substitutions are requested by a construction contractor, the Consultant shall review the substitution requested and shall recommend approval or disapproval of such substitutions.

ARTICLE VIII
Construction

- 8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Contract unless modified by written instrument.
- 8.02 The Consultant shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and its subcontractors and to determine if such work is proceeding in accordance with the contract documents. Consultant shall periodically review the as-built drawings for accuracy and completeness, and shall report its findings to the City.

- 8.03 The Consultant shall keep the City informed of the progress and quality of the work. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.
- 8.04 The Consultant shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Consultant's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.
- 8.05 The Consultant shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Consultant shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.
- 8.06 The Consultant shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Consultant shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Consultant shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the work. Consultant shall receive no additional compensation for providing clarification of the drawings and specifications.
- 8.07 The Consultant shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Consultant's recommendation of payment, being based upon the Consultant's on-site inspections and its experience and qualifications as a design professional, shall constitute a recommendation by the Consultant to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Consultant's recommendation for payment.
- 8.08 Upon notification from the construction contractor that the Project is substantially complete, the Consultant shall conduct an inspection of the site to determine if the Project is substantially complete. The Consultant shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction

contractor that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project to verify final completion.

- 8.09 The Consultant shall not be responsible for the work of the construction contractor or any of its subcontractors, except that the Consultant shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Consultant's negligent acts or omissions. This provision shall not alter the Consultant's duties to the City arising from the performance of the Consultant's obligations under this Contract.
- 8.10 The Consultant shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.
- 8.11 The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.
- 8.12 The Consultant shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.
- 8.13 The Consultant shall assist the construction contractor and City in obtaining a Certificate of Occupancy by accompanying governing officials during inspections of the Project if requested to do so by the City.

ARTICLE IX
Change Orders & Documents & Materials

- 9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project.
- 9.02
 - a. When the original contract amount plus all change orders is less than \$50,000, the City Manager or his delegate may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council must approve such change order prior to commencement of the services or work.
 - b. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his delegate may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the

original contract, the City Council must approve such change order prior to commencement of the services or work.

c. Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such additional services shall be waived. If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

9.03 The Consultant shall furnish the City _____ () sets of plans and specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Consultant shall provide the City _____ () sets of reproducible, mylar record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. The Consultant shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Consultant. The foregoing documentation, the Consultant's work product, and other information in the Consultant's possession concerning the Project shall be the property of the City from the time of preparation. The Consultant shall furnish one set of digital files representing the final record drawings.

ARTICLE X

Warranty, Indemnification & Release

10.01 As an experienced and qualified design professional, the Consultant warrants that the information provided by the Consultant reflects the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. The Consultant warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of all other services under this Contract are performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the

assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

- 10.02 The Consultant shall promptly correct any defective designs or specifications furnished by the Consultant at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the City's rights hereunder.
- 10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.
- 10.04 The Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as its personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- 10.05 Indemnity. To the fullest extent permitted by law, the Consultant agrees to indemnify, defend, and hold harmless the City, Consultant agrees to indemnify and hold harmless the City, its Council members, officers, agents, employees and volunteers (separately and collectively referred to in this paragraph as "Indemnatee") from and against all claims, damages, losses and expenses including but not limited to attorneys' fees arising out of or resulting from any negligent act, error, omission, intentional tort or willful misconduct, intellectual property infringement or including failure to pay a subconsultant, subcontractor, or supplier pursuant to the agreement by Consultant, its employees, subcontractors, subconsultants, or others for whom Consultant may be legally liable ("Consultant Parties"), but only to the extent caused in whole or in part by the Consultant Parties. IF THE CLAIMS, ETC. ARE CAUSE IN PART BY CONSULTANT PARTIES, AND ALSO IN PART BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OR ALL OF THE INDEMNITEES OR ANY OTHER THIRD PARTY, THEN CONSULTANT SHALL ONLY INDEMNIFY ON A COMPARITIVE BASES, AND ONLY FOR THE AMOUNT FOR WHICH**

THE CONSULTANT PARTIES ARE FOUND LIABLE AND NOT FOR ANY AMOUNT FOR WHICH ANY OR ALL INDEMNITEES OR OTHER THIRD PARTIES ARE LIABLE.

- 10.06 Release.** The Consultant releases, relinquishes, and discharges the City, its Council members, officials, officers, agents, employees and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party.
- 10.07 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 10.05 and Paragraph 10.06, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

**ARTICLE XI
Insurance**

- 11.01 The Consultant shall procure and maintain at its sole cost and expense for the duration of this Contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, volunteers, employees or subcontractors. The policies, limits and endorsements required are as set forth on **Exhibit C**.

**ARTICLE XII
Use of Drawings, Specifications and Other Documents**

- 12.01 The drawings, specifications and other documents prepared by the Consultant and Consultant's sub-consultants for this Project shall become the property of the City whether the Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's drawings, specifications and other documents.

- 12.02 The documents prepared by Consultant may be used as a prototype for other facilities by the City. The City may elect to use the Consultant to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype. If so, the Consultant is obligated to perform the work for an additional compensation that will fairly compensate the Consultant and its sub-consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Consultant will not be responsible for errors and omissions of a subsequent architect or engineer. The Consultant shall commit its sub-consultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.
- 12.03 In the event of termination of this Contract for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.
- 12.04 Only the details of the drawings relating to this Project may be used by the Consultant on other projects, but they shall not be used as a whole without written authorization by the City. The City-furnished forms, conditions, and other written documents shall not be used on other projects by the Consultant.

ARTICLE XIII Termination

- 13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. The Consultant shall be compensated for the services satisfactorily performed prior to the termination date.
- 13.02 If, through any cause, the Consultant fails to fulfill its obligations under this Contract, or if the Consultant violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Consultant **five (5)** calendar days written notice to the Consultant. The Consultant will be compensated for the services satisfactorily performed prior to the termination date.

13.03 No term or provision of this Contract shall be construed to relieve the Consultant of liability to the City for damages sustained by the City because of any breach of contract and/or negligence by the Consultant. The City may withhold payments to the Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

**ARTICLE XIV
Miscellaneous Terms**

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

14.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of South Padre Island
Attn: City Manager
4601 Padre Blvd.
South Padre Island, Texas 78597

Consultant:

14.03 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

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

14.05 This Contract and all rights and obligations contained herein may not be assigned by the Consultant without the prior written approval of the City.

14.06 If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of

competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

- 14.07 The Consultant, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of South Padre Island, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.
- 14.08 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract. If there is a conflict between a provision in any documents provided by Consultant made a part of this Contract and any other provision in this Contract, the latter controls.
- 14.09 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.
- 14.10 **Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.**

[INSERT NAME OF CONTRACTOR]

CITY OF SOUTH PADRE ISLAND

By: _____
Printed Name: _____
Title: _____
Date: _____

By: _____
Mayor
Date: _____

APPROVED:

City Manager
Date: _____

City Attorney
Date: _____

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B

PAYMENT TERMS

SELECT ONE:

Compensation is based on **actual** hours of work/time devoted to providing the described professional services. The Consultant will be paid at a rate of \$_____ per hour, or at the rates per service or employee shown below. The City will reimburse the Consultant for **actual**, non-salary expenses at the rate of _____ percent (%) above the Consultant's actual costs, or at the rates set forth below. Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract (\$_____).

The Consultant must submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

-OR-

Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Schedule of Payment for each phase:

EXHIBIT C

INSURANCE REQUIREMENTS

During the term of this Contract all Consultant's insurance policies shall meet the following requirements:

- I. Standard Insurance Policies Required:
 - A. Commercial General Liability
 - B. Business Automobile Liability
 - C. Workers' Compensation
 - D. Professional Liability

- II. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as **Exhibit D**, and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

- III. General Requirements Applicable to All Policies
 - A. Only insurance carriers licensed and authorized to do business in the State of Texas will be accepted.
 - B. Deductibles shall be listed on the Certificate of Insurance.
 - C. "Claims made" policies will not be accepted, except for Professional Liability insurance.
 - D. Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of South Padre Island.
 - E. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

- IV. Commercial (General) Liability requirements:
 - A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
 - B. Minimum Limit of \$1,000,000 per occurrence for bodily injury and property

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damage with a \$2,000,000 annual aggregate.

- C. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- D. The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- E. The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

V. Business Automobile Liability requirements:

- A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current. A. M. Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- D. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.

VI. Workers' Compensation Insurance requirements:

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. The workers' compensation insurance shall include the following terms:
 - 1. Employer's Liability limits of \$1,000,000 for each accident is required.
 - 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 - 3. Texas must appear in Item 3A of the Worker's Compensation coverage or

Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

- C. Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*

- C. *The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. *If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- E. *The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - (1) *a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - (2) *no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- F. *The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- G. *The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- H. *The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- I. *The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
 - (1) *provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*

- (2) *provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
- (3) *provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (4) *obtain from each other person with whom it contracts, and provide to the Contractor:*
 - (a) *a certificate of coverage, prior to the other person beginning work on the project; and*
 - (b) *a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
- (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
- (7) *contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-

insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.”

VII. Professional Liability requirements:

- A. Coverage shall be written by a carrier rated “A:VIII” or better in accordance with the current A.M. Best Key Rating Guide.
- B. Minimum of \$1,000,000 per claim and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of South Padre Island when requested.
- C. Policy must include availability of a two-year extended reporting period.
- D. Retroactive date must be shown on certificate.

EXHIBIT D

CERTIFICATE(S) OF INSURANCE