

**RESOLUTION 17-55**


**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING TASK ORDER 2017-1 TO THE MASTER SERVICES AGREEMENT WITH SOUTHERN EARTH SCIENCES, INC. FOR GEOTECHNICAL TESTING SERVICES FOR FRONT BEACH ROAD CRA SEGMENT 2 CONSTRUCTION MATERIALS TESTING, IN THE AMOUNT OF \$56,000; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Task Order #2017-1 to the Master Services Agreement between the City and Southern Earth Sciences, Inc., for geotechnical testing services for Front Beach Road CRA Segment 2 Construction, in the basic amount of Fifty Six Thousand Dollars (\$56,000), 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 and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 9<sup>th</sup> day of February, 2017.

**CITY OF PANAMA CITY BEACH**

By:   
Mike Thomas, Mayor

**ATTEST:**

  
Diane Fowler, City Clerk

**EXHIBIT A**  
COMBINED TASK ORDER AND  
NOTICE TO PROCEED

TASK ORDER NO. 2017-01

DATE February 09, 2017

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND **Southern Earth Sciences, Inc.** RELATING TO GEOTECHNICAL TESTING SERVICES dated February 2, 2017, (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 **Exhibit A Attachments, Scope of Services**, relating to the **Front Beach Road CRA Segment 2 Construction Materials Testing**.

**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 at the rates set forth upon incorporated **Attachments, Hourly Fee Breakdown (if applicable)**, with a maximum cost of \$ **\$56,000.00**;

and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on \_\_\_\_\_, 2017, and shall be completed within 2 calendar years. The date of completion of all work is therefore \_\_\_\_\_, 201\_\_\_\_. Liquidated delay damages, if any, are set at the rate of \$0 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:

Southern Earth Sciences, Inc.

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Its:

CITY OF PANAMA CITY BEACH, FLA.

ATTEST:

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Manager

7500 McElvey Rd, Suite A  
Panama City Beach, FL 32408

Tel: (850) 769-4773  
Fax: (850) 872-9967  
[www.soeearth.com](http://www.soeearth.com)



Geotechnical, Environmental & Construction Materials Testing

FL Certificate of Authorization #3737

The City of Panama City Beach  
110 South Arnold Road  
Panama City Beach, FL 32413

February 2, 2017  
Proposal No.: P17026.01A

**ATTENTION:** Ms. Kelly Jenkins, P.E.

**SUBJECT:** Construction Materials Testing  
Front Beach Road Reconstruction Segment 2  
Bay County, FL

Dear Ms. Jenkins:

Southern Earth Sciences, Inc. (SESI) appreciates the opportunity to provide this proposal for construction materials testing services for the above referenced project. We have estimated quantities and associated fees for our services as follows:

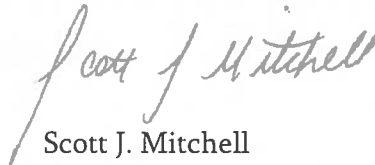
A. Engineering Technician Time On Site (\$55/hr); est; 160 days	\$	22,000.00
B. Engineering Technician Standby Time (\$40/hr); est; 160 days	\$	3,200.00
C. Engineering Technician Travel Time (\$25/trip); est; 160 days	\$	4,000.00
D. Limerock Bearing Ratio (\$335/ea); est 20 (SSG)	\$	6,700.00
E. Modified Proctor (\$120/ea); est 10 (Limerock)	\$	1,200.00
F. Standard Proctor (\$120/ea); est 12 (Embankment)	\$	1,440.00
F. Modified Proctor (\$120/ea) est; 2 (RAP)	\$	240.00
H. Grain Size Analysis (\$85/ea) est; 12 (SSG)	\$	1,020.00
J. Grain Size Analysis (\$85/ea) est 12 (Embankment)	\$	1,020.00
K. Organic Contents (\$48/ea) est; 12 (Embankment)	\$	576.00
L. Atterberg Limits (\$90/ea) est; 12 (SSG)	\$	1,080.00
M. pH Analysis (\$25/ea) est; 20 – (Topsoil)	\$	500.00
N. Organic Contents (\$48/ea) est; 20 (Topsoil)	\$	960.00
O. Concrete Cylinder Set (\$120/ea) est; 10	\$	1,200.00
P. Asphalt Cores (Density & Thickness) (\$50/ea) est; 20	\$	1,000.00
Q. Engineering review, reports, mailing, etc. (10%)	\$	4,614.00
<b>ESTIMATED RANGE</b>	\$	<b>51,000 –</b>
		<b>56,000</b>

We have included a fee schedule, in the event additional tests are required beyond what is listed above. Also, we have included our standard Terms & Conditions. If this proposal is acceptable, please sign, date, and return a copy of the attached Work Authorization Sheet. Also, our Laboratory is CMEC accredited in accordance with AASTO R-18 as well as FDOT certified.

We appreciate the opportunity to team with you on this project. If additional information is needed or you have any questions, please feel free to contact me.

Yours Very Truly,

**SOUTHERN EARTH SCIENCES, INC.**



Scott J. Mitchell  
Construction Department Coordinator

**ALABAMA**

Mobile  
P.O. Box 160745  
Mobile, AL 36616  
tel: 251-344-7711  
fax: 251-341-9488

**Summerdale**

P.O. Box 155  
Summerdale, AL 36580  
tel: 251-989-7726  
fax: 251-989-6722

**Montgomery**

1412 I-85 Parkway  
Montgomery AL 36106  
tel: 334-260-6227  
fax: 334-260-6229

**FLORIDA**

Panama City  
1438 Balboa Ave.  
Panama City, FL 32401  
tel: 850-769-4773  
fax: 850-872-9967

**Tallahassee**

870-3 Blountstown Hwy.  
Tallahassee, FL 32304  
tel: 850-576-4652  
fax: 850-576-4710

**Destin**

150 Industrial Park Road  
Suite 6  
Destin, FL 32541  
tel: 850-837-9966  
fax: 850-837-9967

**LOUISIANA**

Baton Rouge  
11638 Sun Belt Court  
Baton Rouge, LA 70809  
tel: 225-751-1727  
fax: 225-752-1467

1855 Mason Ave.  
Baton Rouge, LA 70805  
tel: 225-356-4355  
fax: 225-356-0519

**New Orleans**

P.O. Box 19172  
New Orleans, LA 70179  
tel: 504-486-5595  
fax: 504-486-5598

**Mandeville**

1933 Surgi Drive  
Suite A  
Mandeville, LA 70448  
tel: 985-626-1314



Geotechnical, Environmental & Construction Materials Testing

**CORPORATE OFFICES**

P.O. Box 160745  
Mobile, AL 36616  
tel: 251-344-7711  
fax: 251-345-9453

**WORK AUTHORIZATION SHEET**

<b>Billing Name</b>	City of Panama City Beach		
<b>Address</b>	110 South Arnold Road		
<b>City</b>	Panama City Beach	<b>State</b> FL	<b>Zip</b> 32413
<b>Phone</b>	850 233-5054	<b>Fax</b>	<b>Cell</b>
<b>Email</b>	kjenkins@pcb.gov.com		
<b>Project Name</b>	Front Beach Road Reconstruction Segment 2		
<b>Location</b>	Panama City Beach, FL		
<b>Additional Reports</b>			
<b>Address</b>			
<b>City</b>		<b>State</b>	<b>Zip</b>
<b>Phone</b>		<b>Fax</b>	<b>Cell</b>
<b>email</b>			

Attached are our Terms & Conditions, which should be considered an integral part of our proposal. In order to authorize us to proceed with our services, please execute this document by signing below and returning a copy to us.

Prepared by:

  
For Southern Earth Sciences, Inc.

2/1/2017  
Date

Scott J. Mitchell  
Print or Type Name of Representative

Authorized by:

\_\_\_\_\_  
Signature of Client Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Representative



Geotechnical, Environmental & Construction Materials Testing

## TERMS AND CONDITIONS

**Project:** Front Beach Road Reconstruction Segment 2

**Client:** City of Panama City Beach

**Proposal No:** P17026.01A

### Section 1 - RIGHT OF ENTRY

1.1 The client will provide right of entry for SESI and all necessary equipment in order to complete the work.

1.2 While SESI will take reasonable precautions to minimize any damage to the property, the client must understand that in the normal course of work some damages may occur, the correction of which is not part of this agreement.

### Section 2 - UTILITIES

2.1 In the execution of this work, SESI will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. The owner agrees to hold SESI harmless for any damages to subterranean structures, which are not called to our attention and correctly shown on the plans furnished.

### Section 3 - SAMPLES

3.1 Test specimens will be disposed of immediately upon completion of tests. Drilling samples will be disposed of thirty (30) days after submission of our report. Upon written request, we will retain test specimens or drilling samples for a mutually accepted storage charge.

### Section 4 - INVOICES

4.1 The outlined scope of services will be accomplished in a timely, workmanlike, and professional manner by employees of SESI, at the fees quoted. If during the execution of the work we are required to stop operations as a result of changes in the scope of work, such as requests by the owner or requirements of third parties, additional charges will be applicable.

4.2 SESI will submit monthly invoices to the client and a final bill upon the completion of services.

4.3 Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. The client agrees to pay a finance charge of one and a half (1 1/2) percent per month, or the maximum rate allowed by law, on past due accounts, plus reasonable attorney's fees and expenses of collection.

### Section 5 - OWNERSHIP OF DOCUMENTS

5.1 All reports, borings logs, field notes, laboratory test data, calculations, estimates, and other documents prepared by SESI, as instruments of service, shall remain property of SESI. These documents will be held to be confidential, and will not be available to any other entity unless express consent is obtained from the client.

5.2 The client agrees that all reports and other work furnished to the client and his agents, which are not paid for, will be returned upon demand and will not be used by the client for any purpose whatsoever.

5.3 SESI will retain all pertinent records relating to the services performed for a period of five (5) years following the submission of the report, during which period the records will be made available to the client at all reasonable times.

### Section 6 - DISPUTES

6.1 In an effort to resolve any conflicts that arise during the design or construction of the project, the Client and SESI agree that all disputes between them arising out of or relating to this Agreement shall be submitted for mediation, unless the parties mutually agree otherwise.

6.2 In the event that a dispute should arise relating to performance of services provided under this agreement, and should that dispute result in litigation, it is agreed that SESI shall be entitled to recover all reasonable costs incurred in the defense of the claim, including staff time, court costs, attorney's fees, and other claim-related expenses if SESI prevails in the claim.

### Section 7 - STANDARD OF CARE

7.1 Services performed by SESI under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by professionals currently practicing under similar conditions. No other warranty, expressed or implied, is made.

7.2 Field tests and boring locations described in our report or shown on our sketches are based on specific information furnished to us by our technicians. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in the report.

7.3 The client recognizes that conditions may vary from those encountered at the locations, where borings, sampling, surveys, or explorations are made by SESI, and that the data, interpretations, and recommendations of SESI are based solely on the information available to us. SESI will be responsible for the data, interpretations, and recommendations, but shall not be responsible for the interpretations by others of the information developed.

7.4 When requested by the client, SESI will adhere by guidelines, specifications, plans, drawings, and the like which are provided to SESI by the client; however, SESI shall not be responsible for any liability due to any adverse outcome which results from the adherence to the plans, guidelines, specifications, drawings and the like.

### Section 8 - RISK ALLOCATION

8.1 There are a variety of risks which potentially affect SESI by virtue of entering into an agreement to perform professional services on the client's behalf. One of these risks stems from SESI's potential for human error. For additional consideration of \$10,000, receipt of which is hereby acknowledged, the client agrees that SESI's liability, and that of its officers, directors, employees, agents, and subcontractors, to client or any third party due to any negligent professional acts, errors or omissions or breach of contract by SESI or any of its officers, directors, employees, agents or subcontractors, will be limited to the aggregate of \$50,000.00 or SESI's total charges, whichever is greater. If client prefers to have higher limits of professional liability (not breach of contract) SESI agrees to increase the aggregate limit to a maximum of \$1,000,000.00 upon client's written request at the time of accepting our proposal, providing that client agrees to pay an additional consideration of ten (10) percent of SESI's total charges, or \$500.00, whichever is greater. The additional charge for the higher liability limit is because of the greater risk assumed by SESI and is not a charge for additional professional liability insurance. This limitation shall not apply to the extent prohibited by law. In no event however, shall the liability of SESI exceed the amount of its applicable insurance coverage for the type claim involved.

8.2 Limitations of liability and indemnities in this agreement are business understandings between the parties and shall apply to all the different theories of recovery, including breach of contract or warranty, tort including negligence, strict or statutory negligence, or any other causes of action, except for willful misconduct or gross negligence. Parties mean the client and SESI and their officers, employees, agents, affiliates and subcontractors. The parties also agree that the client will not seek damages in excess of the limitations indirectly through suits with other parties who may join SESI as third party defendants.

8.1 Both the client and SESI agree that they will not be liable to each other, under any circumstances, for special, consequential, or punitive damages, arising out of or related to this agreement.

### Section 9

#### DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIAL

9.1 Client warrants that a reasonable effort to inform SESI of known or suspected hazardous materials on or near the project site has been made.

9.2 Hazardous materials may exist at the site where there is no reason to believe that they could or should be present. SESI and the client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating renegotiation of the scope of work or termination of services. SESI and the client agree the discovery of hazardous materials may also make it necessary for SESI to take immediate measures to protect health and safety. Client agrees to compensate for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

9.3 SESI agrees to notify the client when unanticipated hazardous materials or suspected hazardous materials are encountered. The client agrees to make any disclosure required by law to the appropriate governing agencies. The client also agrees to hold SESI harmless for any or all consequences of disclosure made by SESI which are required by governing law. In the event the project site is not owned by the client, client recognizes that it is the client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

9.4 Notwithstanding any other provision of the agreement, the client waives any claim against SESI, and to the maximum extent permitted by the law, agrees to defend, indemnify, and save SESI harmless from any claim, liability, and/or defense costs for injury or loss arising from SESI's discovery of unanticipated hazardous materials including any cost associated with possible reduction of the property's value.

9.5 The client will be responsible for ultimate disposal of any samples secured by SESI, which are found to be contaminated.

### Section 10 - SITE RESPONSIBILITY

10.1 If services include construction testing the client agrees that SESI will be expected to make on-site observations appropriate to the construction stage. The client further agrees that SESI will not assume responsibility for the contractor's means, methods, techniques, sequences or procedures of construction, and it is understood that the field services provided by SESI will not relieve the contractor of his responsibilities for performing the work in accordance with the plans and specifications. The words "supervision", "inspection", or "control" are used to mean periodic observation of the work and the conduction of tests by geotechnical consultant to verify substantial compliance with the plans, specifications and design concepts. Continuous monitoring by SESI employees does not mean that our company is monitoring the placement of all materials.

10.2 Client agrees that the contractor(s) will be solely responsible for working conditions on the job site, including security and safety during performance of the work, and compliance with client safety requirements and OSHA regulations. It is agreed that SESI is not responsible for job or site safety or security, other than for SESI employees, and that SESI does not have the right or duty to stop the work of others.

### Section 11 - SAMPLING AND TEST LOCATION

11.1 Unless otherwise stated, the fees in this proposal do not include costs associated with the surveying of the site for the accurate horizontal and vertical locations of the tests. Field tests or boring locations described in a report or shown in sketches are based upon information furnished by others or estimates made in the field by our representatives. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated. If the client specifies the test or boring location, we reserve the right to deviate a reasonable distance from the location specified.

### Section 12 - INSURANCE

12.1 SESI represents and warrants that it and all its agents, staff, and consultants employed by it are protected by Worker's Compensation Insurance and that SESI has such coverage under public liability and property damage insurance policies which SESI deems to be adequate. Certificates for all such policies of insurance can be provided to client upon written request. Within the limits and conditions of such insurance, SESI agrees to indemnify and save client harmless from and against any loss, damage or liability arising from any negligent acts by SESI, its agents, staff and consultants employed by it. SESI shall not be responsible for any loss, damage, or liability beyond the amounts, limits and conditions of such insurance. SESI shall not be responsible for any loss, damage, or liability arising from any acts by client, staff, or any other consultants employed by it.

### Section 13 - TERMINATION

13.1 This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before the expiration of the period specified in the written notice. In the event of termination, SESI shall be paid for services performed to the termination notice date plus reasonable termination expenses.

### Section 14 - ASSIGNS

14.1 Neither the Client nor SESI may delegate, assign, sublet or transfer his duties or interest in this Agreement without the written consent of the other party.

### Section 15 - ENTIRE AGREEMENT

15.1 This Agreement constitutes the entire Agreement and the terms set forth above supersede all previous correspondence and Agreements.

### Section 16 - EQUAL OPPORTUNITY EMPLOYER

16.1 SESI prohibits discrimination because of race, color, religion, handicap, sex, or national origin. SESI promotes equal opportunity in employment through continuing programs of affirmative action in its operations.