

PERSONAL SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF NUECES

THIS CONTRACT FOR PERSONAL SERVICES is made by and between the County of Nueces, hereinafter called "County" and Gretchen Arnold, hereinafter called "Contractor" for the purpose of contracting for personal services.

WITNESSETH

WHEREAS, Local Government Code, Chapter 262.024, provides for the procurement of personal services; and

WHEREAS, the County desires to contract with Contractor for the purpose of advising and assisting the County in obtaining accurate information about air quality, complying with air quality standards, monitoring and participating in formulation of proposed air quality regulations.

NOW, THEREFORE, the County and the Contractor, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

AGREEMENT

ARTICLE 1

SCOPE OF SERVICES TO BE PROVIDED BY COUNTY AND CONTRACTOR

The Contractor hereby agrees to perform those tasks and services described in Attachment A, which is attached hereto and made a part thereof this contract.

ARTICLE 2

CONTRACT PERIOD

After execution of this contract, the Contractor shall not proceed with the work until authorized in writing by the County to proceed, as provided in Article 4 – Work Authorizations. This contract shall terminate at the close of business day September 30, 2015, , unless extended by supplement agreement duly executed by the Contractor and the County prior to the date of termination, as provided in Article 9 – Supplemental Agreements, or otherwise terminated, as provided in Article 16 – Termination. Any work performed or cost incurred after the date of termination shall be ineligible for reimbursement.

**ARTICLE 3
COMPENSATION AND METHOD OF PAYMENT**

The maximum amount payable under this contract is \$5,000.00, unless modified as provided in Article 9 – Supplemental Agreements. This amount shall be due and payable in twelve (12) equal monthly installments of \$416.67. The first of such twelve monthly payments shall be due on the thirtieth (30) day after the date of execution of this contract by all parties hereto, and each subsequent shall thereafter be due and payable on the monthly anniversary of such date.

The Contractor shall prepare and submit to the County monthly invoices and progress report in reasonable detail, stating the status, description of the work accomplished during the billing period.

The County reserves the right to withhold payment pending verification of satisfactory work, to be determined in the reasonable discretion of the County.

The County assumes no liability for work performed or costs incurred prior to the date authorized by the County to begin work or subsequent to the contract completion date.

**ARTICLE 4
WORK AUTHORIZATIONS**

The County will issue work authorizations, in the form identified and attached hereto as Attachment B – Work Authorization, to authorize the Contractor to perform one or more tasks. The work authorization will not waive the County’s or Contractor’s responsibilities and obligations established in this contract. The contractor’s work authorization will be issued by the Nueces County Judge.

**ARTICLE 5
PROGRESS**

The Contractor shall, from time to time during the progress of the work, confer with the County. The Contractor shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by the County, in order to evaluate features of the work. Upon request by the County the Contractor shall make presentations to the Commissioners Court.

At the request of the County or the Contractor conferences shall be held at the Contractor’s office, the County’s office, or at other locations designated by the County. These conferences shall also include an evaluation of the Contractor’s services and work when requested by the County.

The Contractor shall promptly advise the County in writing of events which have a significant impact upon the progress of work, including:

- (1) problems, delays, or adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods; this disclosure will be accompanied by a statement of the action taken, or contemplated, and any County assistance needed to resolve the situation; and
- (2) favorable developments or events which would enable meeting the work schedule goals sooner than anticipated.

ARTICLE 6 SUSPENSION

The County may suspend the work, but not terminate the contract, by giving written notice a minimum of five (5) calendar days prior to the date of suspension. The five (5) day notice may be waived if approved in writing by both parties.

The work will be reinstated and resumed in full force and effect within five (5) calendar days of receipt of written notice from the County to resume the work. The five (5) day notice may be waived if approved in writing by both parties.

If the County suspends the work, the contract period, as determined in Article 2 – Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 9 – Supplemental Agreements.

ARTICLE 7 ADDITIONAL WORK

If the Contractor determines that any work it has been directed to perform is beyond the scope of this agreement and constitutes extra work, it shall promptly notify the County in writing. In the event the County determines that such work constitutes extra work and exceeds the maximum amount payable, the County shall so advise the Contractor and a supplemental agreement may be executed, as provided in Article 9 – Supplemental Agreements.

The Contractor shall not perform any additional work or incur any additional costs prior to the execution, by both parties, of a supplemental agreement. The County shall not be responsible for actions by the Contractor or any costs incurred by the Contractor relating to additional work not directly associated with the performance of the work authorized in this contract or as amended.

ARTICLE 8 CHANGES IN WORK

If the County finds it necessary to request changes to previously satisfactorily completed work or parts thereof which involve changes to the original scope of services or character of work under the contract, the Contractor shall make such revisions if requested and as directed by the County. This will be considered additional work and paid for as specified under Article 7 – Additional Work.

The Contractor shall make such revisions to the work to correct errors appearing therein, when required to do so by the County. No additional compensation will be paid for the correction of errors.

ARTICLE 9 SUPPLEMENTAL AGREEMENTS

The terms of this contract may be modified by supplemental agreement if the County determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided in Article 3 – Compensation and Method of Payment.

Any supplement agreement must be executed by both parties within the contract period specified in Article 2 – Contract Period.

No claim for extra work done or materials furnished shall be made by the Contractor until full execution of the supplemental agreement and authorization to proceed is issued by the County. The County reserves the right to withhold payment pending verification of satisfactory work performed to be determined in the County's reasonable discretion.

ARTICLE 10 PUBLIC INFORMATION ACT

All data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this contract are the exclusive property of the County and shall be furnished to the County upon request. All documents prepared by the Contractor and all documents furnished to the Contractor by the County shall be delivered to the County upon completion or termination of this contract. The Contractor, at its own expense, may retain copies of such documents or any other data which it has furnished the County under this contract. Release of information will be in accordance with the Texas Public Information Act.

**ARTICLE 11
SUBCONTRACTING**

The Contractor shall not assign, subcontract or transfer any portion of the work under this contract. All work under this contract shall be performed by Contractor personally.

**ARTICLE 12
EVALUATION OF WORK**

The County and its authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If a review or evaluation is being made on the premises of the Contractor, the Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the County representatives in the performance of their duties. If funds by other agencies or entities are to be used for payment of the services under this contract or for any construction project as a consequence of this contract, the Contractor's services and work may be subject to periodic review and approval by other agencies or entities, including city, county, state, and/or federal agencies.

**ARTICLE 13
SUBMISSION OF REPORTS**

All applicable study reports shall be submitted in preliminary form for review by the County before a final report is issued. The County's comments on the Contractor's preliminary report shall be addressed in the final report.

**ARTICLE 14
COMPUTER DOCUMENTS AND INFORMATION EXCHANGE**

All computer files must be compatible with the County's computer systems without conversion or modifications and must plot consistent with any reproducible plots submitted.

All plots and graphics media provided by the Contractor shall be delivered to the County. Final payment for the work associated with this contract will not be made until the files furnished by the Contractor have been demonstrated to be usable in the required formats.

**ARTICLE 15
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT**

Material violations of the contract terms or material breach of contract, after the expiration of the requisite notice and cure period, by either party shall be grounds for termination of the contract by the opposite party and any increased cost arising from the breaching party's default, breach of contract, or violation of contract terms shall be paid by the breaching party. This agreement shall not be considered as specifying the

exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

In the event of any material violation or material breach of the requirements or provisions of this contract by either party, the non-breaching party shall send the breaching party written notification, by certified mail, return receipt requested, asserting the existence of such breach in reasonable detail. Following its receipt of such written notice, the breaching party shall have a period of thirty (30) days in which to either contest the existence of such breach or to cure such breach if it is of a nature which can be cured within the thirty (30) days. In the event such breach is of the nature which is incapable of being cured within the thirty (30) days, and the breaching party diligently attempting to cure the breach, the breaching party shall be deemed to be in compliance with this paragraph. If the breaching party fails to cure such breach within the thirty (30) days (or such longer period if so required), then the breaching party shall be deemed to be in violation of this contract and the non-breaching party may pursue any and all remedies available pursuant to this contract or at law or in equity.

ARTICLE 16 TERMINATION

This contract shall terminate at the close of business September 30, 2015, unless extended as provided in Article 9 – Supplemental Agreements.

This contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of both parties;
2. By the County, by notice in writing to the Contractor as a consequence of failure by the Contractor to perform the services set forth herein in a reasonably satisfactory manner;
3. By either party, upon the failure of the other party to fulfill its obligations as set forth herein to the reasonable satisfaction of the opposing party hereto;
4. By the County, for reasons of its own and not subject to the mutual consent of the Contractor upon not less than thirty (30) calendar days written notice to the Contractor; and
5. By written notice from the County upon satisfactory completion of all services and obligations described herein.

Should the County terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Contractor

If the Contractor defaults in the performance of this contract or if the County terminates this contract for fault on the part of the Contractor, the County will give consideration to

the actual costs incurred by the Contractor in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the cost to the County of employing another to complete the work required and other factors which affect the value to the County of the work performed at the time of default.

The termination of this contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the County and the Contractor under this contract except the obligations set forth in Articles 10, 12, 17, 18, 19, and 20 of this contract. If the termination of this contract is due to the failure of the Contractor to fulfill its contract obligations, the County may take over the project and prosecute the work to completion. In such case, the Contractor shall be liable to the County for reasonable and necessary costs occasioned to the County.

ARTICLE 17 COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable Federal, State, and local laws, statutes codes, ordinances, rules, and regulations, and the orders and decrees of any court, or administrative bodies or tribunals, in any manner affecting the performance of this contract, including, without limitation, worker's compensation laws, minimum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the County with satisfactory proof of its compliance.

ARTICLE 18 INDEMNIFICATION

THE CONTRACTOR SHALL SAVE HARMLESS THE COUNTY AND ITS OFFICERS AND EMPLOYEES FROM ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF ITSELF, ITS AGENTS, OR EMPLOYEES PERFORMED UNDER THIS CONTRACT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. THE CONTRACTOR SHALL ALSO SAVE HARMLESS THE COUNTY FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES WHICH MAY BE INCURRED BY THE COUNTY IN LITIGATION OR OTHERWISE RESISTING SAID CLAIM OR LIABILITIES WHICH MAY BE IMPOSED ON THE COUNTY AS A RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACTIVITY BY THE CONTRACTOR.

ARTICLE 19 CONTRACTOR'S RESPONSIBILITY

The Contractor shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts without compensation.

ARTICLE 20
RETENTION, AVAILABILITY OF RECORDS AND AUDIT REQUIREMENTS

The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred and shall make such materials available at its office during the contract period and for four (4) years from the date of final payment under this contract or until pending litigation has been completely and fully resolved, whichever occurs last. The County or any of its duly authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, transcriptions, and for checking the amount of work performed by the Contractor.

ARTICLE 21
SUCCESSORS AND ASSIGNS

The Contractor and the County do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

The Contractor shall not assign, subcontract, or transfer its interest in this contract without the prior written consent of the County.

ARTICLE 22
SEVERABILITY

In the event any one or more of the provisions contained in this contract, for any reason, shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and; this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE 23
PRIOR CONTRACT SUPERSEDED

This contract constitutes the sole agreement of the parties hereto and supercedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein.

ARTICLE 24
NOTICES

All notices to either party by the other, required under this contract, shall be personally delivered or mailed to such party at the following respective address:

COUNTY

CONTRACTOR

Nueces County Judge
901 Leopard, Room 303
Corpus Christi, Texas 78401

Gretchen Arnold
311 South Morningside
Corpus Christi, Texas 78404

**ARTICLE 25
VENUE AND GOVERNING LAW**

Venue shall be in Nueces County. This Agreement shall be construed under and in accord with the law of the State of Texas.

IN WITNESS WHEREOF, the County and the Contractor have executed these presents in duplicate.

Effective date of this agreement shall be October 1, 2014.

COUNTY OF NUECES

CONTRACTOR: _____

By: _____
County Judge

By: _____
Gretchen Arnold

Date: _____

Date: _____

ATTEST:

County Clerk

ATTACHMENT “A”

Scope of Services

- Monitor proposed rulemakings and legislation regarding ambient ozone and particulate matter, and coordinate efforts to encourage regulatory authorities and lawmakers to rely on scientific evidence to reach reasonable decisions
- Maintain a diverse community support group for clean air initiatives
- Maintain relationships with other organizations to take advantage of their experience and marshal their support on air quality issues
- Identify, analyze, and direct research needed to develop cost effective ways to control and reduce air pollution, and suggest efforts to obtain funding
- Analyze ozone and particulate matter monitoring results and analyze trends to assess progress
- Prepare annual report to the U.S. EPA office for Ozone Advance
- Brief Nueces County Commissioners and staff on progress and trends in ozone monitoring readings and trends as needed.