

AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered this ____ day of _____, 2013 (the "Effective Date"), by and between **NUECES COUNTY** ("CONTRACTOR") and **COASTAL BEND BAYS & ESTUARIES PROGRAM, INC.** ("CBBEP"), a non-profit corporation organized and existing under the laws of the State of Texas (individually "Party" and together ("Parties").

Whereas, CONTRACTOR has agreed to continue feasibility work to develop a plan (PLAN) for public boating access to a sand boat ramp known as Wilson's Cut Channel located in Nueces County, TX:

- A) Performing a preliminary wetlands jurisdictional determination of Alternative Route 3 and 4.(Per the PLAN that was developed by CBBEP Project #1209 that was part of the 2012 CBBEP Annual Work Plan)
- B) Identify adjustments to the alternative access routes to avoid and minimize wetlands impact while remaining within the existing CBBEP easement. In coordination with CBBEP and USACE permit resource agencies, identify ramifications of Section 404(b)(1) guidelines and ability to permit a new route and roadway involving filling of wetlands.
- C) Expand on coordination with the TxGLO regarding feasibility of entering into a MOU for a lease of existing roadways as the public access to Route 3.
- D) Coordinate with Nueces County Commissioner and Nueces County Parks Board, Nueces County Coastal Parks, and City of Corpus Christi to determine feasibility of establishing a MOU to operate and maintain a proposed Wilson's Cut Boat Ramp. Identify potential for another possible third-party operator.
- E) Prepare a letter report with recommendations on further project development including a USACE and TxGLO permitting analysis addressing general feedback and correspondence from coordination with the USACE and TxGLO and resource agencies (TPWD, USFWS, and NMFS).

NOW THEREFORE, CBBEP and CONTRACTOR, intending to be and being legally bound, do hereby agree as follows:

1. CONTRACTOR OBLIGATIONS. CONTRACTOR shall provide all materials, documents, information necessary to develop the plan as subject to tasks A-E. CBBEP shall be provided with two hard copies of the final plan and shall be provided with an electronic copy of all materials subject to the PLAN. CONTRACTOR must furnish all materials associated with the development and implementation of Tasks A-E. The CONTRACTOR will be reimbursed through invoices and purchase reports provided to CBBEP. The CONTRACTOR is not obligated to perform any other actions.

2. CBBEP PAYMENT. CBBEP agrees to reimburse CONTRACTOR Eight Thousand Five Hundred and No/000 Dollars (\$8,500.00) for the development of the PLAN. Contractual services to develop the PLAN are not to exceed the agreed amount of \$8,500.00. If expenditures exceed the contract amount of \$8,500.00 written agreement for the expense must be verified in writing by CONTRACTOR and CBBEP.

3. AGREEMENT TERM. The term of this agreement begins upon execution of this Agreement, and shall terminate 365 days from execution, unless terminated early in accordance with the terms of this Agreement.

4. INSURANCE REQUIREMENTS. The County is self-insured.

5. INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, CONTRACTOR HEREBY BINDS HIMSELF, ALL SUCCESSORS, ASSIGNS, AGENTS, AND LICENSEES TO INDEMNIFY AND HOLD HARMLESS CBBEP FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTION, DEMANDS, LIABILITIES, COSTS, LOSSES, EXPENSES, AND DAMAGES, IN CONTRACT, STRICT LIABILITY, OR IN TORT, FOR INJURY TO ANY PERSON (INCLUDING DEATH) OR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN ANY WAY CONNECTED WITH IMPLEMENTATION OF THIS AGREEMENT, WHERE SUCH INJURY OR DAMAGE IS CAUSED BY THE SOLE NEGLIGENCE OR FAULT OF CONTRACTOR, ITS AGENTS OR EMPLOYEES.

6. GOVERNING LAW. This Agreement is declared to be a Texas contract, and all of the terms hereof shall be construed according to the laws of the State of Texas. Venue by agreement of the parties shall be in a court of competent jurisdiction in Nueces County, Texas.

7. SUSPENSION; TERMINATION.

- a. For Cause. In the event of CONTRACTOR's failure to perform the services as required by the Agreement, violation of applicable law, substantial or material default, or other cause, CBBEP may suspend the services or terminate this Agreement for cause.
- b. Force Majeure. In the event of delay or failure of performance caused by force majeure, CBBEP may terminate this Agreement in whole or part upon thirty (30) days written notice.
- c. For Convenience. CBBEP or CONTRACTOR may terminate this Agreement for convenience and without cause upon thirty (30) days notice.
- d. Payment Adjustment. If the CBBEP or CONTRACTOR terminates for convenience or because of force majeure, CONTRACTOR shall be paid only for goods and services provided and necessary expenses incurred prior to termination.

8. NOTICES. All notices, demands, requests and other communications required or permitted to be given or made upon either Party shall be in writing, shall be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient thereof, and shall be delivered personally, by registered or certified mail (postage prepaid), reliable overnight delivery service (fees prepaid), facsimile, or other electronic means, acceptable to the Party receiving same, addressed to the Party to whom such notice is directed:

If to CBBEP:

Coastal Bend Bays & Estuaries Program
Attn: Jake Herring
1305 North Shoreline Boulevard, Suite 205
Corpus Christi, TX 78401
Telephone: (361) 885-6209 Facsimile: (361) 881-5168
Email: jherring@cbbep.org

If to CONTRACTOR:

Nueces County Parks
Attn: Scott Cross
P.O. Box 18608, Corpus Christi, TX 78480
Telephone: (361) 949-8121 Facsimile: (361) 949-7005
Email: scott.cross@co.nueces.tx.us

9. ENTIRE AGREEMENT. This Agreement and attachments constitutes the entire agreement between the parties hereto and no further modification of the Agreement shall be binding unless evidenced by an agreement in writing signed by CBBEP and CONTRACTOR.

EXECUTED as of the Effective Date set forth above.

Coastal Bend Bays & Estuaries Program, Inc.,
a non-profit corporation under the laws of the State of Texas

By: _____

Name: Ray Allen

Title: Executive Director

CONTRACTOR

By: _____

Name: Samuel L. Neal, Jr.

Title: Nueces County Judge