

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF HARRIS§

AGREEMENT FOR

CITY OF SEABROOK

(RFQ# 2022-17-115

Home Elevation Grant Development, Administration and Project Management Services

SECTION I

This Agreement between The City of Seabrook, a City in the State of Texas (hereinafter called “City”) and Jeffrey S. Ward, & Associates Inc. (JSWA), P.O. Box 4365, Leesburg, VA. 20177 (hereinafter called the “Agent”), said Agreement being executed by the District for the Professional Services hereinafter set forth in connection with the above designated funding opportunities for The City of Seabrook.

A. Engagement of Agent

The City hereby agrees to engage the Agent and the Agent hereby agrees to perform the “Scope of Services” hereinafter set forth. This Agreement shall be performed in Harris County, Texas.

This Agreement and all Attachments including Attachment A – Scope of Service; Attachment B- Request for Qualifications (RFQ) 2202-17-115 issued by the City, Attachment C - Provider’s full and complete response to (RFQ) 2202-17-115; and any Amendments to this agreement, contain the entire understanding between the parties and supersede all prior agreements and understandings relating to the subject matter of the Agreement.

B. Scope of Services

The Scope of Services includes Home Elevation Grant Development, Administration and Project Management Services. The work is further described in detail on Attachment A.

C. Time of Performance

Agent shall proceed immediately upon execution of this Agreement with performance of the services called for under the Basic Services with completion within two years after execution, or until the period of performance expires on any awarded grants. The City and the Agent may mutually agree in writing to renew or extend this Agreement for a specified period of time.

D. Information and Services to be Furnished Agent

It is agreed that the City shall furnish, without charge, for the purpose of the Agreement, information, data, reports, and records as are required for Grant Administration and Project Management. The City and its agents including other service providers shall cooperate with the Agent and will, to the fullest extent reasonably practicable, facilitate the performance of the work described in this Agreement. Agent is entitled to rely upon the accuracy of all information, data, maps, documents, drawings, records, provided by City staff and contracted Professional Engineers for each specific project.

E. Compensation and Method of Payment

1. Compensation

It is agreed that total fees for Basic Services and Reimbursables for the work as in the payment section below, hereto shall not exceed the following sums unless specifically authorized by the City according to change and modification provisions in this Agreement.

Home Elevation Grant Development - Application costs are estimated on number of homes in benefit area or on application depending on application type.

- o Applications with 1 to 25 homes (to include generators, safe rooms, etc.) \$7,000
- o Applications with 26 to 50 homes \$7,500
- o Applications with 51 to 75 homes \$8,000
- o Applications with 76 to 100 homes \$8,500
- o Applications with greater than 100 \$9,000

Grant Administration

The following rates will be used to negotiate support under specific task orders where grant administration is required.

	Sr. Mitigation Specialist	Mitigation Specialist
CY2022	\$175.00	\$135.00
CY2023	\$180.00	\$140.00
CY2024	\$185.00	\$145.00

Home Elevation Project Management

Project Management will be billed on a per parcel basis at \$7,500 per parcel. 50% of this fee will be billed when Notice to Proceed (NTP) is given to contractors on a home by home basis, and the remaining will be billed when completion certificate is issued.

2. Payment

Agent shall invoice the City monthly for its services and reimbursables incurred by Agent for services performed under the direction and control of Agent as described herein.

The City agrees to pay Agent at its designated office the full amount of each such invoice upon receipt or as otherwise specified in this Agreement. A charge of one percent per month shall be added to the unpaid balance of invoices not paid within thirty-one (31) days after date of invoice.

F. Records

Agent shall keep accurate records, including grant related applications, agreements, and administration documents and provide completed copies to the City periodically and at close out of any funded grants. Such records should be kept in the office of the Agent for a period not less than 3 years or longer if stated by the grant document.

G. Ownership of Documents

All documents relating to the services provided in this Agreement are the property of the City. AGENT may retain reproducible copies of drawings and other documents for its use.

H. Insurance

All insurance shall be written by an insurer licensed to conduct business in the State of Texas, unless otherwise permitted by the City. The Agent shall, at his own expense, purchase, maintain and keep in force insurance that shall protect against injury and/or damages which may arise out of or result from operations under this Agreement, whether the operations be by himself or by any subcontractor.

Agent agrees to maintain, during the service period, Professional Liability Insurance coverage of \$1,000,000 per occurrence/claim/policy year aggregate limits to protect the City against damages arising from the Agent’s negligent or wrongful act or omission in the performance of services under this Agreement.

I. Indemnification

Agent shall comply with the requirements of all applicable laws, rules, and regulations in connection with the services of Agent and shall exonerate, indemnify, hold harmless, and defend the City, its officers, agents, and all employees from any and all liability, loss or damage arising out of Agent’s noncompliance with such laws, rules and regulations, without limitation. Agent shall assume full responsibility for payments of Federal, State and Local taxes or contributions imposed or required under the Social Security, Worker’s Compensation, and Income Tax Laws with respect to Agent’s employees. Further, Agent shall exonerate, indemnify, hold harmless, and defend the City, its officers, agents, and all employees from any and all liability, loss, damages, expenses or claims arising out of any act of negligence, intentional tort or failure to pay a subcontractor or supplier of Agent in connection with any of the work performed or to be performed under this Agreement by Agent.

J. Address of Notice and Communications

City:	AGENT:
	Jeffrey S. Ward
	P.O. Box 4356
	Leesburg, VA 20177
	Attn: Jeffrey S. Ward
	Title: President and CEO

All notices and communications under this Agreement shall be mailed or delivered to the City and Agent at the above addresses, respectively.

K. Captions

Each paragraph of this Agreement has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

L. Successors And Assignments

The City and the Agent each bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the City nor the Agent shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

M. Termination Of Agreement For Cause

If, through any cause, the Agent shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Agent shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Agent of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, and reports prepared by the Agent under this Contract shall be delivered to the City, and the Agent shall be entitled to receive payment of a prorated monthly fee and reimbursables.

Notwithstanding the above, the Agent shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Agent and the City may withhold any payment to the Agent for the purpose of setoff until such time as the exact amount of damages due the City from the Agent is determined.

N. Termination for Convenience by City

The City may terminate this Agreement at any time by giving at least thirty (30) days' notice in writing to the Agent. If the Agreement is terminated by the City as provided herein, the Agent shall be paid for the prorated monthly fee and reimbursables incurred up to the termination date. If this Agreement is terminated due to the fault of the Agent, other terms and conditions contained in Section XIII of this Agreement relative to termination shall apply.

O. Termination by Agent

The Agent may terminate this Agreement at any time by giving at least thirty (30) days' notice in writing to the City. If the Agreement is terminated by the Agent as provided herein, the Agent shall, within thirty (30) days of the notice, deliver to the City all project files, documents and reports related to grant projects, and provide a status of the projects. Agent shall be paid for the prorated monthly fee and reimbursables incurred up to the termination date.

P. Changes

The City may, from time to time, request changes in the scope of the services to be performed by the Agent under this Agreement. Such changes, including any increase or decrease in the amount of the Agent's compensation, which are mutually agreed upon by and between the City and Agent shall be incorporated in written amendments to this Agreement.

Q. Personnel

- 1 The Agent represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
- 2 All the services required hereunder shall be performed by the Agent or under his supervision and all personnel engaged in the work shall be fully qualified and, if applicable, shall be authorized or permitted under State and local law to perform such services.
- 3 None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written Contract or agreement and shall be subject to each provision of this Agreement.

R. Reports and Information

The Agent shall, at such times and in such forms as the City may reasonably require, furnish the City such periodic reports it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

S. Civil Rights

The Agent shall comply with applicable requirements of Chapter 106 Civil Practice and Remedies Code of the State of Texas which prohibits discrimination on the grounds of race, religion, color, sex, or national origin, while performing work on behalf of the City.

The Agent shall carry out its work under this Agreement in a manner that shall ensure full compliance by the City with the Statute.

T. Interest of Agent and Employees

The Agent covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the study area or any parcels therein or any other interests which would conflict in any manner or degree with the performance of its services hereunder.

The Agent further covenants that in the performance of this Agreement, no person who has any such interest shall be employed by the Agent.

U. Verification And Compliance With State Laws

By signing this Agreement and the attached Certificate of Interested Parties (Form 1295) and the document relating to H.B. No. 89), the Agent verifies they are in compliance with all state laws, including Texas Government Code Chapter 2252, Subchapter F (S.B No. 252), Texas Government Code Section 2252.908 (Disclosure of Interested Parties) and Texas Government Code Chapter 2270 (H.B. No. 89); and hereby acknowledges the following:

- 1 Agent is not a company engaged in business with Iran, Sudan, or a foreign terrorist organization and is not a company included on the list prepared by and maintained by the Texas State Comptroller.
- 2 Agent does not boycott Israel; and
- 3 Will not boycott Israel during the term of this Agreement.

V. Incorporation of Provisions Required by Law

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion upon application by either party.

W. Venue

Any action brought by either party based on any claim arising under or as a result of this Agreement shall be brought in a court of competent jurisdiction in Jefferson County, Texas.

SECTION 2

IN WITNESS WHEREOF, The City of Seabrook has lawfully caused these presents to be executed by the hand of the Board President of said City, and the Agent, acting by the hand of Jeffrey S. Ward, thereunto authorized signee title, does now sign, execute, and deliver this document.

Executed, on this 7th day of March, A.D. 2023.

JSWA

City of Seabrook

By: 

Jeffrey S. Ward
President and CEO

By: 

Attachment A – Scope of Services

Home Elevation Grant Development

JSWA will provide grant application development services for application to all FEMA Hazard Mitigation Assistance Grant programs, to include Flood Mitigation Assistance (FMA), Building Resilient Infrastructure and Communities (BRIC) and Hazard Mitigation Grant Program (HMGP) programs for any mitigation activity for which the City is interested in applying. Tasks will include:

Preparation and submission of applications for grant funding in compliance with local, state and federal requirements. This support includes:

- Develop and implement local criteria to prioritize applicants
- Identify and evaluate candidate projects suitable for grant funding
- Complete project scope of work, cost estimate, schedule and justifications and all other elements of grant application
- Complete Benefit Cost Analysis calculations per FEMA guidance for properties to be included in grant application
- Provide recommendation to the City of which properties or drainage projects to include in grant applications based on HMA guidance and Benefit Cost Analysis calculations
- Conduct review and analysis of FEMA and other data to validate property classification and cost estimates.
- Assist City with execution of required certifications and other documents
- Assist City with the completion and submittal of grant applications
- Respond to any State or FEMA requests for information post-application submittal

Grant Administration

After award, there are many different grant administration requirements. These requirements differ depending on project type. JSWA will:

- Administer all aspects of the grant according to the contractual agreements between City and TWDB or TDEM and the relevant Grant Agreement with FEMA
- Report to local officials on the grant process
- Prepare required reports to the State
- Prepare requests for payment from the City to the property owners or contractor
- Prepare requests for reimbursement from the City to the State
- Assist the City in evaluating options for procurement of qualified contractors in accordance with 2 CFR Part 200 and State of Texas procurement standards
- Assist the City in developing an agreement between the City and the Homeowners that passes along the relevant terms of the grant. This agreement will also establish homeowner obligations that must be followed during the elevation of their home
- Coordination of inspection, structure requirement, and bid/contract process for elevation contractor procurement
- Coordinate and facilitate meetings with homeowners to outline the project's scope of work requirements. Work closely with the homeowners throughout the duration of the project and respond to their questions in a timely manner
- Prepare reconciliation with State on all grant funds
- Prepare all reports and forms required for grant closeout
- Participate in any review or audit of the grant by TWDB, TDEM, FEMA or their assignee, and address any questions, findings, or deficiencies noted

- Per Parcel Management Services/Public Infrastructure Management Services
- Ancillary services may also include processing Increased Cost of Compliance (ICC) claims.

Home Elevation Project Management

JSWA will be the Point of Contact on behalf of the County to the homeowners in the program and work will include:

- Meet with Homeowners to overview and explain the process and detail the Homeowner's and elevation contractor's responsibilities.
- Provide an overview of the budget the Homeowners must stay within for their individual elevation. This data will come from the grant award documents.
- Manage the budget to ensure all homes are completed within available Federal funding.
- Assist the City in ensuring that the elevation contract specifications meet the FEMA grant requirements.
- Develop a process to ensure that construction is performed in compliance with engineering specifications.
- Ensure that a Professional Engineer (PE) reviews all construction specifications.
 - Note, for elevation projects, PE is provided and paid for by the elevation contractor as part elevation contract bid and accepted by the homeowner and the City.
- Ensure Homeowner selects among the qualified contractors in the manner and method prescribed and supports the selection.
- Prepare and present mitigation offer. Review details of mitigation offer and have offer signed by Homeowner.
- Prepare and present Homeowner/City agreement for elevation. This agreement will provide the details of the Homeowner responsibility for hiring the elevation contractor and will have language indemnifying the City and their contractors from liability associated with the physical elevation. Have Homeowner sign the agreement.
- Submit owner signed agreement to County for review and signature.
- For those Homeowners that have a local cost share, collect this cost share at the time of execution of the agreement between City and Homeowner. Ensure these funds are deposited with the City in escrow accounts.
- Facilitate payments to contractors from the City.
- Meet with each Homeowner and review and concur with Elevation Contractor. Confirm bid is within grant limits and detail any/all costs that will not be reimbursable under the grant.
- Review work schedules and specifications to ensure that the elevation is completed in a timely manner and in compliance with the terms of the grant. If problems are encountered, the Contractor will seek resolution from the City and the State.
- This element requires the submittal of a schedule for completion for elevation as part of the bid and resultant contract for elevation. JSWA will closely monitor this schedule and include progress reviews in the below mentioned weekly reports.
- Facilitate the establishment and recordation of FEMA required post elevation deed restrictions.

Attachment B- Request for Qualifications (RFQ) 2202-17-115

Attachment C - Provider's full and complete response to (RFQ) 2202-17-115