

RESOLUTION 21-166

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING TASK ORDER GEO 2021-01-N TO THE MASTER SERVICES AGREEMENT WITH NOVA ENGINEERING AND ENVIRONMENTAL, LLC, FOR GEOTECHNICAL TESTING SERVICES FOR SR79 AND FRONT BEACH ROAD SEGMENT 3 IN AN AMOUNT NOT TO EXCEED \$37,625.

BE IT RESOLVED by the City Council of the City of Panama City Beach that the appropriate officers of the City are authorized to deliver and execute on behalf of the City that certain Task Order GEO 2021-01-N to the Master Services Agreement related to Geotechnical Engineering Services dated December 29, 2013, between the City and Nova Engineering and Environmental, LLC, relating to geotechnical testing services for SR79 and Front Beach Road Segment 3, in an amount not to exceed Thirty Seven Thousand, Six Hundred Twenty Five Dollars (\$37,625.00), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager, whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 27th day of May, 2021.

CITY OF PANAMA CITY BEACH

By: _____


Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk



May 3, 2021

Mr. David Campbell
CITY OF PANAMA CITY BEACH
116 South Arnold Road
Panama City Beach, Florida 32413

Subject: Proposal to Perform Geotechnical and Engineering Materials Testing Services
FBR & Highway 79 - CRA Phase 3
Panama City Beach, Bay County, Florida
NOVA Proposal Number 011-10211631

Dear Mr. Campbell,

NOVA Engineering & Environmental LLC appreciates the opportunity to submit this unit rate proposal to provide geotechnical and engineering materials testing services during the construction of the subject project.

We propose to provide our services on a part-time, on-call basis as scheduled and directed by a representative of the City of Panama City Beach and/or the applicable contractors. Our services will be provided on a time and materials basis, invoiced monthly in accordance with the attached task order budget document and our continuing services contract with the City of Panama City Beach.

We are prepared to attend a preconstruction meeting and commit all resources desired by the City of Panama City Beach. If you are in agreement with this proposal and attached budget, please issue a notice to proceed and task order as formal authorization.

Again, we sincerely appreciate the opportunity. Don't hesitate to call or email with any questions or concerns.

Sincerely,

NOVA ENGINEERING & ENVIRONMENTAL LLC

Erik Ihaksi, EI
Project Manager

Bear Green, EI
Branch Manager

Attachment: *Budget for Testing Task Order*

SCOPE OF SERVICES FOR
 GEOTECHNICAL AND ENGINEERING MATERIALS TESTING
 Project: FBR & HWY 79 CRA PHASE 3

Test Description	Cost	Unit	Quantity Est	Total
Engineering Technician On Site For Soil Compaction Testing	\$65.00	per hour	200	\$13,000.00
Engineering Technician In Asphalt Plant (Estimate 5 days at 10 hours a day)	\$65.00	per hour	50	\$3,250.00
Engineering Technician Standby Time (Estimate 10%)	\$65.00	per hour	25	\$1,625.00
Engineering Technician Travel Time (Estimate 160 days) - NO CHARGE	\$0.00	per trip	40	\$0.00
Limerock Bearing Ratio - Stabilized Subgrade	\$450.00	per test	8	\$3,600.00
Limerock Bearing Ratio - Base	\$450.00	per test	8	\$3,600.00
Modified Proctor - Limerock Base (can delete if source is FDOT approved)	\$225.00	per test	8	\$1,800.00
Standard Proctor - Embankment	\$225.00	per test	8	\$1,800.00
Grainsize Analysis - Stabilized Subgrade	\$75.00	per test	8	\$600.00
Grainsize Analysis - Embankment	\$75.00	per test	8	\$600.00
Organic Contents - Embankment	\$75.00	per test	8	\$600.00
Atterberg Limits - Stabilized Subgrade	\$75.00	per test	8	\$600.00
pH Analysis - Finish Topsoil Layer	\$75.00	per test	12	\$900.00
Organic Contents - Finish Topsoil Layer	\$75.00	per test	12	\$900.00
Concrete Cylinder Compressive Strength Testing	\$20.00	per specimen	25	\$500.00
Asphalt Cores (Density & Thickness)	\$75.00	per core	15	\$1,125.00
Engineer Review, Report Distribution, Project Management, Consulting	\$125.00	per hour	25	\$3,125.00
			TOTAL	\$37,625.00

COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. GEO 2021-01-N

DATE
5/27/21

Reference is made to that certain MASTER SERVICE AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND NOVA ENGINEERING AND ENVIRONMENTAL, LLC, RELATING TO PROFESSIONAL GEOTECHNICAL ENGINEERING SERVICES dated December 29, 2013, (the "Agreement"), the terms, conditions, and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Engineer agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to CRA Segment 3 Geotechnical and Engineering Material Testing Services.

Engineer's total compensation shall be (check one):

a stipulated sum of \$ _____; or
 a stipulated sum of \$ _____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his designee,
Allowance of \$ _____ for _____, and
Allowance of \$ _____ for _____; or

a fee determined on a time-involved basis with a maximum cost of \$ 37,625.00;

as set forth upon incorporated Attachment B, Fee Breakdown, and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on May 28, 2021, and shall be completed within 560 calendar days. The date of completion of all work is therefore December 9, 2022. Liquidated delay damages, if any, are set at the rate of \$ 0.00 per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Engineer and City, Engineer is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

NOVA ENGINEERING AND ENVIRONMENTAL, LLC

By: _____ Date: _____

Its: _____

CITY OF PANAMA CITY BEACH, FLA.

ATTEST:

Sydney Foxoro
City Clerk

By: Drew Whitman Date: 05-28-21
Drew Whitman, City Manager

**MASTER SERVICES AGREEMENT
BETWEEN
CITY OF PANAMA CITY BEACH AND NOVA ENGINEERING AND
ENVIRONMENTAL, LLC.**

**RELATING TO
PROFESSIONAL GEOTECHNICAL ENGINEERING SERVICES**

THIS AGREEMENT is made and entered into this 29th day of December, 2013, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation ("City") and **NOVA ENGINEERING AND ENVIRONMENTAL, LLC**. ("Engineer").

PREMISES

WHEREAS, the City desires to have Engineer assist the City with geotechnical engineering, testing and construction inspections and testing services.

Work will consist of geotechnical engineering services, including testing services, on a wide variety of projects, including geotechnical engineering to support planning and documents or the engineering design of improvements for the City's water, wastewater, reclaimed water and stormwater systems; and environmental consulting services, including, but are not limited to, Phase I and II environmental site assessments, asbestos and lead-based paint services, indoor air quality investigations and mold investigations; and materials testing services including, but not limited to, concrete and asphalt mix designs and construction inspections. The projects shall meet the following criteria:

- a) Related to City construction projects for which construction costs do not exceed \$2,000,000, or
- b) For specific geotechnical engineering projects or study activities when the fee for such professional engineering service does not exceed \$200,000, or
- c) Related to City water, wastewater, reclaimed water and stormwater facilities and improvements which are included in the Utility Departments then current Five (5) Year Capital Plan,

(collectively the "Professional Services"); and

WHEREAS, the City intends this Agreement to be a cost-effective device for in-house engineering projects, and to augment City Staff in areas where specific expertise is not available, or in some cases where timely accomplishment of budgeted projects requires additional staff support; and

WHEREAS, the City desires to have two geotechnical engineers under independent, continuing master services agreements in order to have two firms to which to alternatively assign the recurring tasks; and

WHEREAS, the City desires to employ the Engineer for those purposes upon the terms and conditions in this Agreement, and the Engineer is desirous of obtaining such employment and has represented that it is qualified and competent to perform such services upon said terms and conditions;

NOW, THEREFORE, in consideration of the following covenants, it is agreed:

1. SCOPE OF PROFESSIONAL SERVICES:

A. The City retains the Engineer to diligently, competently and timely perform the "Professional Services" on an as-needed basis. Upon request, Engineer will prepare a detailed, project specific scope of work for each task and phase of work to be undertaken in accordance with the general scope of services described in this agreement and in the request for statements of qualification which led to this Agreement. The proposed scope of work shall include a schedule for the work and, separately stated, a proposed fee. The proposed fee shall be (i) a stipulated sum or (ii) a stipulated sum plus one or more specified allowances which may be authorized by the City Manager or his designee or (iii) a fee determined on a time-involved basis at the hourly rates specified on Exhibit A which shall include a maximum cost.

B. If accepted by the City, the proposed scope of work shall be incorporated into a task order in materially the form set forth as Exhibit B (each a "Task Order"). Each Task Order shall be numbered and dated, incorporate this Agreement and any additional terms related to that specific Task Order, and shall be signed both by the City and by the Engineer. If a term herein conflicts with a term in a Task Order, the term in the Task Order shall control to the extent of such conflict.

C. In the event the City elects to enter, and for so long as the City keeps open this Agreement and another master services agreement in materially the form of this Agreement with a different engineering firm for the same Professional Services, the City shall assign specific tasks to Engineer and the other firm on a 1:1 alternating basis, but subject to equitable adjustments of assignments based upon the total City-generated workload in a rolling, 12 month average. The intent of the adjustments will be to keep the financial benefit of the work distributed between the firms as equal as may be practicable while still meeting the City's needs. Adjustments shall be made in the sole, unfettered discretion of the City, and Engineer agrees that if it objects to the rotation of tasks or any adjustment made by the City, its sole remedy shall be to terminate this Agreement subject to the provisions of Paragraph 2 (C).

2. COMPENSATION AND PAYMENT:

A. Engineer's compensation for the services described in each scope of work shall be stated or incorporated in the Task Order related to that scope. Hourly compensation shall be determined in increments of one-tenth (1/10) of an hour.

B. In addition, with prior, written authorization by City, the Engineer shall be reimbursed for reasonable out-of-pocket expenses upon submission of adequate documentation.

The Engineer shall invoice the City at actual costs times a factor of 1.10 for all out-of-pocket including sub-consultants (if required). Records of costs incurred under the terms of this Agreement shall be maintained by the Engineer and made available to the City during the period this Agreement, and for one (1) year after the final payment is made. Copies of these documents and records shall be furnished to the City without cost.

C. Upon written instruction by the City, the Engineer shall perform additional work necessary or convenient to complete the services for which a Task Order is entered, and which are mentioned or referenced in this Agreement. The Engineer shall be entitled to additional compensation unless such work is required as a result of error, omission, or negligence by the Engineer. The additional compensation shall be computed by the Engineer on a revised fee quotation proposal and submitted to the City for written approval. If the parties cannot agree, Engineer's initial compensation will be such amount as the City shall determine in good faith to be the fair value of such services, and such amounts shall be paid to Engineer in monthly installments as set forth elsewhere in this Agreement. In the event the City shall unilaterally determine the amount to be paid for such services, Engineer shall have the right, to be exercised by written notice delivered to the City within twenty (20) days after the City Council shall unilaterally determine such amount, to have the value of such services determined by binding arbitration pursuant to the Florida Arbitration Code and in accordance with the rules of the American Arbitration Association. The Engineer and the City each shall select one arbitrator and those two shall select a third. Each arbitrator shall be familiar by trade or occupation with stormwater engineering and construction. The decision of any two (2) arbitrators shall be conclusive and may be enforced in any court of competent jurisdiction in the State of Florida. Each party shall promptly pay when billed, including in advance, one-half of all arbitration fees and costs. The prevailing party shall recover from the other its reasonable attorney's fees and costs, including fees and costs incurred in arbitration and in any action in any court of competent jurisdiction in the State of Florida to enforce the arbitration award, including appeal. Should the arbitrators award Engineer an amount equal to or less than the amount that the City has unilaterally determined, Engineer shall nonetheless be paid the amount unilaterally determined by the City but the City shall be deemed the prevailing party and Engineer shall pay the City's reasonable attorney's fees.

D. In the event that additional outside services are required due to unforeseen conditions, the Engineer shall:

- 1) Obtain a written proposal from the firm designated to render the required services, and submit such proposal to the City for written approval.
- 2) If the services are such that registration is required to perform them, the Engineer shall select a firm that is registered in the State of Florida.
- 3) If the proposal is approved in writing by the City, the Engineer shall enter into a contract with the firm for the furnishing of such services in accordance with the proposal.
- 4) The Engineer shall submit a minimum of five (5) printed copies and one digital copy of deliverables for all required services to the City, unless otherwise directed by the

City.

5) Upon approval by the City of such reports, the City shall reimburse the Engineer for the cost of such services, which cost shall not exceed 1.10 times the amount of the proposal.

6) Services rendered by the Engineer in connection with the coordination of these additional services shall be considered within the scope of the basic contract, and no additional fee shall be due the Engineer except as part of the multiplier stated in immediately preceding subsection 2.D.5.

E. At the end of each month during which a Task Order shall be outstanding, the Engineer shall submit a separate invoice for services rendered during that month with respect to each Task Order, as follows:

- 1) Where a stipulated sum is specified, the City shall pay Engineer in monthly installments based upon the percentage of satisfactory completion. In support of payment, Engineer shall monthly submit a request for payment describing the work done, percentage of completion and amount requested to be paid, all by reference to line items in the scope of services where available.
- 2) Where fees are computed on a time-involved basis, the City shall pay Engineer monthly in arrears upon receipt of an itemized statement in form and detail reasonably acceptable to City.

3. SCHEDULE: The estimated schedule for the services required shall be included in each Task Order and related scope of services.

4. CITY'S RESPONSIBILITY: The City shall furnish the Engineer with all existing data, plans, profiles, and other engineering information available and useful in connection with the proposed project now on file with the City which shall be returned to the City upon the completion of the services to be performed by the Engineer, unless such data, plans, profiles, and other data are necessary for daily operations; then such forms of information shall be promptly duplicated by the Engineer and the originals returned to the City.

5. CITY'S DESIGNATED REPRESENTATIVE: It is understood and agreed that the City designates the City Engineer or his designated representative to represent the City in all technical matters pertaining to and arising from the work and performance of this Agreement, whose responsibility shall include:

A. Examination of all reports, sketches, drawings, cost estimates, proposals and other documents presented by the Engineer, and rendering in writing decisions pertaining thereto

a reasonable time so as not to materially delay the work of the Engineer.

B. Transmission of instructions, receipt of information, interpretation, and definition of City policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

C. Give prompt written notice to the Engineer whenever the City observes or otherwise becomes aware of any defects or changes necessary in the Project.

6. CHANGES IN SCOPE: The City may, from time to time, request changes in the scope of work. Such changes, including any increase or decrease in the amount of the Engineer's compensation, shall not be binding unless mutually agreed upon by and between the City and the Engineer, and incorporated in written amendments to this Agreement.

7. TERMINATION:

A. The City may terminate this Agreement for cause upon written notice to Engineer if Engineer fails to diligently, competently and timely perform any of the work, fails to cooperate with others associated with the work, or otherwise fails to perform or observe any material covenant, representation or warranty contained in this Agreement. Engineer may terminate this Agreement for cause upon written notice to City if City fails to perform or observe any material covenant, representation or warranty contained in this Agreement. In the event of such termination, the parties shall be entitled to the rights and remedies provided by law. If the City wrongfully terminates this Agreement, the City shall be responsible to Engineer solely for the reasonable value of the work performed by the Engineer prior to the City's wrongful action, including reasonable overhead and profit on the work performed, less prior payments made. Under no circumstances shall Engineer be entitled to overhead and profit on work not performed.

B. This is a continuing Agreement with a public agency. Accordingly, City may terminate this Agreement at any time without cause upon written notice to Engineer. Should the City terminate this Agreement without cause, City shall pay Engineer for work performed through the date of Notice of Termination, including overhead and profit, and shall have no further responsibility to Engineer.

C. Subject to the provisions of Paragraph 2 (C), Engineer may terminate this Agreement at any time without cause upon written notice to City.

8. TERM: Unless terminated sooner pursuant to the provisions of the "TERMINATION" clauses contained in Paragraph 7 of this Agreement, and subject to the availability of appropriated funds, this Agreement shall take effect on the day and year first above written for an initial term of four (4) years, and the City shall have the unilateral option to extend the initial term for two, consecutive extended terms of two (2) years each by written notice delivered to the other party at any time before or within thirty (30) days after expiration of the prior term.

9. INDEMNIFICATION: The Engineer hereby does hold the City harmless of any and all claims, actions, or suits to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Engineer or any person employed or utilized by the Engineer in the performance of professional services hereunder, to the fullest extent permitted by Section 725.08(1), *Florida Statutes* (2003). The specific consideration given for the promises of the Engineer set forth in this paragraph is one dollar (\$1) in hand paid by the City to the Engineer, receipt whereof is hereby acknowledged and the adequacy of which the Engineer accepts as completely fulfilling the obligations of the City. The provisions of this Section shall survive termination of this Agreement.

10. INSURANCE:

A. The Engineer shall procure and maintain during the life of this Agreement insurance of the following types:

1) **Worker's Compensation:** For all of his employees engaged in work on the project under this Agreement. In case any employee engaged in hazardous work on the project is not protected under the Worker's Compensation Statute, the Engineer shall provide Employer's Liability Insurance for the protection of such of his employees not otherwise protected under such provisions.

Coverage A - Worker's Compensation - Statutory
Coverage B - Employer's Liability - \$1,000,000.00

- 2) **Liability:** Comprehensive General Liability insurance including, but not limited to:
- a) Independent Contractor's Liability;
 - b) Contractual Liability;
 - c) Personal Injury Liability.

The minimum primary limits shall be no less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate Personal Injury Liability, and no less than \$500,000 Property Damage Liability, or \$2,000,000 Combined Single Limit Liability, or higher limits if required by any Excess Liability Insurer. City shall be named as additional insured pursuant to an additional insured endorsement on ISO Form 20 10 10 01 (or superseding form) providing comprehensive general liability coverage for completed operations in addition to on-going operations.

3) **Automobile Liability:** Automobile Liability insurance including all owned, hired, and non-owned automobiles. The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess

Liability Insurer. City shall be named as additional insured.

4) **Professional Liability:**Project specific Professional Liability insurance covering professional services rendered in accordance with this Agreement in an amount not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate.

B. **Certificates of Insurance:** The Engineer shall furnish to the City copies of all policies and endorsements and certificates of insurance allowing thirty (30) days written notice of any change in limits or scope of coverage, cancellation, or non-renewal. Such certificates shall contain the following wording: "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN." If the insurance policies expire during the term of this Agreement, a renewal certificate shall be filed with the City thirty (30) days prior to the renewal date.

11. NEGOTIATION DATA: The Engineer hereby certifies, covenants, and warrants that Hourly Rates and other factual unit costs supporting the compensation provided in Exhibit A are accurate, complete, and current as of the date of negotiation.

12. OWNERSHIP OF DOCUMENTS:It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications, and all other data in whatever form (text, graphic, digital or other electronic), prepared or obtained by the Engineer in connection with its services hereunder shall always be the property of the City and shall be delivered to the City promptly without cost or lien upon request or termination of this Agreement by lapse of time or otherwise. The Engineer shall not be liable for any use by the City of project specific design documentation if modified in any manner without written approval of the Engineer. The City shall not use the Engineer's project specific design documentation on any project other than the project described in the Scope of Work and Instructions to Respondents unless the City notifies the Engineer of its intended use, provides insurance protection for the Engineer for all claims which might arise out of the City's use of the documents, and obtains written consent of the use by the Engineer.

When transferring data in electronic media format, Engineer makes no representation as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Engineer at the beginning of the Project. Because the data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures 60 days, after which the receiving party shall be deemed to have accepted the data thus Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Engineer shall not be responsible to maintain documents stored in electronic

media format after acceptance by City. The original hard copy of the documents containing the professional engineer's seal shall take precedence over the electronic documents.

Notwithstanding any provision to the contrary contained in this Agreement, Engineer shall retain sole ownership to its pre-existing computer programs and software.

13. WORK COMMENCEMENT/PROGRESS/DELAYS:

A. The services to be rendered by the Engineer shall commence upon execution of this Agreement, and the respective Task Order, and upon written notice to proceed from the City Manager of his designee.

B. The Engineer agrees to abide by the schedule for performance of the contracted services. The City will be entitled at all times to be advised in writing at its request as to the status of the work being done by the Engineer, and of the details thereof. City may require specification of liquidated delay damages in a Task Order. Failure to specify liquidated delay damages in a Task Order shall not relieve Engineer of liability for delays or other damages as provided by law.

C. In the event there are delays on the part of the City or regulatory agencies as to the approval of any of the plans, permits and drafts of special provisions submitted by the Engineer which delay the project schedule completion date, the City shall grant to the Engineer in writing an extension of time equal to such delays.

D. The Engineer shall maintain an adequate and competent staff of professionals and may associate with other qualified firms for the purpose of rendering services hereunder. The Engineer, however, shall not sublet, assign, or transfer any work under this Agreement without the written consent of the City.

14. STANDARDS OF CONDUCT:

A. The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of this Agreement.

B. The Engineer covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

C. The Engineer agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The Engineer agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

15. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: The Engineer shall comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

16. ASSIGNABILITY: The Engineer shall not assign any interest in this Agreement, and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the City, provided that claims for the money due or to become due the Engineer from the City under this Agreement may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

17. INDEPENDENT CONTRACTOR: The Engineer is and shall remain an independent contractor and not an employee of the City.

18. CONTROLLING LAW AND VENUE: All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of Florida applicable to contracts made and to be performed within this state. Exclusive jurisdiction and venue to interpret or resolve any dispute under this Agreement shall lie in the Circuit Court, Fourteenth Judicial Circuit, in and for Bay County, Florida.

19. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to the subject matters. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Any alterations or variations of the terms of this Agreement shall not be valid unless made in writing and signed by the parties. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or unenforceable, then, notwithstanding, the remainder of the Agreement shall remain in full force and effect.

20. ATTORNEY'S FEES: If the either party is required to institute or defend any legal proceedings in connection with this Agreement, the prevailing party shall be entitled to its costs thereof, together with reasonable attorney's fees.

21. NO WAIVER: No waiver of any provision of this Agreement shall be effective unless made in writing, signed by the party against whom it is charged. No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, nor of the same provision in the future. Neither the failure nor any delay by any party in exercising any right or power under this Agreement, nor any course of dealing between or among the parties, will operate as a waiver of such right or power, and no single or partial exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

22. COOPERATION: Engineer acknowledges that the process of engineering and addressing the needs of the community, and coordinating those efforts with other disciplines is a multi-disciplinary effort which will require cooperation and collaboration with numerous consultants, engineers, and counsel assisting and advising the city, as well as direction from the City Manager and City Engineer, and agrees in all things to cooperate with the City and all its consultants as needed.

23. MEDIATION: City and Engineer agree to attempt to resolve any dispute between them related to the interpretation or performance of this Agreement by mediation in Bay County, Florida, with a mutually acceptable, certified Florida Mediator to serve at joint expense. If the parties are unable to agree upon a mediator, either party shall request the appointment of a mediator by the Chief Judge of the Circuit Court, Fourteenth Judicial Circuit in and for Bay County, Florida. Mediation contemplated by this paragraph is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. Any settlement will require approval of City's governing board. If the parties are unable to reach a mediated settlement within ninety (90) days of the mediator's appointment, either party may terminate the settlement discussions by written notice to the other and initiate litigation. Any litigation commenced in violation of this section shall be stayed pending mediation as agreed. This section shall survive termination of this Agreement.

24. PUBLIC RECORDS: The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Engineer is acting on behalf of City as provided under Section 119.011(2) (2013) and implemented through the judicially established "totality of factors" analysis, Engineer agrees to also comply with that law, specifically including to:

A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

B. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.


C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

D. Meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents as of the year and date first above written.

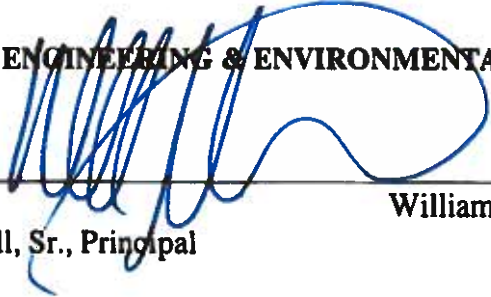
**THE CITY OF PANAMA CITY BEACH,
FLORIDA,**
a municipal corporation

By: 
Mario Gisbert, City Manager

ATTEST:


Holly White, City Clerk

NOVA ENGINEERING & ENVIRONMENTAL, INC.

By: 
William M. Cantrell, Sr., Principal

WITNESS

PRINT NAME: Robert E. Bennett

WITNESS

PRINT NAME: Kelly L. Ferguson

EXHIBIT A

Hourly Rate Schedule

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CONSTRUCTION MATERIALS TESTING, INSPECTION & ENGINEERING SCHEDULE OF FEES

I. ENGINEER, CODE PROFESSIONAL AND TECHNICIAN SERVICES:

A. Project Engineer, Geologist, Code Professional or Senior Engineering Aide for foundation and subgrade soil or other field inspections, per hour	\$ 85.00
B. Plan Reviewer or Project Manager for project management, and review of soil, concrete, roofing, structural steel, fireproofing, reinforcing steel, masonry and other construction materials data, per hour	\$ 95.00
C. Principal Project Manager/Engineer or P.E., for interpretation, consultation and supervision of Project Engineer, (if needed), per hour	\$ 150.00
D. Field Engineering Technician for soil, aggregate, asphalt placement, monitoring and testing, reinforcing steel, post tension tendon placement observation activities, concrete, mortar, grout placement monitoring, sampling and testing per hour	\$ 50.00
E. Laboratory or FDOT CTQP Engineering Technician for soil, aggregate, asphalt, concrete, mortar, grout testing per hour	\$ 60.00
F. Certified Welding Inspector for visual weld and bolt torque testing of structural steel and precast connections, per hour	\$ 75.00
G. Level II ASNT Inspector for non-destructive evaluation of structural steel weldments by magnetic particle, dye penetrant or ultrasonic methods, per hour	\$ 85.00
H. Senior Roofing / Envelope Technician for monitoring installation procedures of typical roof / envelope system applications, per hour	\$ 65.00

II. LABORATORY SERVICES:

A. Concrete/Aggregate/Mortar:

1. Concrete cylinder curing, preparation and compressive strength testing, each.....	\$ 12.00
2. Grout prism curing, preparation and compressive strength testing, each	\$ 15.00
3. Mortar cube curing, preparation and compressive strength testing, each	\$ 12.00
4. Concrete core curing, preparation and compressive strength testing, each	\$ 30.00
5. Concrete mix design verification, standard, each	\$ 225.00
6. Fine Aggregate Sieve Analysis, each.....	\$ 65.00
7. Coarse Aggregate Sieve Analysis, each.....	\$ 65.00
8. Aggregate Specific Gravity	\$ 45.00

SCOPE OF WORK AND SCHEDULE OF FEES (CONT'D)

B. Soils:

1.	Moisture Content, each.....	\$ 12.00
2.	Atterberg Limits, each	\$ 70.00
3.	Wash 200, each	\$ 55.00
4.	Wash 200 and Hydrometer Analysis.....	\$ 120.00
5.	Specific Gravity, each.....	\$ 45.00
6.	Organic Content, each	\$ 55.00
7.	Standard Proctor, each	\$ 120.00
8.	Modified Proctor, each	\$ 145.00
9.	Limerock or California Bearing Ratio (LBR or CBR).....	\$ 425.00
10.	Resistivity & pH (Corrosion Potential).....	\$ 175.00
11.	Remolded Falling Head Permeability Test, includes UW & W200, each	\$ 150.00

C. Asphalt:

1.	Extraction/Gradation Test, each	\$ 165.00
2.	Marshall Stability, and density, each	\$ 165.00
3.	Core Thickness and Density, each	\$ 25.00
4.	Asphalt coring, per core*	\$ 45.00*

* A minimum charge per visit of \$375.00.

III. MISCELLANEOUS SERVICES

- A. Transportation, per mile/trip..... **NO CHARGE**
- B. Personnel Per Diem, per person per day
- C. Expenses for special subcontractors, equipment, supplies, permits, or other items not customarily provided by NOVA will be charged at cost plus 20%.

NOTES:

- 1. Hourly rates are portal-to-portal. **NO** overtime premium will be charged for services provided outside normal business hours.
- 2. A three-hour minimum charge is applicable on all field services.
- 3. Other services and tests are available upon request.
- 4. These rates are effective for 12 months.
- 5. If "Threshold Inspection" or "Special Inspection" services as outlined in Chapter 17 of the International Building Code or Florida Building Code are desired to satisfy the design/development team and/or meet local building code requirements our staff is familiar with the Codes and **QUALIFIED** to provide such. **Special Inspector Representatives are invoiced at a rate of \$65/hour.**

136 Industrial Boulevard
Pensacola, Florida 32505
850.607.7782

17749-B Ashley Drive
Panama City Beach, Florida 32413
850.249.6682
850.249.6683 (Fax)

2815-3 Industrial Plaza Drive
Tallahassee, Florida 32301
850.421.6682



Will Cantrell ♦ wcantrell@usanova.com ♦ 850.866.1866

www.usanova.com



SCHEDULE OF FEES – GEOTECHNICAL SERVICES

ENGINEERING SERVICES *For engineering & QC services including site visits, engineering analysis, project management, project meetings, report preparation, consultations etc.*

Senior Geotechnical Aide	per hour	\$ 70.00
Staff Engineer	per hour	\$ 85.00
Project Engineer, P.E.	per hour	\$ 95.00
Senior Engineer, P.E.	per hour	\$ 120.00
Chief Engineer, P.E.	per hour	\$ 145.00
Principal Materials Consultant	per hour	\$ 150.00

DRILLING SERVICES *Drilling services including costs for mobilization and fieldwork will be quoted upon request.*

Mobilization	lump sum	\$ 500.00
Soil Test borings (n<50 bpf)	per foot	\$ 12.00
<i>Borings deeper than 50 feet will have a \$1.00 per foot surcharge</i>		
Casing (where required) less than 50 feet	per foot	\$ 7.00
Undisturbed Sampling	each	\$ 150.00
Extra Split-spoon samples	each	\$ 35.00
Difficult Moving or Standby	per hour	\$ 155.00
Clearing: light clearing performed by drill crew	per hour	\$ 155.00

LABORATORY: *For laboratory testing of selected soil samples.*

Atterberg Limits Testing	per test	\$ 65.00
Natural Moisture Content	per test	\$ 15.00
Standard Proctor	per test	\$ 130.00
Modified Proctor	per test	\$ 145.00
Limerock Bearing Ratio (LBR) Test	per test	\$ 425.00
Grain Size Analysis	per test	\$ 75.00
Percent Fine than No. 200 sieve	per test	\$ 55.00
Consolidation Testing	per test	\$ 425.00
Triaxial Shear Testing 3 point CU	per test	\$ 950.00

OTHER *For other job-related expenses.*

Clerical/Drafting	per hour	\$ 50.00
Vehicle Trip Charge	per mile	\$ 0.55
Misc. Direct Expenses/Supplies		Cost plus 20%

Notes:

1. Overtime rates (1.5 times the regular rate) will be applied to hours worked outside normal 7:00 am to 5:00 pm business hours, Saturday, Sunday, and holidays.
2. Personnel time expended will be invoiced in ½ hour increments.

**ENGINEERING, ENVIRONMENTAL AND FACILITIES
SCHEDULE OF FEES
NOVA ENGINEERING AND ENVIRONMENTAL, LLC**

PROFESSIONAL SERVICES

For engineering, environmental, and facilities professional services including site visits, engineering analysis, project management, project meetings, report preparation, consultations etc.

Engineering/Geologic/Scientific Aide	per hour	\$ 65.00
Staff Engineer/Geologist/Scientist	per hour	\$ 75.00
Facilities/Roofing/Building Envelope Consultant	per hour	\$ 85.00
Project Manager/Engineer/Geologist/Scientist	per hour	\$ 95.00
Senior Engineer/Geologist/Scientist	per hour	\$ 125.00
Principal Engineer/Geologist/Scientist	per hour	\$ 150.00
Principal Materials Consultant	per hour	\$ 150.00
Clerical / Drafting Support	per hour	\$ 45.00
Vehicle Trip Charge	per mile	\$ 0.60

Notes:

- Sub-Contractors, Supplies and Expenses shall be invoiced at cost plus 20%.
- Overtime rates (1.5 times the regular rate) will be applied to hours worked outside normal 7:00 am to 5:00 pm business hours, Saturday, Sunday, and holidays.
- Personnel time expended will be invoiced in ½ hour increments.

**ENGINEERING, ENVIRONMENTAL AND FACILITIES
SCHEDULE OF FEES
(CONTINUED)**

DRILLING SERVICES

Drilling services costs for mobilization and fieldwork

Mobilization	lump sum	\$ 500.00
All-Terrain Vehicle Charge, additional to mobilization	lump sum	\$ 100.00
Soil Test borings (n<50 bpf)	per foot	\$ 12.00
Soil Test borings (n≥50 bpf)	per foot	\$ 14.00
Auger boring	per foot	\$ 9.00
<i>Borings deeper than 50 feet will have a \$2.00 per foot surcharge</i>		
Rock Coring set-up	per set-up	\$ 200.00
Rock Coring (NQ2-size core) less than 50 foot depth	per foot	\$ 65.00
Casing (where required) less than 50 feet	per foot	\$ 9.00
Water Truck Rental	per day	\$ 175.00
Undisturbed Sampling	each	\$ 150.00
Extra Split-spoon samples	each	\$ 35.00
Difficult Moving or Standby	per hour	\$ 175.00
Clearing: light clearing performed by drill crew	per hour	\$ 175.00
Temporary Observation Well (2-inch PVC)	per foot	\$ 10.00
Type I Monitoring Well (2-inch PVC)	per foot	\$ 40.00
Well Pad, with Manhole	each	\$ 250.00
Steam Cleaner Rental	per day	\$ 150.00
Hole Covers	each	\$ 50.00
Asphalt Patch	each	\$ 20.00

Notes:

- Sub-Contractors, Supplies and Expenses shall be invoiced at cost plus 20%.
- Overtime rates (1.5 times the regular rate) will be applied to hours worked outside normal 7:00 am to 5:00 pm business hours, Saturday, Sunday, and holidays.
- Type II and Type III monitoring wells quoted per project

**ENGINEERING, ENVIRONMENTAL AND FACILITIES
SCHEDULE OF FEES
(CONTINUED)**

LABORATORY SERVICES (GEOTECHNICAL)

For laboratory testing of selected soil samples.

Atterberg Limits Testing	per test	\$ 75.00
Natural Moisture Content	per test	\$ 15.00
Standard Proctor	per test	\$ 125.00
Modified Proctor	per test	\$ 145.00
Limerock Bearing Ratio Test (LBR)	per test	\$ 425.00
LBR	additional points	\$ 75.00
Grain Size Analysis	per test	\$ 100.00
Percent Fine than No. 200 sieve	per test	\$ 60.00
Consolidation Testing	per test	\$ 450.00
Triaxial Shear Testing <i>3 point CU</i>	per test	\$ 950.00

Notes:

- Sub-Contractors, Supplies and Expenses shall be invoiced at cost plus 20%.
- Standard 5 day laboratory turn-around
- Rush 2 day laboratory turn-around: 2 times the regular rate will be applied, except LBR, consolidation and triaxial shear testing
- LBR, consolidation and triaxial shear testing rush surcharge quoted per project

**ENGINEERING, ENVIRONMENTAL AND FACILITIES
SCHEDULE OF FEES
(CONTINUED)**

LABORATORY SERVICES (ENVIRONMENTAL)

For laboratory testing of selected soil, water or waste samples.

TCL – Volatile Organics (8260B)	per test	\$ 110.00
TCL – Semi-Volatile Organics (8270C)	per test	\$ 250.00
TCL – Chlorinated Pesticides (8081A)	per test	\$ 150.00
TCL – Chlorinated Herbicides (8151A)	per test	\$ 180.00
TPH – Diesel Range Organics (8015B)	per test	\$ 75.00
TPH – Gasoline Range Organics (8015B)	per test	\$ 75.00
BTEX (8260B)	per test	\$ 55.00
Polynuclear Aromatic Hydrocarbons (8270C) by GC	per test	\$ 110.00
8 RCRA Metals (6010B)	per test	\$ 120.00
13 Priority Pollutant Metals (6010B)	per test	\$ 150.00
PCBs (8082)	per test	\$ 80.00
TCLP Volatiles	per test	\$ 110.00
TCLP Semi-Volatiles	per test	\$ 110.00
TCLP RCRA Metals	per test	\$ 55.00
TCLP Lead	per test	\$ 25.00

Notes:

- Sub-Contractors, Supplies and Expenses shall be invoiced at cost plus 20%.
- Standard 5 day laboratory turn-around
- Rush 2 day laboratory turn-around: 2 times the regular rate will be applied, except TCLP
- TCLP rush surcharge quoted per project

**ENGINEERING, ENVIRONMENTAL AND FACILITIES
SCHEDULE OF FEES
(CONCLUDED)**

MISCELLANEOUS EQUIPMENT

Air Pump-Personal Monitoring Pump	per day	\$ 25.00
Air Pump-Sensidyne/Gastec Sampler	per day	\$ 50.00
Air Pump-Ambient Air Sampler Grasby Hi-Vol	per day	\$ 25.00
Disposable Bailers	each	\$ 12.00
Explosimeter	per day	\$ 75.00
Flame/Photo Ionization Detector (FID/PID)	per day	\$ 95.00
Multimeter (Horiba or YSI) pH, DO, ORP, TURB, T	per day	\$ 175.00
Micro Purge Pump (Low Flow)	per day	\$ 150.00
Multigas Meter (CO, O ₂ , LEL, H ₂ S)	per day	\$ 60.00
Oil / Water Interface Probe	per day	\$ 65.00
Peristaltic Pump	per day	\$ 50.00
Water Level Probe Electronic	per day	\$ 35.00
Respirator Cartridges	each	\$ 20.00
Air Compressor (1-5 HP)	per day	\$ 50.00
Manometer	per day	\$ 60.00
Generator	per day	\$ 60.00
Decon Kit/Sample Kit	each	\$ 40.00
Moisture Meter	per day	\$ 25.00
IAQ Meter (CO, CO ₂ , RH, T)	per day	\$ 125.00
Infrared Camera	per day	\$ 315.00

Notes:

- Sub-Contractors, Supplies and Expenses shall be invoiced at cost plus 20%.

EXHIBIT B
COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. _____

DATE

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND NOVA ENGINEERING AND ENVIRONMENTAL, LLC. RELATING TO PROFESSIONAL GEOTECHNICAL ENGINEERING SERVICES dated _____, 2013, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Engineer agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to _____.

Engineer's total compensation shall be (check one):

- _____ a stipulated sum of \$ _____; or
_____ a stipulated sum of \$ _____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his designee,
Allowance of \$ _____ for _____, and
Allowance of \$ _____ for _____; or
_____ a fee determined on a time-involved basis with a maximum cost of \$ _____;

as set forth upon incorporated Attachment B, Fee Breakdown, and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on _____, 20____, and shall be completed within _____ calendar days. The date of completion of all work is therefore _____, 201____. Liquidated delay damages, if any, are set at the rate of \$ _____ per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Engineer and City, Engineer is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

NOVA ENGINEERING AND ENVIRONMENTAL, LLC

By: _____ Date: _____
Its: _____

CITY OF PANAMA CITY BEACH, FLA.

ATTEST:

By: _____ Date: _____
City Manager

City Clerk



City of

Panama City Beach

PCB City Hall

110 S. Arnold Rd.
PCB, FL. 32413
P: (850) 233-5100
F: (850) 233-5108

March 11, 2019

Mr. William Cantrell Sr.

Principal

NOVA Engineering and Environmental, ~~Inc~~ LLC

17612 ~~17749~~ Ashley Drive, ~~Suite B~~
Panama City Beach, Fl. 32413

RE: Extension of Contract RFQ #2 – Geo Technical Engineering, Testing and Construction Inspection and Testing Services (Agreement Dated 12/29/13)

This letter is to serve as notice of the City's intent to exercise its option to renew the current General Geo Technical Continuing Engineering Services Agreement between the City of Panama City Beach and NOVA Engineering and Environmental, Inc. regarding Geo Technical Engineering, Testing and Construction Inspection and Testing Services. Continue upon the same terms and conditions for the final two years, term extension pursuant to the General Section of the Agreement. This letter will extend the current Agreement to December 29, 2021.

This is the final extension allowed under the MSA and the City will be required to RFQ these services after this extension expires.

Mario Gisbert, City Manager

City of Panama City Beach

Mr. William Cantrell Sr., President

NOVA Engineering and Environmental, ~~Inc~~ LLC

Mayor
Mike Thomas

Vice Mayor
Phil Chester

Ward 1
Paul Casto

Ward 3
Geoff McConnell

Ward 4
Hector Solis

City Manager
Mario Gisbert