

11. Discuss and consider trash burning location.-Barney Aparicio
12. Discuss and consider action to approve the following consent agenda items:
 - a) Minutes of the May 10, 2016 Regular Council Meeting
 - b) Travel expenses Mayor Glen Smith.

EXECUTIVE SESSION

In accordance with Chapter 551, Government Code, (Open Meetings Law) the Council May go into Executive (closed) session in order to:

Consult with its attorney (551.071)

Discuss Real Estate transaction (551.072)

Deliberation regarding prospective gifts or donation (551.073)

Discuss personnel matters (551.074)

Deliberation regarding security devices (551.076)

Discuss economic development negotiations (551.087)

ACTION ON EXECUTIVE SESSION:

ADJOURN

In compliance with the Americans with Disabilities Act, the City of Palacios will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meeting. Please contact City Hall, at 361.972.3605.

CERTIFICATION

I certify that a copy of the May 24, 2016 agenda of items to be considered by the City Council was posted on the City Hall bulletin board by 5:00p.m. on May 20, 2016.

REGULAR COUNCIL MEETING

CALL TO ORDER

INVOCATION – Mayor Smith

PLEDGE OF ALLEGIANCE – Councilmember Tran

PLEDGE TO TEXAS FLAG – Councilmember Tran

PLEDGE TO PALACIOS FLAG – Councilmember Tran

VISITOR / CITIZEN FORUM

ADMINISTRATIVE REPORTS

1. Hurricane Preparedness Week



STATE OF TEXAS
OFFICE OF THE GOVERNOR

Hurricanes are powerful and destructive forces that pose a serious threat to the lives and property of Texas citizens. The Texas coastline and inland communities are at a greater risk of hurricanes during a six month period that runs from June through November. As a result, we must remain vigilant during hurricane season and stay aware of the potential for severe weather that can accompany tropical systems.

While Texas has experienced several other major disasters in recent years, the last hurricane to make landfall in Texas was Hurricane Ike in September 2008. I caution citizens not to become complacent. When hurricanes do occur, they can produce heavy winds, storm surges, torrential rains, inland flooding and tornadoes. It is important that all Texans, particularly Gulf Coast residents, be aware of the hazards hurricanes present.

The population of our coastal communities continues to grow. Many residents have never experienced the direct impact of a major hurricane and may be unfamiliar with the need for planning and preparation. Texans should understand the difference between a hurricane watch and hurricane warning. Families should develop, review and practice their emergency preparedness plans. Each plan should include a communications plan, pet plan and designated evacuation routes. Additionally, a "readiness kit" of important supplies should be assembled and should include a NOAA weather radio, a three-day supply of non-perishable food and water for each person, a first aid kit, medications, flashlights and extra batteries.

At this time, I encourage all Texans to remain mindful of the dangers presented by hurricanes, to stay informed about current threats and to take steps toward preparedness. Together, we are ready!

Therefore, I, Greg Abbott, Governor of Texas, do hereby proclaim May 15–21, 2016,
to be

Hurricane Preparedness Week



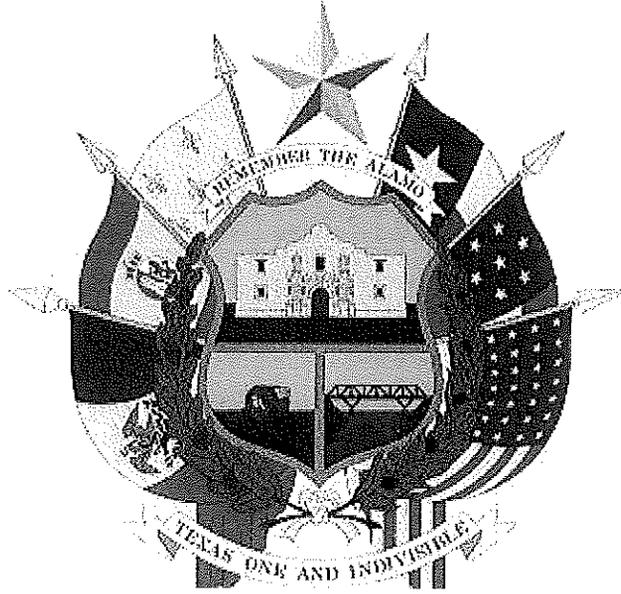
in Texas, and urge the appropriate recognition whereof.

In official recognition whereof,
I hereby affix my signature this the
12th day of May, 2016.


Governor of Texas

ITEMS TO BE CONSIDERED

3. Present the Certificate of Election and administer the Oath of Office for Councilmember Place 2 Judy Chavez



*In the name and by the authority of
The City of Palacios*

This is to certify that

Judy Chavez

was duly elected to the office of

Member of the Council Place 2

of The City of Palacios

*pursuant to Resolution 2016-R-7 issued March 8, 2016
cancelling the election that was scheduled to be held on May 7, 2016*

John C. Sardelich
John C. Sardelich, Mayor

*In testimony whereof, I have hereunto signed my
name and caused the Seal of the City of Palacios,
Texas to be affixed this 12th day of May, 2016*



May 12, 2016

RE: U.E. Job No. E20518.00
 City of Palacios
 2015 Water Improvements
 TxCDBG Contract No. 7215359
 Recommendation of Award

Mr. David Kocurek, City Manager
 City of Palacios
 311 Henderson
 Palacios, Texas 77465

Dear David:

Public bids were opened on May 11, 2016 for the City of Palacios 2015 Water Improvements TxCDBG Contract No. 7215359 project. The following bids were received:

	Lester Contracting, Inc.	Falcon Lease Operating Company	Palacios Marine & Industrial Coatings, Inc.	Rhoades Land Leveling & Excavation
Total Base Bid	\$154,159.00	\$202,124.00	\$246,443.83	\$284,823.60
Total Alternate No. 1	\$ 29,130.00	\$ 40,226.00	\$ 49,508.89	\$ 53,436.40
Total Alternate No. 2	\$ 35,583.00	\$ 43,546.00	\$ 45,395.23	\$ 60,596.20
Total Alternate No. 3	\$ 32,290.00	\$ 43,146.00	\$ 62,011.86	\$ 59,102.00
Total Base Bid and Alternates No. 1, 2 and 3	\$251,162.00	\$329,042.00	\$403,359.81	\$457,958.20
Calendar Days for Substantial Completion	120	270	105	245

After reviewing the bids, I recommend that the project be awarded to the low bidder, Lester Contracting, Inc., in the amount of \$251,162.00 for the total Base Bid and Alternates No. 1, 2 and 3. A bid tabulation is attached showing the unit prices and totals for the four bids received.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Matt A. Glaze, P.E.
 Project Engineer

MAG/bjh

Attachment

BID TABULATION
CITY OF PALACIOS
2015 WATER IMPROVEMENTS
TxCDBG CONTRACT NO. 7215359

BID DATE: MAY 11, 2016

				LESTER CONTRACTING, INC.		FALCON LEASE OPERATING COMPANY		PALACIOS MARINE & INDUSTRIAL COATINGS, INC.		RHOADES LAND LEVELING & EXCAVATION	
ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
BASE BID											
GENERAL											
1.	Mobilization, Insurance and Bonds (Maximum 5% of Base Bid)	1	LS	\$ 7,000.00	\$ 7,000.00	\$ 9,000.00	\$ 9,000.00	\$ 11,735.71	\$ 11,735.71	\$ 20,000.00	\$ 20,000.00
2.	Barricading & Traffic Control (Furnish, Install, Maintain & Remove Signs & Warning Devices) (Includes Flagmen & Traffic Handling)	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 4,500.00	\$ 4,500.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
3.	Construction Staking	1	LS	\$ 500.00	\$ 500.00	\$ 2,500.00	\$ 2,500.00	\$ 6,000.00	\$ 6,000.00	\$ 10,750.00	\$ 10,750.00
4.	Project Sign (Refer to Section 00810 of the Bidding/Contract Documents)	1	EA	\$ 100.00	\$ 100.00	\$ 1,200.00	\$ 1,200.00	\$ 500.00	\$ 500.00	\$ 1,000.00	\$ 1,000.00
SUBTOTAL GENERAL					\$ 8,600.00		\$ 17,200.00		\$ 28,235.71		\$ 41,750.00
WATER IMPROVEMENTS											
5.	Water Main (6") (PVC) (Non-Paved Areas)	1,172	LF	\$ 20.00	\$ 23,440.00	\$ 35.00	\$ 41,020.00	\$ 15.66	\$ 18,353.52	\$ 26.00	\$ 30,472.00
6.	Water Main (6") (PVC) (Gravel Paved Areas)	326	LF	\$ 23.00	\$ 7,498.00	\$ 43.00	\$ 14,018.00	\$ 34.89	\$ 11,374.14	\$ 37.00	\$ 12,062.00
7.	Water Main (6") (PVC) (HMAC Paved Areas)	147	LF	\$ 33.00	\$ 4,851.00	\$ 55.00	\$ 8,085.00	\$ 77.13	\$ 11,338.11	\$ 65.80	\$ 9,672.60
8.	Water Main (6") (PVC) (Concrete Paved Areas)	53	LF	\$ 35.00	\$ 1,855.00	\$ 62.00	\$ 3,286.00	\$ 209.66	\$ 11,111.98	\$ 74.00	\$ 3,922.00
9.	Water Main (8") (PVC) (Non-Paved Areas)	685	LF	\$ 22.00	\$ 15,070.00	\$ 38.00	\$ 26,030.00	\$ 18.87	\$ 12,925.95	\$ 29.00	\$ 19,865.00
10.	Water Main (8") (PVC) (Gravel Paved Areas)	140	LF	\$ 27.00	\$ 3,780.00	\$ 48.00	\$ 6,720.00	\$ 40.49	\$ 5,668.60	\$ 40.00	\$ 5,600.00
11.	Water Main (8") (PVC) (HMAC Paved Areas)	95	LF	\$ 49.00	\$ 4,655.00	\$ 60.00	\$ 5,700.00	\$ 96.27	\$ 9,145.65	\$ 69.00	\$ 6,555.00
12.	8" x 6" Tapping Sleeve & Valve	2	EA	\$ 4,200.00	\$ 8,400.00	\$ 2,920.00	\$ 5,840.00	\$ 3,563.11	\$ 7,126.22	\$ 3,300.00	\$ 6,600.00
13.	Fitting (Tee) (6" x 6")	4	EA	\$ 375.00	\$ 1,500.00	\$ 375.00	\$ 1,500.00	\$ 1,176.12	\$ 4,704.48	\$ 1,300.00	\$ 5,200.00
14.	Fitting (Tee) (8" x 6")	7	EA	\$ 400.00	\$ 2,800.00	\$ 415.00	\$ 2,905.00	\$ 1,327.55	\$ 9,292.85	\$ 1,475.00	\$ 10,325.00
14a.	Fitting (Bend) (6") (45 Deg)	8	EA	\$ 300.00	\$ 2,400.00	\$ 320.00	\$ 2,560.00	\$ 2,061.48	\$ 16,491.84	\$ 800.00	\$ 6,400.00
15.	Fitting (Bend) (6") (90 Deg)	2	EA	\$ 300.00	\$ 600.00	\$ 325.00	\$ 650.00	\$ 2,052.66	\$ 4,105.32	\$ 800.00	\$ 1,600.00
16.	Fitting (Plug) (2")	3	EA	\$ 200.00	\$ 600.00	\$ 265.00	\$ 795.00	\$ 930.78	\$ 2,792.34	\$ 150.00	\$ 450.00
17.	Fitting (Plug) (8")	4	EA	\$ 215.00	\$ 860.00	\$ 320.00	\$ 1,280.00	\$ 1,174.30	\$ 4,697.20	\$ 900.00	\$ 3,600.00
18.	Gate Valve (6")	11	EA	\$ 950.00	\$ 10,450.00	\$ 830.00	\$ 9,130.00	\$ 1,580.34	\$ 17,383.74	\$ 1,800.00	\$ 19,800.00
19.	Gate Valve (8")	4	EA	\$ 1,250.00	\$ 5,000.00	\$ 1,270.00	\$ 5,080.00	\$ 2,022.30	\$ 8,089.20	\$ 2,250.00	\$ 9,000.00
20.	Locate & Connect to Existing Water Line (6")	1	EA	\$ 750.00	\$ 750.00	\$ 925.00	\$ 925.00	\$ 2,106.00	\$ 2,106.00	\$ 1,500.00	\$ 1,500.00
21.	Fire Hydrant (All Depths)	7	EA	\$ 2,950.00	\$ 20,650.00	\$ 2,600.00	\$ 18,200.00	\$ 4,045.89	\$ 28,321.23	\$ 4,150.00	\$ 29,050.00
22.	Remove Existing Fire Hydrant & Plug Existing Fire Hydrant Lead	3	EA	\$ 500.00	\$ 1,500.00	\$ 300.00	\$ 900.00	\$ 707.75	\$ 2,123.25	\$ 500.00	\$ 1,500.00
23.	Reconnect Existing Services (Short)	22	EA	\$ 475.00	\$ 10,450.00	\$ 510.00	\$ 11,220.00	\$ 728.78	\$ 16,033.16	\$ 1,250.00	\$ 27,500.00

BID TABULATION
CITY OF PALACIOS
2015 WATER IMPROVEMENTS
TxCDBG CONTRACT NO. 7215359

BID DATE: MAY 11, 2016

				LESTER CONTRACTING, INC.		FALCON LEASE OPERATING COMPANY		PALACIOS MARINE & INDUSTRIAL COATINGS, INC.		RHOADES LAND LEVELING & EXCAVATION	
ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
24.	Reconnect Existing Services (Long)	18	EA	\$ 1,025.00	\$ 18,450.00	\$ 1,060.00	\$ 19,080.00	\$ 834.63	\$ 15,023.34	\$ 1,800.00	\$ 32,400.00
SUBTOTAL WATER IMPROVEMENTS					\$ 145,559.00		\$ 184,924.00		\$ 218,208.12		\$ 243,073.60
TOTAL BASE BID					\$ 154,159.00		\$ 202,124.00		\$ 246,443.83		\$ 284,823.60
ALTERNATE NO. 1											
A1.	Water Main (6") (PVC) (Non-Paved Areas)	359	LF	\$ 20.00	\$ 7,180.00	\$ 35.00	\$ 12,565.00	\$ 15.66	\$ 5,621.94	\$ 26.00	\$ 9,334.00
A2.	Water Main (6") (PVC) (Gravel Paved Areas)	127	LF	\$ 23.00	\$ 2,921.00	\$ 43.00	\$ 5,461.00	\$ 34.89	\$ 4,431.03	\$ 37.00	\$ 4,699.00
A3.	Water Main (6") (PVC) (HMAC Paved Areas)	73	LF	\$ 33.00	\$ 2,409.00	\$ 55.00	\$ 4,015.00	\$ 77.13	\$ 5,630.49	\$ 65.80	\$ 4,803.40
A4.	Fitting (Cross) (6" x 6")	1	EA	\$ 550.00	\$ 550.00	\$ 610.00	\$ 610.00	\$ 2,254.56	\$ 2,254.56	\$ 1,200.00	\$ 1,200.00
A5.	Fitting (Reducer) (8" x 6")	2	EA	\$ 315.00	\$ 630.00	\$ 350.00	\$ 700.00	\$ 1,995.06	\$ 3,990.12	\$ 800.00	\$ 1,600.00
A6.	Fitting (Bend) (6") (90 Deg)	4	EA	\$ 300.00	\$ 1,200.00	\$ 325.00	\$ 1,300.00	\$ 2,052.66	\$ 8,210.64	\$ 800.00	\$ 3,200.00
A7.	Fitting (Plug) (2")	1	EA	\$ 200.00	\$ 200.00	\$ 265.00	\$ 265.00	\$ 930.78	\$ 930.78	\$ 150.00	\$ 150.00
A8.	Gate Valve (6")	3	EA	\$ 950.00	\$ 2,850.00	\$ 830.00	\$ 2,490.00	\$ 1,580.34	\$ 4,741.02	\$ 1,800.00	\$ 5,400.00
A9.	Locate & Connect to Existing Water Line (8")	2	EA	\$ 820.00	\$ 1,640.00	\$ 1,425.00	\$ 2,850.00	\$ 2,106.00	\$ 4,212.00	\$ 2,100.00	\$ 4,200.00
A10.	Reconnect Existing Services (Short)	5	EA	\$ 475.00	\$ 2,375.00	\$ 510.00	\$ 2,550.00	\$ 728.78	\$ 3,643.90	\$ 1,250.00	\$ 6,250.00
A11.	Reconnect Existing Services (Long)	7	EA	\$ 1,025.00	\$ 7,175.00	\$ 1,060.00	\$ 7,420.00	\$ 834.63	\$ 5,842.41	\$ 1,800.00	\$ 12,600.00
TOTAL ALTERNATE NO. 1					\$ 29,130.00		\$ 40,226.00		\$ 49,508.89		\$ 53,436.40
ALTERNATE NO. 2											
B1.	Water Main (6") (PVC) (Non-Paved Areas)	399	LF	\$ 20.00	\$ 7,980.00	\$ 35.00	\$ 13,965.00	\$ 15.66	\$ 6,248.34	\$ 26.00	\$ 10,374.00
B2.	Water Main (6") (PVC) (Gravel Paved Areas)	52	LF	\$ 23.00	\$ 1,196.00	\$ 43.00	\$ 2,236.00	\$ 34.89	\$ 1,814.28	\$ 37.00	\$ 1,924.00
B3.	Water Main (6") (PVC) (HMAC Paved Areas)	79	LF	\$ 33.00	\$ 2,607.00	\$ 55.00	\$ 4,345.00	\$ 77.13	\$ 6,093.27	\$ 65.80	\$ 5,198.20
B4.	Fitting (Tee) (6" x 6")	2	EA	\$ 375.00	\$ 750.00	\$ 375.00	\$ 750.00	\$ 1,176.12	\$ 2,352.24	\$ 1,300.00	\$ 2,600.00
B5.	Fitting (Plug) (4")	1	EA	\$ 200.00	\$ 200.00	\$ 300.00	\$ 300.00	\$ 1,919.82	\$ 1,919.82	\$ 300.00	\$ 300.00
B6.	Gate Valve (6")	3	EA	\$ 950.00	\$ 2,850.00	\$ 830.00	\$ 2,490.00	\$ 1,580.34	\$ 4,741.02	\$ 1,800.00	\$ 5,400.00
B7.	Fire Hydrant (All Depths)	2	EA	\$ 2,950.00	\$ 5,900.00	\$ 2,600.00	\$ 5,200.00	\$ 4,045.89	\$ 8,091.78	\$ 4,150.00	\$ 8,300.00
B8.	Remove Existing Fire Hydrant & Plug Existing Fire Hydrant Lead	2	EA	\$ 500.00	\$ 1,000.00	\$ 300.00	\$ 600.00	\$ 707.75	\$ 1,415.50	\$ 500.00	\$ 1,000.00
B9.	Reconnect Existing Services (Short)	6	EA	\$ 475.00	\$ 2,850.00	\$ 510.00	\$ 3,060.00	\$ 728.78	\$ 4,372.68	\$ 1,250.00	\$ 7,500.00
B10.	Reconnect Existing Services (Long)	10	EA	\$ 1,025.00	\$ 10,250.00	\$ 1,060.00	\$ 10,600.00	\$ 834.63	\$ 8,346.30	\$ 1,800.00	\$ 18,000.00
TOTAL ALTERNATE NO. 2					\$ 35,583.00		\$ 43,546.00		\$ 45,395.23		\$ 60,596.20

BID TABULATION
CITY OF PALACIOS
2015 WATER IMPROVEMENTS
TxCDBG CONTRACT NO. 7215359

BID DATE: MAY 11, 2016

				LESTER CONTRACTING, INC.		FALCON LEASE OPERATING COMPANY		PALACIOS MARINE & INDUSTRIAL COATINGS, INC.		RHOADES LAND LEVELING & EXCAVATION	
ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
ALTERNATE NO. 3											
C1.	Water Main (6") (PVC) (Non-Paved Areas)	471	LF	\$ 20.00	\$ 9,420.00	\$ 35.00	\$ 16,485.00	\$ 15.66	\$ 7,375.86	\$ 26.00	\$ 12,246.00
C2.	Water Main (6") (PVC) (Gravel Paved Areas)	20	LF	\$ 23.00	\$ 460.00	\$ 43.00	\$ 860.00	\$ 34.89	\$ 697.80	\$ 37.00	\$ 740.00
C3.	Water Main (6") (PVC) (HMAC Paved Areas)	80	LF	\$ 33.00	\$ 2,640.00	\$ 55.00	\$ 4,400.00	\$ 77.13	\$ 6,170.40	\$ 65.80	\$ 5,264.00
C4.	Water Main (6") (PVC) (Concrete Paved Areas)	23	LF	\$ 35.00	\$ 805.00	\$ 62.00	\$ 1,426.00	\$ 209.66	\$ 4,822.18	\$ 74.00	\$ 1,702.00
C5.	Fitting (Tee) (6" x 6")	1	EA	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 1,176.12	\$ 1,176.12	\$ 1,300.00	\$ 1,300.00
C6.	Fitting (Cross) (6" x 6")	1	EA	\$ 550.00	\$ 550.00	\$ 610.00	\$ 610.00	\$ 2,254.56	\$ 2,254.56	\$ 1,200.00	\$ 1,200.00
C7.	Fitting (Reducer) (8" x 6")	2	EA	\$ 300.00	\$ 600.00	\$ 350.00	\$ 700.00	\$ 1,995.06	\$ 3,990.12	\$ 800.00	\$ 1,600.00
C8.	Fitting (Bend) (6") (90 Deg)	4	EA	\$ 300.00	\$ 1,200.00	\$ 325.00	\$ 1,300.00	\$ 2,052.66	\$ 8,210.64	\$ 800.00	\$ 3,200.00
C9.	Fitting (Plug) (4")	1	EA	\$ 200.00	\$ 200.00	\$ 300.00	\$ 300.00	\$ 1,919.82	\$ 1,919.82	\$ 300.00	\$ 300.00
C10.	Fitting (Plug) (6")	1	EA	\$ 200.00	\$ 200.00	\$ 320.00	\$ 320.00	\$ 2,072.16	\$ 2,072.16	\$ 500.00	\$ 500.00
C11.	Gate Valve (6")	4	EA	\$ 950.00	\$ 3,800.00	\$ 830.00	\$ 3,320.00	\$ 1,580.34	\$ 6,321.36	\$ 1,800.00	\$ 7,200.00
C12.	Locate & Connect to Existing Water Line (8")	2	EA	\$ 820.00	\$ 1,640.00	\$ 1,425.00	\$ 2,850.00	\$ 2,268.00	\$ 4,536.00	\$ 2,250.00	\$ 4,500.00
C13.	Fire Hydrant (All Depths)	1	EA	\$ 2,950.00	\$ 2,950.00	\$ 2,600.00	\$ 2,600.00	\$ 4,045.89	\$ 4,045.89	\$ 4,150.00	\$ 4,150.00
C14.	Remove Existing Fire Hydrant & Plug Existing Fire Hydrant Lead	1	EA	\$ 500.00	\$ 500.00	\$ 300.00	\$ 300.00	\$ 707.75	\$ 707.75	\$ 500.00	\$ 500.00
C15.	Reconnect Existing Services (Short)	6	EA	\$ 475.00	\$ 2,850.00	\$ 510.00	\$ 3,060.00	\$ 728.78	\$ 4,372.68	\$ 1,250.00	\$ 7,500.00
C16.	Reconnect Existing Services (Long)	4	EA	\$ 1,025.00	\$ 4,100.00	\$ 1,060.00	\$ 4,240.00	\$ 834.63	\$ 3,338.52	\$ 1,800.00	\$ 7,200.00
TOTAL ALTERNATE NO. 3					\$ 32,290.00		\$ 43,146.00		\$ 62,011.86		\$ 59,102.00
TOTAL BASE BID + ALTERNATES NO. 1, NO. 2 AND NO. 3					\$ 251,162.00		\$ 329,042.00		\$ 403,359.81		\$ 457,958.20
CALENDAR DAYS - SUBSTANTIAL COMPLETION					120		270		105		245

5. Discuss and consider approving an agreement with Urban Engineering for the Hazard Mitigation Grant Project

May 16, 2016

Glen Smith
City of Palacios, Mayor
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing Urban Engineering to provide engineering services related to application preparation and implementation of your Bethany Park Outfall Drainage Hazard Mitigation Grant Project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between Urban Engineering, (the "Engineer"), 2004 N. Commerce, Victoria, TX 77901 and City of Palacios (the "City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Development and Hazard Mitigation Grant Engineering Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project for the Bethany Park Outfall drainage improvements (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Engineer will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Engineer a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Engineer's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Engineer for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Engineer for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the Engineer's basic services compensation.

After the date of this Agreement and grant approval, the Engineer will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Engineer within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Engineer until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Urban Engineering and provide a copy to Wendy Kirby, GrantWorks Hazard Mitigation Project Manager, at 2201 Northland Drive, Austin, TX 78756.

City of Palacios
By:

Urban Engineering
By:

Glen Smith, Mayor

Thomas A. Schmidt, P.E.

Date

Date

DRAFT

Attachment A – Scope of Work
Hazard Mitigation Grant Bethany Park Outfall Drainage Project 2016/2017

I. ENGINEERING SERVICES

The Engineer will provide the following services:

Pre-Award – Application Development

- 1) Assist the City in the preparation of an application to the Texas Division of Emergency Management (TDEM) Hazard Mitigation Grant Program for a Hazard Mitigation Grant within the guidelines and procedures established by TDEM, including meetings or workshops with the City as needed to develop the application.
- 2) Complete a hydrological and hydraulics study to determine technically feasible and cost effective solution to the Bethany Park Outfall drainage issue.
- 3) Assist with preliminary environmental and historic preservation requirements.
- 4) Create preliminary benefit/cost analysis using FEMA current BCA tool software (<http://www.fema.gov/benefit-cost-analysis>)
- 5) Create preliminary site survey, design plans/specifications and scope of work.
- 6) Prepare a preliminary budget.
- 7) Preliminary field testing and inspections.
- 8) Other engineering services as required to prepare a completed project application packet to be submitted to TDEM by the assigned deadline.
- 9) Assist the City in responding to any requests by TDEM review staff for clarification of or supplemental application information.

Post-Award – Phase One (contingent upon award):

- 1) Prepare the final survey, design plans/specifications and scope of work.
- 2) Assist with final Environmental Assessment (NEPA) approval including Historic Preservation.
- 3) Create benefit cost ratio using FEMA current Benefit Cost Analysis software tool based upon final plan and scope of work.
- 4) Coordinate with FEMA during its review and in addressing any concerns or required changes to the project design.

Post-Award – Phase Two (contingent upon acceptance by FEMA of Phase One)

- 1) Attend initial State Kick-Off Meeting, if applicable.
- 2) Create a final bid documents and notices.
- 3) Coordinate bid opening and contract award process.
- 4) Conduct pre-construction conference and issue Notice to Proceed.
- 5) Review and verify contractor pay estimates and change orders.
- 6) Provide technical assistance to City personnel who will be directly involved in the program.
- 7) Work with the City to ensure project completion within the required 24-month time frame or extended Period of Performance, if applicable.
- 8) Field testing and inspections as required to confirm contractor is performing according to plans and specifications.
- 9) Complete a Certificate of Construction Completion and all necessary closeout documentation.
- 10) Prepare other grant requirements as necessary.
- 11) Respond to all requests made by Management Consultant in order to facilitate the grant progression.
- 12) Create benefit cost analysis/ratio for final plans and any subsequent changes to the project.
- 13) Designate a primary person to coordinate its performance of obligations under this Agreement.

I. CITY RESPONSIBILITIES

The City will:

- 1) Provide full information to the Engineer regarding the City's requirements for Engineer's services under this Agreement.
- 2) Furnish the Engineer with copies of Project-related data and information in the City's possession needed by the Engineer at the Engineer's request.
- 3) Designate a primary contact for the project who is authorized representative to act on the City's behalf with respect to this Agreement.
- 4) The City will examine the documents and information submitted by the Engineer and promptly render responses within 10 business days to the Engineer on issues requiring a decision by the City.

II. ADDITIONAL SERVICES

A. The City may direct the Engineer to perform services outside the Scope of Services described in Section I. The Engineer will submit a written estimate of fees, based on standard rates indicated in Attachment B, to the City and obtain the City's authorization before initiating any additional services.

B. Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement. Compensation for additional services will be for those services provided by the Engineer in addition to the services specified in Section I, Scope of Services. The approval of the City's governing body is necessary for all additional services which exceeds the Total Fee shown in Attachment B.

Attachment B – Basis of Compensation
Hazard Mitigation Grant Bethany Park Outfall Drainage Project 2016/2017

Contingent upon award and approval of FEMA of each of the Phases included in the project, the City agrees to pay Engineer a fee not to exceed the amount shown in the Total Fee line below. The City will be billed no more often than monthly for any tasks completed. The City will pay the Engineer within in 60 calendar days upon receipt of an invoice indicating the completed tasks.

Payments and invoicing shall be made in accordance with progress on the following tasks:

Deliverables	Fee
Pre-Award Services – Application Preparation and Submittal (except H&H)	
Hydrologic and Hydraulic Study	
Preliminary Benefit Cost Analysis/Ratio	
Post-Award Phase One Services	
Post-Award Phase Two Services	
Travel:	
Additional Services but not limited to: Technical assistance & advice	
Total Fee	

Hourly Rates: \$ XX.XX

Phased Payment: The Engineer understands and agrees that this project may be funded in phases and that each phase requires a separate notice to proceed from the City. Without such notice the Engineer shall not commence work on the phase and the City shall not be liable to the Engineer for payment related to that phase.

ATTACHMENT C

AUTHORIZATION OF CHANGE IN SERVICES

PROJECT: Grant Mitigation Engineering Services for Application Preparation and Implementation in Connection with City of Palacios Hazard Mitigation Grant Bethany Park Outfall Drainage Project 2016/2017

ENGINEER: Urban Engineering

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

URBAN ENGINEERING

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

Attachment D
Terms and Conditions for Engineering Services Agreements
Utilizing Federal Grant Funds

1. Standards of Performance

- (a) In performing all services under this Agreement, the Engineer will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.
- (b) Any provisions in this Agreement pertaining to the City's review, approval and/or acceptance of written materials prepared by the Engineer and/or its subcontractors in connection with this Agreement will not diminish the Engineer's responsibility for the materials.
- (c) The Engineer will perform all of its services in coordination with the City. The Engineer will advise the City of data and information the Engineer needs to perform its services and the City will assemble this data and information for the Engineer in a thorough and timely manner.
- (d) If the Federal Funding Accounting and Transparency Act applies to the Project the Engineer must obtain a Data Universal Numbering System ("DUNS") Number and must register in the Central Contractor Registration ("CCR") System and prior to beginning any work under this Agreement, the Engineer will supply the City with both its DUNS and CCR registration numbers.

2. Engineer's Records

- (a) All expense records of the Engineer related to this Agreement will be kept on a recognized accounting basis acceptable to the City and will be available to the City at mutually convenient times (applies only if the Engineer is to be reimbursed for expenses).
- (b) The City, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Engineer which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- (c) The Engineer will furnish to the City at such time and in such form as the City may require, financial statements including audited financial statements, records, reports, data and information, as the City may request pertaining to the matters covered by this Agreement.

3. Ownership and Use of Documents

- (a) All documents prepared by the Engineer in connection with this Agreement are the property of the City.
- (b) The Engineer will deliver its records and supporting documentation relating to this Agreement to the City upon close-out of the project and the City shall thenceforth be responsible for the maintenance of such records and documents.

4. Patent Fees and Royalties

- (a) If applicable, the Engineer will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Engineer will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

5. Engineer as Independent Contractor

It is expressly agreed that the Engineer is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Engineer will not pledge or attempt to pledge the credit of the City.

6. Designation of Engineer's Contact Person

The Engineer agrees to designate in writing a single contact person assigned to coordinate the Engineer's performance of obligations under this Agreement. Any changes to this designation must be made by the Engineer in writing to the City.

7. Term; Termination of Agreement

- (a) The term of this Agreement begins upon the date of its execution by the City, and will end upon the Engineer's completion, and the City's acceptance, of all services described in this Agreement.
- (b) This Agreement may be terminated by either party upon 15 calendar days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- (c) This Agreement may be terminated at will by the either party upon at least 30 calendar days prior written notice to the other party.
- (d) In the event of termination as provided in this Section, the Engineer will be compensated for all services performed to the termination date which are deemed by the City to be in accordance with this Agreement. This amount will be paid by the City upon the Engineer's delivering to the City all information and materials developed or accumulated by the Engineer in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the City.

8. Insurance and Indemnity

- (a) The Engineer will indemnify, hold harmless, and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional wrongful acts, errors or omissions of the Engineer, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property, alleged or actual infringement of patents, copyrights and trademarks and without limitation by enumeration all other claims, demands or causes of action of every character occurring, resulting or arising from any negligent or intentional wrongful act, error or omission of the Engineer and/or its agents and/or employees. This obligation by the Engineer will not be limited by reason of the specification of any particular insurance coverage required under the Agreement.
- (b) The Engineer will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Engineer or its agents, subcontractors or employees. Before commencing the work the Engineer will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Engineer has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The kinds and amounts of insurance required are as follows:
Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas. Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate and (2) Motor Vehicle liability insurance in an amount not less than \$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.
- (c) The stated limits of insurance required by this Paragraph are minimum only--they do not limit the Engineer's indemnity obligation, and it will be the Engineer's responsibility to determine what limits are adequate. These limits

may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Engineer from compliance with these requirements.

9. Copeland Anti-Kickback Act Compliance

If applicable, the Engineer will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti-Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

10. Compliance with Laws, Rules & Regulations & Grant Requirements

- (a) In performing all services under this Agreement, the Engineer will comply with all local, state and federal laws. Specifically, funding for the Project has been made available with Federal funds. The Engineer will comply with all of the applicable federal regulations related to the application, acceptance and use of federal funds for the Project.
- (b) The Engineer shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

11. No Waiver of Immunity

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

12. Remedies; No Waiver

In the event of a default or breach of this Agreement by the Engineer, the City reserves the right to choose among the remedies for the default or breach available to the City. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the City. Any failure by the City to enforce this Agreement with respect to one or more defaults by the Engineer will not waive the City's ability to enforce the Agreement after that time.

13. Certification of Eligibility

By submitting a proposal in response to the Request for Proposals, the Engineer certifies that at the time of submission, he/she/it is not on the federal government's list of suspended, ineligible, or debarred contractors.

- (a) In the event of placement on this list between the time of bind/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
- (b) Engineer certifies that its subcontractors are not presently debarred, suspended, or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- (c) Placement of Engineer on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.

14. Non-Collusion Certification

The Engineer certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

15. Texas Department of Emergency Management Reporting Policy

If the project cannot be completed within the assigned period of performance due to extenuating circumstances, an extension must be requested in writing by the City and submitted to the State at least 90 days prior to the Period of Performance. The State requires quarterly progress report to be submitted on October 15, January 15, April 15 and July 15 until project is completed. Two consecutive reports indicating lack of measurable progress may result in forfeiture of funding.

16. Miscellaneous Provisions

- (a) This Agreement is governed by the laws of the State of Texas Exclusive venue for any dispute arising under this Agreement City of Palacios, Texas where this agreement is to be performed.
- (b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.
- (c) The Engineer agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Engineer hereby affirms that Engineer and Engineer's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of Engineers to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Engineer will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Engineer agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Engineer of the Agreement.
- (f) The Engineer will comply with Executive Order 11246 of 1965, entitled "Equal Employment Opportunity," as amended by Executive Order #11375 of 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- (g) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.
- (h) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Engineer will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Engineer of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Engineer may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Engineer will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.

- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Engineer and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request for Proposals, the Engineer's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Engineer. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.
- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.

DRAFT

6. Discuss and consider approving an agreement with Urban Engineering for the Hazard Mitigation Grant P

May 16, 2016

Glen Smith
City of Palacios, Mayor
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing Urban Engineering to provide engineering services related to application preparation and implementation of your Perryman Ave Outfall Drainage Hazard Mitigation Grant Project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between Urban Engineering, (the "Engineer"), 2004 N. Commerce, Victoria, TX 77901 and City of Palacios (the "City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Development and Hazard Mitigation Grant Engineering Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project for the Perryman Ave Outfall drainage improvements (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Engineer will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Engineer a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Engineer's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Engineer for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Engineer for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the Engineer's basic services compensation.

After the date of this Agreement and grant approval, the Engineer will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Engineer within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Engineer until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Urban Engineering and provide a copy to Wendy Kirby, GrantWorks Hazard Mitigation Project Manager, at 2201 Northland Drive, Austin, TX 78756.

City of Palacios
By:

Urban Engineering
By:

Glen Smith, Mayor

Thomas A. Schmidt, P.E.

Date

Date

DRAFT

Attachment A – Scope of Work
Hazard Mitigation Grant Perryman Ave Outfall Drainage Project 2016/2017

I. ENGINEERING SERVICES

The Engineer will provide the following services:

Pre-Award – Application Development

- 1) Assist the City in the preparation of an application to the Texas Division of Emergency Management (TDEM) Hazard Mitigation Grant Program for a Hazard Mitigation Grant within the guidelines and procedures established by TDEM, including meetings or workshops with the City as needed to develop the application.
- 2) Complete a hydrological and hydraulics study to determine technically feasible and cost effective solution to the Perryman Ave Outfall drainage issue.
- 3) Assist with preliminary environmental and historic preservation requirements.
- 4) Create preliminary benefit/cost analysis using FEMA current BCA tool software (<http://www.fema.gov/benefit-cost-analysis>)
- 5) Create preliminary site survey, design plans/specifications and scope of work.
- 6) Prepare a preliminary budget.
- 7) Preliminary field testing and inspections.
- 8) Other engineering services as required to prepare a completed project application packet to be submitted to TDEM by the assigned deadline.
- 9) Assist the City in responding to any requests by TDEM review staff for clarification of or supplemental application information.

Post-Award – Phase One (contingent upon award):

- 1) Prepare the final survey, design plans/specifications and scope of work.
- 2) Assist with final Environmental Assessment (NEPA) approval including Historic Preservation.
- 3) Create benefit cost ratio using FEMA current Benefit Cost Analysis software tool based upon final plan and scope of work.
- 4) Coordinate with FEMA during its review and in addressing any concerns or required changes to the project design.

Post-Award – Phase Two (contingent upon acceptance by FEMA of Phase One)

- 1) Attend initial State Kick-Off Meeting, if applicable.
- 2) Create a final bid documents and notices.
- 3) Coordinate bid opening and contract award process.
- 4) Conduct pre-construction conference and issue Notice to Proceed.
- 5) Review and verify contractor pay estimates and change orders.
- 6) Provide technical assistance to City personnel who will be directly involved in the program.
- 7) Work with the City to ensure project completion within the required 24-month time frame or extended Period of Performance, if applicable.
- 8) Field testing and inspections as required to confirm contractor is performing according to plans and specifications.
- 9) Complete a Certificate of Construction Completion and all necessary closeout documentation.
- 10) Prepare other grant requirements as necessary.
- 11) Respond to all requests made by Management Consultant in order to facilitate the grant progression.
- 12) Create benefit cost analysis/ratio for final plans and any subsequent changes to the project.
- 13) Designate a primary person to coordinate its performance of obligations under this Agreement.

I. CITY RESPONSIBILITIES

The City will:

- 1) Provide full information to the Engineer regarding the City's requirements for Engineer's services under this Agreement.
- 2) Furnish the Engineer with copies of Project-related data and information in the City's possession needed by the Engineer at the Engineer's request.
- 3) Designate a primary contact for the project who is authorized representative to act on the City's behalf with respect to this Agreement.
- 4) The City will examine the documents and information submitted by the Engineer and promptly render responses within 10 business days to the Engineer on issues requiring a decision by the City.

II. ADDITIONAL SERVICES

A. The City may direct the Engineer to perform services outside the Scope of Services described in Section I. The Engineer will submit a written estimate of fees, based on standard rates indicated in Attachment B, to the City and obtain the City's authorization before initiating any additional services.

B. Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement. Compensation for additional services will be for those services provided by the Engineer in addition to the services specified in Section I, Scope of Services. The approval of the City's governing body is necessary for all additional services which exceeds the Total Fee shown in Attachment B.

Attachment B – Basis of Compensation
 Hazard Mitigation Grant Perryman Ave Outfall Drainage Project 2016/2017

Contingent upon award and approval of FEMA of each of the Phases included in the project, the City agrees to pay Engineer a fee not to exceed the amount shown in the Total Fee line below. The City will be billed no more often than monthly for any tasks completed. The City will pay the Engineer within in 60 calendar days upon receipt of an invoice indicating the completed tasks.

Payments and invoicing shall be made in accordance with progress on the following tasks:

Deliverables	Fee
Pre-Award Services – Application Preparation and Submittal (except H&H)	
Hydrologic and Hydraulic Study	
Preliminary Benefit Cost Analysis/Ratio	
Post-Award Phase One Services	
Post-Award Phase Two Services	
Travel:	
Additional Services but not limited to: Technical assistance & advice	
Total Fee	

Hourly Rates: \$ XX.XX

Phased Payment: The Engineer understands and agrees that this project may be funded in phases and that each phase requires a separate notice to proceed from the City. Without such notice the Engineer shall not commence work on the phase and the City shall not be liable to the Engineer for payment related to that phase.

ATTACHMENT C

AUTHORIZATION OF CHANGE IN SERVICES

PROJECT: Grant Mitigation Engineering Services for Application Preparation and Implementation in Connection with City of Palacios Hazard Mitigation Grant Perryman Ave Outfall Drainage Project 2016/2017

ENGINEER: Urban Engineering

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

URBAN ENGINEERING

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

Attachment D
Terms and Conditions for Engineering Services Agreements
Utilizing Federal Grant Funds

1. Standards of Performance

- (a) In performing all services under this Agreement, the Engineer will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.
- (b) Any provisions in this Agreement pertaining to the City's review, approval and/or acceptance of written materials prepared by the Engineer and/or its subcontractors in connection with this Agreement will not diminish the Engineer's responsibility for the materials.
- (c) The Engineer will perform all of its services in coordination with the City. The Engineer will advise the City of data and information the Engineer needs to perform its services and the City will assemble this data and information for the Engineer in a thorough and timely manner.
- (d) If the Federal Funding Accounting and Transparency Act applies to the Project the Engineer must obtain a Data Universal Numbering System ("DUNS") Number and must register in the Central Contractor Registration ("CCR") System and prior to beginning any work under this Agreement, the Engineer will supply the City with both its DUNS and CCR registration numbers.

2. Engineer's Records

- (a) All expense records of the Engineer related to this Agreement will be kept on a recognized accounting basis acceptable to the City and will be available to the City at mutually convenient times (applies only if the Engineer is to be reimbursed for expenses).
- (b) The City, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Engineer which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- (c) The Engineer will furnish to the City at such time and in such form as the City may require, financial statements including audited financial statements, records, reports, data and information, as the City may request pertaining to the matters covered by this Agreement.

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- (a) All documents prepared by the Engineer in connection with this Agreement are the property of the City.
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4. Patent Fees and Royalties

- (a) If applicable, the Engineer will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Engineer will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

5. Engineer as Independent Contractor

It is expressly agreed that the Engineer is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Engineer will not pledge or attempt to pledge the credit of the City.

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The Engineer agrees to designate in writing a single contact person assigned to coordinate the Engineer's performance of obligations under this Agreement. Any changes to this designation must be made by the Engineer in writing to the City.

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- (c) This Agreement may be terminated at will by the either party upon at least 30 calendar days prior written notice to the other party.
- (d) In the event of termination as provided in this Section, the Engineer will be compensated for all services performed to the termination date which are deemed by the City to be in accordance with this Agreement. This amount will be paid by the City upon the Engineer's delivering to the City all information and materials developed or accumulated by the Engineer in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the City.

8. Insurance and Indemnity

- (a) The Engineer will indemnify, hold harmless, and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional wrongful acts, errors or omissions of the Engineer, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property, alleged or actual infringement of patents, copyrights and trademarks and without limitation by enumeration all other claims, demands or causes of action of every character occurring, resulting or arising from any negligent or intentional wrongful act, error or omission of the Engineer and/or its agents and/or employees. This obligation by the Engineer will not be limited by reason of the specification of any particular insurance coverage required under the Agreement.
- (b) The Engineer will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Engineer or its agents, subcontractors or employees. Before commencing the work the Engineer will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Engineer has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The kinds and amounts of insurance required are as follows:
Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas. Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate and (2) Motor Vehicle liability insurance in an amount not less than \$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.
- (c) The stated limits of insurance required by this Paragraph are minimum only--they do not limit the Engineer's indemnity obligation, and it will be the Engineer's responsibility to determine what limits are adequate. These limits

may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Engineer from compliance with these requirements.

9. Copeland Anti-Kickback Act Compliance

If applicable, the Engineer will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti-Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

10. Compliance with Laws, Rules & Regulations & Grant Requirements

- (a) In performing all services under this Agreement, the Engineer will comply with all local, state and federal laws. Specifically, funding for the Project has been made available with Federal funds. The Engineer will comply with all of the applicable federal regulations related to the application, acceptance and use of federal funds for the Project.
- (b) The Engineer shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

11. No Waiver of Immunity

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

12. Remedies; No Waiver

In the event of a default or breach of this Agreement by the Engineer, the City reserves the right to choose among the remedies for the default or breach available to the City. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the City. Any failure by the City to enforce this Agreement with respect to one or more defaults by the Engineer will not waive the City's ability to enforce the Agreement after that time.

13. Certification of Eligibility

By submitting a proposal in response to the Request for Proposals, the Engineer certifies that at the time of submission, he/she/it is not on the federal government's list of suspended, ineligible, or debarred contractors.

- (a) In the event of placement on this list between the time of bid/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
- (b) Engineer certifies that its subcontractors are not presently debarred, suspended, or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- (c) Placement of Engineer on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.

14. Non-Collusion Certification

The Engineer certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

15. Texas Department of Emergency Management Reporting Policy

If the project cannot be completed within the assigned period of performance due to extenuating circumstances, an extension must be requested in writing by the City and submitted to the State at least 90 days prior to the Period of Performance. The State requires quarterly progress report to be submitted on October 15, January 15, April 15 and July 15 until project is completed. Two consecutive reports indicating lack of measurable progress may result in forfeiture of funding.

16. Miscellaneous Provisions

- (a) This Agreement is governed by the laws of the State of Texas Exclusive venue for any dispute arising under this Agreement City of Palacios, Texas where this agreement is to be performed.
- (b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.
- (c) The Engineer agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Engineer hereby affirms that Engineer and Engineer's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of Engineers to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Engineer will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Engineer agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Engineer of the Agreement.
- (f) The Engineer will comply with Executive Order 11246 of 1965, entitled "Equal Employment Opportunity," as amended by Executive Order #11375 of 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- (g) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.
- (h) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Engineer will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Engineer of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Engineer may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Engineer will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.

- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Engineer and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request for Proposals, the Engineer's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Engineer. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.
- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.

DRAFT

7. Discuss and consider approving an agreement with Urban Engineering for the Hazard Mitigation Grant Project

May 16, 2016

Glen Smith
City of Palacios, Mayor
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing Urban Engineering to provide engineering services related to application preparation and implementation of your Foley Addition Drainage Hazard Mitigation Grant Project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between Urban Engineering, (the "Engineer"), 2004 N. Commerce, Victoria, TX 77901 and City of Palacios (the "City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Development and Hazard Mitigation Grant Engineering Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project for the Foley Addition drainage improvements (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Engineer will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Engineer a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Engineer's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Engineer for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Engineer for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the Engineer's basic services compensation.

After the date of this Agreement and grant approval, the Engineer will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Engineer within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Engineer until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Urban Engineering and provide a copy to Wendy Kirby, GrantWorks Hazard Mitigation Project Manager, at 2201 Northland Drive, Austin, TX 78756.

City of Palacios
By:

Urban Engineering
By:

Glen Smith, Mayor

Thomas A. Schmidt, P.E.

Date

Date

DRAFT

Attachment A – Scope of Work
Hazard Mitigation Grant Foley Addition Drainage Project 2016/2017

I. ENGINEERING SERVICES

The Engineer will provide the following services:

Pre-Award – Application Development

- 1) Assist the City in the preparation of an application to the Texas Division of Emergency Management (TDEM) Hazard Mitigation Grant Program for a Hazard Mitigation Grant within the guidelines and procedures established by TDEM, including meetings or workshops with the City as needed to develop the application.
- 2) Complete a hydrological and hydraulics study to determine technically feasible and cost effective solution to the Foley Addition drainage issue.
- 3) Assist with preliminary environmental and historic preservation requirements.
- 4) Create preliminary benefit/cost analysis using FEMA's current BCA tool software (<http://www.fema.gov/benefit-cost-analysis>)
- 5) Create preliminary site survey, design plans/specifications and scope of work.
- 6) Prepare a preliminary budget.
- 7) Preliminary field testing and inspections.
- 8) Other engineering services as required to prepare a completed project application packet to be submitted to TDEM by the assigned deadline.
- 9) Assist the City in responding to any requests by TDEM review staff for clarification of or supplemental application information.

Post-Award – Phase One (contingent upon award):

- 1) Prepare the final survey, design plans/specifications and scope of work.
- 2) Assist with final Environmental Assessment (NEPA) approval including Historic Preservation.
- 3) Create benefit cost ratio using FEMA's current Benefit Cost Analysis software tool based upon final plan and scope of work.
- 4) Coordinate with FEMA during its review and in addressing any concerns or required changes to the project design.

Post-Award – Phase Two (contingent upon acceptance by FEMA of Phase One)

- 1) Attend initial State Kick-Off Meeting, if applicable.
- 2) Create a final bid documents and notices.
- 3) Coordinate bid opening and contract award process.
- 4) Conduct pre-construction conference and issue Notice to Proceed.
- 5) Review and verify contractor pay estimates and change orders.
- 6) Provide technical assistance to City personnel who will be directly involved in the program.
- 7) Work with the City to ensure project completion within the required 24-month time frame or extended Period of Performance, if applicable.
- 8) Field testing and inspections as required to confirm contractor is performing according to plans and specifications.
- 9) Complete a Certificate of Construction Completion and all necessary closeout documentation.
- 10) Prepare other grant requirements as necessary.
- 11) Respond to all requests made by Management Consultant in order to facilitate the grant progression.
- 12) Create benefit cost analysis/ratio for final plans and any subsequent changes to the project.
- 13) Designate a primary person to coordinate its performance of obligations under this Agreement.

I. CITY RESPONSIBILITIES

The City will:

- 1) Provide full information to the Engineer regarding the City's requirements for Engineer's services under this Agreement.
- 2) Furnish the Engineer with copies of Project-related data and information in the City's possession needed by the Engineer at the Engineer's request.
- 3) Designate a primary contact for the project who is authorized representative to act on the City's behalf with respect to this Agreement.
- 4) The City will examine the documents and information submitted by the Engineer and promptly render responses within 10 business days to the Engineer on issues requiring a decision by the City.

II. ADDITIONAL SERVICES

A. The City may direct the Engineer to perform services outside the Scope of Services described in Section I. The Engineer will submit a written estimate of fees, based on standard rates indicated in Attachment B, to the City and obtain the City's authorization before initiating any additional services.

B. Each material change (deletion or addition) in the services to be provided by the Engineer must be authorized by the City on the Authorization of Change in Services form attached to this Agreement. Compensation for additional services will be for those services provided by the Engineer in addition to the services specified in Section I, Scope of Services. The approval of the City's governing body is necessary for all additional services which exceeds the Total Fee shown in Attachment B.

Attachment B – Basis of Compensation
Hazard Mitigation Grant Foley Addition Drainage Project 2016/2017

Contingent upon award and approval of FEMA of each of the Phases included in the project, the City agrees to pay Engineer a fee not to exceed the amount shown in the Total Fee line below. The City will be billed no more often than monthly for any tasks completed. The City will pay the Engineer within in 60 calendar days upon receipt of an invoice indicating the completed tasks.

Payments and invoicing shall be made in accordance with progress on the following tasks:

Deliverables	Fee
Pre-Award Services – Application Preparation and Submittal (except H&H)	
Hydrologic and Hydraulic Study	
Preliminary Benefit Cost Analysis/Ratio	
Post-Award Phase One Services	
Post-Award Phase Two Services	
Travel:	
Additional Services but not limited to: Technical assistance & advice	
Total Fee	

Hourly Rates: \$ XX.XX

Phased Payment: The Engineer understands and agrees that this project may be funded in phases and that each phase requires a separate notice to proceed from the City. Without such notice the Engineer shall not commence work on the phase and the City shall not be liable to the Engineer for payment related to that phase.

ATTACHMENT C

AUTHORIZATION OF CHANGE IN SERVICES

PROJECT: Grant Mitigation Engineering Services for Application Preparation and Implementation in Connection with City of Palacios Hazard Mitigation Grant Foley Addition Drainage Project 2016/2017

ENGINEER: Urban Engineering

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

URBAN ENGINEERING

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

Attachment D
Terms and Conditions for Engineering Services Agreements
Utilizing Federal Grant Funds

1. Standards of Performance

- (a) In performing all services under this Agreement, the Engineer will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.
- (b) Any provisions in this Agreement pertaining to the City's review, approval and/or acceptance of written materials prepared by the Engineer and/or its subcontractors in connection with this Agreement will not diminish the Engineer's responsibility for the materials.
- (c) The Engineer will perform all of its services in coordination with the City. The Engineer will advise the City of data and information the Engineer needs to perform its services and the City will assemble this data and information for the Engineer in a thorough and timely manner.
- (d) If the Federal Funding Accounting and Transparency Act applies to the Project the Engineer must obtain a Data Universal Numbering System ("DUNS") Number and must register in the Central Contractor Registration ("CCR") System and prior to beginning any work under this Agreement, the Engineer will supply the City with both its DUNS and CCR registration numbers.

2. Engineer's Records

- (a) All expense records of the Engineer related to this Agreement will be kept on a recognized accounting basis acceptable to the City and will be available to the City at mutually convenient times (applies only if the Engineer is to be reimbursed for expenses).
- (b) The City, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Engineer which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- (c) The Engineer will furnish to the City at such time and in such form as the City may require, financial statements including audited financial statements, records, reports, data and information, as the City may request pertaining to the matters covered by this Agreement.

3. Ownership and Use of Documents

- (a) All documents prepared by the Engineer in connection with this Agreement are the property of the City.
- (b) The Engineer will deliver its records and supporting documentation relating to this Agreement to the City upon close-out of the project and the City shall thenceforth be responsible for the maintenance of such records and documents.

4. Patent Fees and Royalties

- (a) If applicable, the Engineer will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Engineer will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

5. Engineer as Independent Contractor

It is expressly agreed that the Engineer is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Engineer will not pledge or attempt to pledge the credit of the City.

6. Designation of Engineer's Contact Person

The Engineer agrees to designate in writing a single contact person assigned to coordinate the Engineer's performance of obligations under this Agreement. Any changes to this designation must be made by the Engineer in writing to the City.

7. Term; Termination of Agreement

- (a) The term of this Agreement begins upon the date of its execution by the City, and will end upon the Engineer's completion, and the City's acceptance, of all services described in this Agreement.
- (b) This Agreement may be terminated by either party upon 15 calendar days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- (c) This Agreement may be terminated at will by the either party upon at least 30 calendar days prior written notice to the other party.
- (d) In the event of termination as provided in this Section, the Engineer will be compensated for all services performed to the termination date which are deemed by the City to be in accordance with this Agreement. This amount will be paid by the City upon the Engineer's delivering to the City all information and materials developed or accumulated by the Engineer in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the City.

8. Insurance and Indemnity

- (a) The Engineer will indemnify, hold harmless, and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional wrongful acts, errors or omissions of the Engineer, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property, alleged or actual infringement of patents, copyrights and trademarks and without limitation by enumeration all other claims, demands or causes of action of every character occurring, resulting or arising from any negligent or intentional wrongful act, error or omission of the Engineer and/or its agents and/or employees. This obligation by the Engineer will not be limited by reason of the specification of any particular insurance coverage required under the Agreement.
- (b) The Engineer will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Engineer or its agents, subcontractors or employees. Before commencing the work the Engineer will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Engineer has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The kinds and amounts of insurance required are as follows:
Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas. Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate and (2) Motor Vehicle liability insurance in an amount not less than \$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.
- (c) The stated limits of insurance required by this Paragraph are minimum only--they do not limit the Engineer's indemnity obligation, and it will be the Engineer's responsibility to determine what limits are adequate. These limits

may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Engineer from compliance with these requirements.

9. Copeland Anti-Kickback Act Compliance

If applicable, the Engineer will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti-Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

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- (a) In performing all services under this Agreement, the Engineer will comply with all local, state and federal laws. Specifically, funding for the Project has been made available with Federal funds. The Engineer will comply with all of the applicable federal regulations related to the application, acceptance and use of federal funds for the Project.
- (b) The Engineer shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

11. No Waiver of Immunity

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

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In the event of a default or breach of this Agreement by the Engineer, the City reserves the right to choose among the remedies for the default or breach available to the City. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the City. Any failure by the City to enforce this Agreement with respect to one or more defaults by the Engineer will not waive the City's ability to enforce the Agreement after that time.

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By submitting a proposal in response to the Request for Proposals, the Engineer certifies that at the time of submission, he/she/it is not on the federal government's list of suspended, ineligible, or debarred contractors.

- (a) In the event of placement on this list between the time of bind/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
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- (c) Placement of Engineer on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.

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The Engineer certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

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If the project cannot be completed within the assigned period of performance due to extenuating circumstances, an extension must be requested in writing by the City and submitted to the State at least 90 days prior to the Period of Performance. The State requires quarterly progress report to be submitted on October 15, January 15, April 15 and July 15 until project is completed. Two consecutive reports indicating lack of measurable progress may result in forfeiture of funding.

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- (b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.
- (c) The Engineer agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Engineer hereby affirms that Engineer and Engineer's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of Engineers to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Engineer will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Engineer agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Engineer of the Agreement.
- (f) The Engineer will comply with Executive Order 11246 of 1965, entitled "Equal Employment Opportunity," as amended by Executive Order #11375 of 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- (g) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.
- (h) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Engineer will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Engineer of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Engineer may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Engineer will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.

- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Engineer and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request for Proposals, the Engineer's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Engineer. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.
- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.

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*Planning, Housing, and Community
Development Services for Texas Since 1979*

8. Discuss and consider approving an agreement with Grant Works, Inc. to admini

Bruce Spitzengel, President
Wendy Kirby, CFM

Hazard Mitigation Project Manager
2201 Northland Drive • Austin, Texas 78756
P (512) 420-0303 x337 • F (800) 407-5532
wendy@grantworks.net • www.grantworks.net

May 13, 2016

Glen Smith
Mayor, City of Palacios
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing GrantWorks to administer your Hazard Mitigation Bethany Park Outfall Drainage project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between GrantWorks, Inc. ("Consultant"), 2201 Northland Dr., Austin, TX 78756 and the City of Palacios ("City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Preparation and Hazard Mitigation Grant Management Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Consultant will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Consultant a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Consultant's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Consultant for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Consultant for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the consultant's basic services compensation.

After the date of this Agreement and grant approval, the Consultant will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Consultant within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Consultant until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Consultant must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Wendy Kirby, Hazard Mitigation Project Manager, to the address listed above.

City of Palacios

By:

Glen Smith, Mayor

Date

GrantWorks, Inc.

By:



Bruce J. Spitzengel, President

May 13, 2016

Date

Attachment A – Scope of Work
Hazard Mitigation Grant Bethany Park Outfall Drainage Project 2016/2017

I. SCOPE OF SERVICES

The Consultant will:

Phase I - Application Preparation and Submission

- 1) Assist City of Palacios in the preparation of an application to the Texas Division of Emergency Management's (TDEM) Hazard Mitigation Grant Program for a Hazard Mitigation Grant within the guidelines and procedures established by TDEM.
- 2) Assist City of Palacios in organizing and completing application requirements including required resolutions and if applicable interlocal agreements.
- 3) Assist City of Palacios in responding to any requests by TDEM review staff for clarification of or supplemental application information.
- 4) Submit the completed application to TDEM by assigned deadline date.

Phase II – Grant Implementation, Contingent upon Award:

- 1) Assist the City in the administration of Hazard Mitigation Grant requirements by:
 - a. Establish record keeping system, including financial management records required by the Texas Division of Emergency Management (TDEM).
 - b. Prepare and submit quarterly reports to TDEM.
 - c. Furnish forms, policies, and procedures for implementation of the project.
 - d. Provide technical assistance to City personnel who will be directly involved in the program for routine tasks according to TDEM guidelines.
 - e. Travel to the City to attend initial Kick-Off Meeting with the State, if applicable.
 - f. Work with the City to ensure project completion within the required 24-month time frame or extend Period of Performance, if applicable.
 - g. Assist the City in the preparation and submission of Project-related reimbursement requests to designated state project officer as needed, not to exceed one per quarter.
 - h. Provide assistance to the City in preparation of Project-related contracts to ensure they are in compliance with local, State and Federal Laws.
 - i. Request bid packet, bid advertisement, bid tabulation, and contract prepared by engineer to review upon receipt for compliance with State and Federal requirements.
 - j. Verify construction contractor and any subcontractors for eligibility.
 - k. Attend (conduct if necessary) pre-construction conference and prepare minutes.
 - l. Request from engineer and upon receipt process and submit change orders to TDEM when necessary.
 - m. Obtain a Certificate of Construction Completion and all necessary documentation and submit to TDEM.
 - n. Preparation of close-out monitoring documents and other grant requirements as necessary.
- 2) Designate Wendy Kirby as the contact person assigned to coordinate its performance of obligations under this Agreement.

II. CITY RESPONSIBILITIES

The City will:

- 1) Provide full information to the Consultant regarding the City's requirements for Consultant's services under this Agreement.
- 2) Furnish the Consultant with copies of Project-related data and information in the City's possession needed by the Consultant at the Consultant's request.
- 3) Designate the Mayor, as the authorized representative to act on the City's behalf with respect to this Agreement. The City will examine the documents and information submitted by the Consultant and promptly render responses within 10 business days to the Consultant on issues requiring a decision by the City.

III. ADDITIONAL SERVICES

A. The City may direct the Consultant to perform services outside the scope of Basic Services described in Section I. The Consultant will submit a written estimate of fees, based on our standard rates indicated in Attachment B, to the City and obtain the City's authorization before initiating any additional services.

B. Each material change (deletion or addition) in the services to be provided by the Consultant must be authorized by the City on the Authorization of Change in Services form attached to this Agreement. Compensation for additional services will be for those services provided by the Consultant in addition to the services specified in Section I, Scope of Services. The approval of the City's governing body is necessary for all additional services which exceeds the Total Fee shown in Attachment B.

**Attachment B – Basis of Compensation
 Hazard Mitigation Bethany Park Outfall Drainage Project 2016/2017**

Contingent upon award, the City agrees to pay Consultant a base fee not to exceed five percent (5%) of the grant and match amounts. City will be billed monthly for any tasks completed. The City will pay the Consultant within in 60 calendar days upon receipt of an invoice indicating the completed tasks. Listing of specific milestones shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that these milestones measure overall contract progress facilitated by the Consultant’s performance of the services, and any particular milestone will be achieved or that any specific Department or other requirements ultimately will be met. The fee schedule shall be based upon identified contract milestones, as follows:

Payments and invoicing shall be made in accordance with progress on the following tasks:

Deliverables
<u>Application Preparation and Submission</u>
<u>Documentation & Reporting:</u> - Establish files, record keeping system, accounting system - Set up filing & documentation system - Quarterly reporting to the State - Reimbursement requests - Construction Documents - Close out - Delivery of audit file & PDF version of file
<u>Travel:</u> - Mileage for site visits including but not limited to: City Council, State Kickoff, Pre-Construction Meeting, Construction Kickoff, Progression/ Percentage of Completion, Closeout. - Travel Drive Time - Meeting Time - Ads to Announce the Public Hearings in the Local Paper if applicable
<u>Additional Services but not limited to:</u> Technical assistance & advice Coordination & liaison services Assistance with project modification if applicable Real property acquisition report assistance and advice if applicable

Hourly Rates: \$75 (Seventy-five dollars)

Payment Terms: No fees shall be due from City to Consultant if City does not receive a Hazard Mitigation Grant award to fund the Project, and in such event the Consultant’s obligation to the City shall be limited to the Phase I Scope of Services specified in Attachment A. In any event, total amount due to Consultant will not exceed the Total Fee amount **shown above** over the term of this Agreement as outlined in the Letter of Agreement unless services outside the scope of Basic Services are agreed upon by both parties and approved by the City’s governing body. Quarterly reimbursement requests to the State will request reimbursement for 75% of all eligible costs. The State only accepts reimbursement requests greater than \$2500.

ATTACHMENT C

AUTHORIZATION OF CHANGE IN SERVICES

PROJECT: Grant Mitigation Application Preparation and Implementation in Connection with Hazard Mitigation Bethany Park Outfall Drainage Project 2016/2017

CONSULTANT: GrantWorks, Inc.

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

GRANTWORKS, INC.

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

Attachment D
Terms and Conditions for Administrative Management Services Agreements
Utilizing Federal Grant Funds

1. Standards of Performance

- (a) In performing all services under this Agreement, the Consultant will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.
- (b) Any provisions in this Agreement pertaining to the City's review, approval and/or acceptance of written materials prepared by the Consultant and/or its subconsultants in connection with this Agreement will not diminish the Consultant's responsibility for the materials.
- (c) The Consultant will perform all of its services in coordination with the City. The Consultant will advise the City of data and information the Consultant needs to perform its services and the City will assemble this data and information for the Consultant in a thorough and timely manner.
- (d) If the Federal Funding Accounting and Transparency Act applies to the Project the Consultant must obtain a Data Universal Numbering System ("DUNS") Number and must register in the Central Contractor Registration ("CCR") System and prior to beginning any work under this Agreement, the Consultant will supply the City with both its DUNS and CCR registration numbers.

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- (a) All expense records of the Consultant related to this Agreement will be kept on a recognized accounting basis acceptable to the City and will be available to the City at mutually convenient times (applies only if the Consultant is to be reimbursed for expenses).
- (b) The City, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- (c) The Consultant will furnish to the City at such time and in such form as the City may require, financial statements including audited financial statements, records, reports, data and information, as the City may request pertaining to the matters covered by this Agreement.

3. Ownership and Use of Documents

- (a) All documents prepared by the Consultant in connection with this Agreement are the property of the City.
- (b) The Consultant will deliver its records and supporting documentation relating to this Agreement to the City upon close-out of the project and the City shall thenceforth be responsible for the maintenance of such records and documents.

4. Patent Fees and Royalties

- (a) If applicable, the Consultant will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Consultant will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

5. Consultant as Independent Contractor

It is expressly agreed that the Consultant is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Consultant will not pledge or attempt to pledge the credit of the City.

6. Designation of Consultant's Contact Person

The Consultant agrees to designate in writing a single contact person assigned to coordinate the Consultant's performance of obligations under this Agreement. Any changes to this designation must be made by the Consultant in writing to the City.

7. Term; Termination of Agreement

- (a) The term of this Agreement begins upon the date of its execution by the City, and will end upon the Consultant's completion, and the City's acceptance, of all services described in this Agreement.
- (b) This Agreement may be terminated by either party upon 15 calendar days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- (c) This Agreement may be terminated at will by the either party upon at least 30 calendar days prior written notice to the other party.
- (d) In the event of termination as provided in this Section, the Consultant will be compensated for all services performed to the termination date which are deemed by the City to be in accordance with this Agreement. This amount will be paid by the City upon the Consultant's delivering to the City all information and materials developed or accumulated by the Consultant in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the City.

8. Insurance and Indemnity

- (a) The Consultant will indemnify, hold harmless, and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional wrongful acts, errors or omissions of the Consultant, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property, alleged or actual infringement of patents, copyrights and trademarks and without limitation by enumeration all other claims, demands or causes of action of every character occurring, resulting or arising from any negligent or intentional wrongful act, error or omission of the Consultant and/or its agents and/or employees. This obligation by the Consultant will not be limited by reason of the specification of any particular insurance coverage required under the Agreement.
- (b) The Consultant will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Consultant or its agents, subcontractors or employees. Before commencing the work the Consultant will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Consultant has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City.

The kinds and amounts of insurance required are as follows:

Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas. Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate and (2) Motor Vehicle liability insurance in an amount not less than

\$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.

- (c) The stated limits of insurance required by this Paragraph are minimum only--they do not limit the Consultant's indemnity obligation, and it will be the Consultant's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Consultant from compliance with these requirements.

9. Copeland Anti-Kickback Act Compliance

If applicable, the Consultant will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti-Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee --in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

10. Compliance with Laws, Rules & Regulations & Grant Requirements

- (a) In performing all services under this Agreement, the Consultant will comply with all local, state and federal laws. Specifically, funding for the Project has been made available with Federal funds. The Consultant will comply with all of the applicable federal regulations related to the application, acceptance and use of federal funds for the Project.
- (b) The Consultant shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

11. No Waiver of Immunity

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

12. Remedies; No Waiver

In the event of a default or breach of this Agreement by the Consultant, the City reserves the right to choose among the remedies for the default or breach available to the City. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the City. Any failure by the City to enforce this Agreement with respect to one or more defaults by the Consultant will not waive the City's ability to enforce the Agreement after that time.

13. Certification of Eligibility

By submitting a proposal in response to the Request for Proposals, the Consultant certifies that at the time of submission, he/she/it is not on the federal government's list of suspended, ineligible, or debarred contractors.

- (a) In the event of placement on this list between the time of bind/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
- (b) Consultant certifies that its subcontractors are not presently debarred, suspended, or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- (c) Placement of Consultant on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.

14. Non-Collusion Certification

The consultant certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

15. Miscellaneous Provisions

- (a) This Agreement is governed by the laws of the State of Texas Exclusive venue for any dispute arising under this Agreement City of Palacios, Texas where this agreement is to be performed.
- (b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.
- (c) The Consultant agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Consultant hereby affirms that Consultant and Consultant's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Consultant agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Consultant of the Agreement.
- (f) The Consultant will comply with Executive Order 11246 of 1965, entitled "Equal Employment Opportunity," as amended by Executive Order #11375 of 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- (g) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.
- (h) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Consultant will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Consultant of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Consultant may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Consultant will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.
- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request

for Proposals, the Consultant's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Consultant. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.

- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.



*Planning, Housing, and Community
Development Services for Texas Since 1979*

Bruce Spitzengel, President
Wendy Kirby, CFM

Hazard Mitigation Project Manager
2201 Northland Drive • Austin, Texas 78756
P (512) 420-0303 x337 • F (800) 407-5532
wendy@grantworks.net • www.grantworks.net

May 13, 2016

Glen Smith
Mayor, City of Palacios
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing GrantWorks to administer your Hazard Mitigation Perryman Avenue Outfall Drainage project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between GrantWorks, Inc. ("Consultant"), 2201 Northland Dr., Austin, TX 78756 and the City of Palacios ("City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Preparation and Hazard Mitigation Grant Management Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Consultant will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Consultant a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Consultant's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Consultant for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Consultant for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the consultant's basic services compensation.

After the date of this Agreement and grant approval, the Consultant will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Consultant within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Consultant until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Consultant must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Wendy Kirby, Hazard Mitigation Project Manager, to the address listed above.

City of Palacios

By:

Glen Smith, Mayor

Date

GrantWorks, Inc.

By:



Bruce J. Spitzengel, President

May 13, 2016

Date

Attachment A – Scope of Work
Hazard Mitigation Grant Perryman Avenue Outfall Drainage Project 2016/2017

I. SCOPE OF SERVICES

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CONSULTANT: GrantWorks, Inc.

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

GRANTWORKS, INC.

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

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- (a) If applicable, the Consultant will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Consultant will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

5. Consultant as Independent Contractor

It is expressly agreed that the Consultant is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Consultant will not pledge or attempt to pledge the credit of the City.

6. Designation of Consultant's Contact Person

The Consultant agrees to designate in writing a single contact person assigned to coordinate the Consultant's performance of obligations under this Agreement. Any changes to this designation must be made by the Consultant in writing to the City.

7. Term; Termination of Agreement

- (a) The term of this Agreement begins upon the date of its execution by the City, and will end upon the Consultant's completion, and the City's acceptance, of all services described in this Agreement.
- (b) This Agreement may be terminated by either party upon 15 calendar days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- (c) This Agreement may be terminated at will by the either party upon at least 30 calendar days prior written notice to the other party.
- (d) In the event of termination as provided in this Section, the Consultant will be compensated for all services performed to the termination date which are deemed by the City to be in accordance with this Agreement. This amount will be paid by the City upon the Consultant's delivering to the City all information and materials developed or accumulated by the Consultant in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the City.

8. Insurance and Indemnity

- (a) The Consultant will indemnify, hold harmless, and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional wrongful acts, errors or omissions of the Consultant, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property, alleged or actual infringement of patents, copyrights and trademarks and without limitation by enumeration all other claims, demands or causes of action of every character occurring, resulting or arising from any negligent or intentional wrongful act, error or omission of the Consultant and/or its agents and/or employees. This obligation by the Consultant will not be limited by reason of the specification of any particular insurance coverage required under the Agreement.
- (b) The Consultant will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Consultant or its agents, subcontractors or employees. Before commencing the work the Consultant will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Consultant has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City.

The kinds and amounts of insurance required are as follows:

Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas. Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$500,000 for each occurrence and \$500,000 in the aggregate and (2) Motor Vehicle liability insurance in an amount not less than

\$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.

- (c) The stated limits of insurance required by this Paragraph are minimum only--they do not limit the Consultant's indemnity obligation, and it will be the Consultant's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Consultant from compliance with these requirements.

9. Copeland Anti-Kickback Act Compliance

If applicable, the Consultant will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti-Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee --in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

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- (a) In performing all services under this Agreement, the Consultant will comply with all local, state and federal laws. Specifically, funding for the Project has been made available with Federal funds. The Consultant will comply with all of the applicable federal regulations related to the application, acceptance and use of federal funds for the Project.
- (b) The Consultant shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

11. No Waiver of Immunity

The City's execution of and performance under this Agreement will not act as a waiver by the City of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

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In the event of a default or breach of this Agreement by the Consultant, the City reserves the right to choose among the remedies for the default or breach available to the City. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the City. Any failure by the City to enforce this Agreement with respect to one or more defaults by the Consultant will not waive the City's ability to enforce the Agreement after that time.

13. Certification of Eligibility

By submitting a proposal in response to the Request for Proposals, the Consultant certifies that at the time of submission, he/she/it is not on the federal government's list of suspended, ineligible, or debarred contractors.

- (a) In the event of placement on this list between the time of bind/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
- (b) Consultant certifies that its subcontractors are not presently debarred, suspended, or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- (c) Placement of Consultant on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.

14. Non-Collusion Certification

The consultant certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

15. Miscellaneous Provisions

- (a) This Agreement is governed by the laws of the State of Texas Exclusive venue for any dispute arising under this Agreement City of Palacios, Texas where this agreement is to be performed.
- (b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.
- (c) The Consultant agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Consultant hereby affirms that Consultant and Consultant's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Consultant agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Consultant of the Agreement.
- (f) The Consultant will comply with Executive Order 11246 of 1965, entitled "Equal Employment Opportunity," as amended by Executive Order #11375 of 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- (g) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.
- (h) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Consultant will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Consultant of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Consultant may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Consultant will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.
- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request

for Proposals, the Consultant's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Consultant. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.

- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.



*Planning, Housing, and Community
Development Services for Texas Since 1979*

Bruce Spitzengel, President
Wendy Kirby, CFM

Hazard Mitigation Project Manager
2201 Northland Drive • Austin, Texas 78756
P (512) 420-0303 x337 • F (800) 407-5532
wendy@grantworks.net • www.grantworks.net

May 13, 2016

Glen Smith
Mayor, City of Palacios
311 Henderson
Palacios, TX 77465

Re: LETTER OF AGREEMENT

Dear Mayor Smith:

Thank you for choosing GrantWorks to administer your Hazard Mitigation Foley Addition Drainage project. The first order of business is to execute our Letter of Agreement.

This letter shall serve as an agreement between GrantWorks, Inc. ("Consultant"), 2201 Northland Dr., Austin, TX 78756 and the City of Palacios ("City"), 311 Henderson, Palacios, TX 77465 for the provision of Hazard Mitigation Application Preparation and Hazard Mitigation Grant Management Services (the "Services") in connection with the City's 2016/2017 Hazard Mitigation Grant Project (the "Project") as administered by the Texas Division of Emergency Management (TDEM). The Consultant will perform its services to the City as described in the Scope of Work attached as Attachment A and in accordance with the terms and conditions in Attachment D.

The City agrees to pay the Consultant a not-to-exceed Total Fee specified in Attachment B for the satisfactory performance of basic services in accordance with the provisions of Attachment A. Since the Consultant's compensation is a fixed fee for basic services, including minor deviations described in this Agreement, compensation to the Consultant for additional services will only be for substantial deviations from the scope of services defined in this Agreement. Substantial deviations would be billed at our standard rates as indicated in the Base of Compensation section. The City is under no obligation to compensate the Consultant for additional services performed without the City's prior approval. Reimbursable expenses, including expenses for reproduction of documents, auto travel mileage, lodging, delivery charges and freight are included in the consultant's basic services compensation.

After the date of this Agreement and grant approval, the Consultant will submit to the City itemized invoices for work progress in accordance with Attachment A, Section IV. The City will pay the Consultant within 60 days of receipt of each monthly invoice. The City understands that TDEM will not accept a reimbursement request for its payments to the Consultant until the City accumulates at least \$2,500 in total reimbursable project expenses.

Each material change (deletion or addition) in the services to be provided by the Consultant must be authorized by the City on the Authorization of Change in Services form attached to this Agreement as Attachment C. In no event will this agreement be increased to an amount in excess of the Total Fee specified in Attachment B without prior approval by the local governing body.

Please indicate your acceptance of this agreement by counter-signing and retaining one executed copy for your files and returning the fully executed original to Wendy Kirby, Hazard Mitigation Project Manager, to the address listed above.

City of Palacios

By:

Glen Smith, Mayor

Date

GrantWorks, Inc.

By:



Bruce J. Spitzengel, President

May 13, 2016

Date

Attachment A – Scope of Work
Hazard Mitigation Grant Foley Addition Drainage Project 2016/2017

I. SCOPE OF SERVICES

The Consultant will:

Phase I - Application Preparation and Submission

- 1) Assist City of Palacios in the preparation of an application to the Texas Division of Emergency Management's (TDEM) Hazard Mitigation Grant Program for a Hazard Mitigation Grant within the guidelines and procedures established by TDEM.
- 2) Assist City of Palacios in organizing and completing application requirements including required resolutions and if applicable interlocal agreements.
- 3) Assist City of Palacios in responding to any requests by TDEM review staff for clarification of or supplemental application information.
- 4) Submit the completed application to TDEM by assigned deadline date.

Phase II – Grant Implementation, Contingent upon Award:

- 1) Assist the City in the administration of Hazard Mitigation Grant requirements by:
 - a. Establish record keeping system, including financial management records required by the Texas Division of Emergency Management (TDEM).
 - b. Prepare and submit quarterly reports to TDEM.
 - c. Furnish forms, policies, and procedures for implementation of the project.
 - d. Provide technical assistance to City personnel who will be directly involved in the program for routine tasks according to TDEM guidelines.
 - e. Travel to the City to attend initial Kick-Off Meeting with the State, if applicable.
 - f. Work with the City to ensure project completion within the required 24-month time frame or extend Period of Performance, if applicable.
 - g. Assist the City in the preparation and submission of Project-related reimbursement requests to designated state project officer as needed, not to exceed one per quarter.
 - h. Provide assistance to the City in preparation of Project-related contracts to ensure they are in compliance with local, State and Federal Laws.
 - i. Request bid packet, bid advertisement, bid tabulation, and contract prepared by engineer to review upon receipt for compliance with State and Federal requirements.
 - j. Verify construction contractor and any subcontractors for eligibility.
 - k. Attend (conduct if necessary) pre-construction conference and prepare minutes.
 - l. Request from engineer and upon receipt process and submit change orders to TDEM when necessary.
 - m. Obtain a Certificate of Construction Completion and all necessary documentation and submit to TDEM.
 - n. Preparation of close-out monitoring documents and other grant requirements as necessary.
- 2) Designate Wendy Kirby as the contact person assigned to coordinate its performance of obligations under this Agreement.

II. CITY RESPONSIBILITIES

The City will:

- 1) Provide full information to the Consultant regarding the City's requirements for Consultant's services under this Agreement.
- 2) Furnish the Consultant with copies of Project-related data and information in the City's possession needed by the Consultant at the Consultant's request.
- 3) Designate the Mayor, as the authorized representative to act on the City's behalf with respect to this Agreement. The City will examine the documents and information submitted by the Consultant and promptly render responses within 10 business days to the Consultant on issues requiring a decision by the City.

III. ADDITIONAL SERVICES

A. The City may direct the Consultant to perform services outside the scope of Basic Services described in Section I. The Consultant will submit a written estimate of fees, based on our standard rates indicated in Attachment B, to the City and obtain the City's authorization before initiating any additional services.

B. Each material change (deletion or addition) in the services to be provided by the Consultant must be authorized by the City on the Authorization of Change in Services form attached to this Agreement. Compensation for additional services will be for those services provided by the Consultant in addition to the services specified in Section I, Scope of Services. The approval of the City's governing body is necessary for all additional services which exceeds the Total Fee shown in Attachment B.

**Attachment B – Basis of Compensation
 Hazard Mitigation Foley Addition Drainage Project 2016/2017**

Contingent upon award, the City agrees to pay Consultant a base fee not to exceed five percent (5%) of the grant and match amounts. City will be billed monthly for any tasks completed. The City will pay the Consultant within in 60 calendar days upon receipt of an invoice indicating the completed tasks. Listing of specific milestones shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that these milestones measure overall contract progress facilitated by the Consultant’s performance of the services, and any particular milestone will be achieved or that any specific Department or other requirements ultimately will be met. The fee schedule shall be based upon identified contract milestones, as follows:

Payments and invoicing shall be made in accordance with progress on the following tasks:

Deliverables
<u>Application Preparation and Submission</u>
<u>Documentation & Reporting:</u> - Establish files, record keeping system, accounting system - Set up filing & documentation system - Quarterly reporting to the State - Reimbursement requests - Construction Documents - Close out - Delivery of audit file & PDF version of file
<u>Travel:</u> - Mileage for site visits including but not limited to: City Council, State Kickoff, Pre-Construction Meeting, Construction Kickoff, Progression/ Percentage of Completion, Closeout. - Travel Drive Time - Meeting Time - Ads to Announce the Public Hearings in the Local Paper if applicable
<u>Additional Services but not limited to:</u> Technical assistance & advice Coordination & liaison services Assistance with project modification if applicable Real property acquisition report assistance and advice if applicable

Hourly Rates: \$75 (Seventy-five dollars)

Payment Terms: No fees shall be due from City to Consultant if City does not receive a Hazard Mitigation Grant award to fund the Project, and in such event the Consultant’s obligation to the City shall be limited to the Phase I Scope of Services specified in Attachment A. In any event, total amount due to Consultant will not exceed the Total Fee amount **shown above** over the term of this Agreement as outlined in the Letter of Agreement unless services outside the scope of Basic Services are agreed upon by both parties and approved by the City’s governing body. Quarterly reimbursement requests to the State will request reimbursement for 75% of all eligible costs. The State only accepts reimbursement requests greater than \$2500.

ATTACHMENT C

AUTHORIZATION OF CHANGE IN SERVICES

PROJECT: Grant Mitigation Application Preparation and Implementation in Connection with Hazard Mitigation Foley Addition Drainage Project 2016/2017

CONSULTANT: GrantWorks, Inc.

AUTHORIZATION NUMBER: _____

ORIGINAL CONTRACT DATE: _____

AUTHORIZATION DATE: _____

WORK TO BE ADDED TO OR DELETED FROM THE BASIC SCOPE OF SERVICES

PREVIOUS CONTRACT AMOUNT:

NET INCREASE/DECREASE IN CONTRACT AMOUNT:

REVISED CONTRACT AMOUNT:

GRANTWORKS, INC.

APPROVED BY:

BY: _____

DATE: _____

PRINTED NAME & TITLE: _____

Attachment D
Terms and Conditions for Administrative Management Services Agreements
Utilizing Federal Grant Funds

1. Standards of Performance

- (a) In performing all services under this Agreement, the Consultant will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.
- (b) Any provisions in this Agreement pertaining to the City's review, approval and/or acceptance of written materials prepared by the Consultant and/or its subconsultants in connection with this Agreement will not diminish the Consultant's responsibility for the materials.
- (c) The Consultant will perform all of its services in coordination with the City. The Consultant will advise the City of data and information the Consultant needs to perform its services and the City will assemble this data and information for the Consultant in a thorough and timely manner.
- (d) If the Federal Funding Accounting and Transparency Act applies to the Project the Consultant must obtain a Data Universal Numbering System ("DUNS") Number and must register in the Central Contractor Registration ("CCR") System and prior to beginning any work under this Agreement, the Consultant will supply the City with both its DUNS and CCR registration numbers.

2. Consultant's Records

- (a) All expense records of the Consultant related to this Agreement will be kept on a recognized accounting basis acceptable to the City and will be available to the City at mutually convenient times (applies only if the Consultant is to be reimbursed for expenses).
- (b) The City, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- (c) The Consultant will furnish to the City at such time and in such form as the City may require, financial statements including audited financial statements, records, reports, data and information, as the City may request pertaining to the matters covered by this Agreement.

3. Ownership and Use of Documents

- (a) All documents prepared by the Consultant in connection with this Agreement are the property of the City.
- (b) The Consultant will deliver its records and supporting documentation relating to this Agreement to the City upon close-out of the project and the City shall thenceforth be responsible for the maintenance of such records and documents.

4. Patent Fees and Royalties

- (a) If applicable, the Consultant will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.
- (b) The Consultant will hold harmless, indemnify and defend the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

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It is expressly agreed that the Consultant is an independent contractor, and not an employee, agent, partner or joint venture with the City. The Consultant will not pledge or attempt to pledge the credit of the City.

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- (b) The Consultant will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Consultant or its agents, subcontractors or employees. Before commencing the work the Consultant will furnish to the City a certificate or certificates in a form satisfactory to the City, showing that the Consultant has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days written notice has been given to the City. Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City.

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\$250,000 for injuries to any one person, \$500,000 on account of any one accident and in an amount of not less than \$250,000 for property damage.

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- (b) The Consultant shall comply with all requirements of the Hazard Mitigation Grant awarded to the City. To the extent any such requirement govern the operation of this Agreement, all such applicable requirements of the Grant are incorporated into this Agreement whether or not attached hereto.

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- (c) The Consultant agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
- (d) The Consultant hereby affirms that Consultant and Consultant's firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code will not be considered as a valuable gift for the purposes of this Agreement.
- (e) In performing the services required under this Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Consultant agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default by the Consultant of the Agreement.
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- (i) All services provided pursuant to this Agreement are for the exclusive use and benefit of the City and the Agreement will not give rise to any rights in third parties.
- (j) The City is governed by the Texas Public Information Act (the "Act"), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Consultant will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the City.
- (k) In the event that the performance by either the City or the Consultant of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.
- (l) The City and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The City and the Consultant may not assign, sublet or transfer any interest in this Agreement without the written consent of the other. The Consultant will notify the City, in writing, of any change in its partnership/ownership within 30 calendar days of such change.
- (m) The Agreement including any appendices and referenced attachments represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of this Agreement, both parties agree that this Agreement will be construed in a manner consistent with the City's Request

for Proposals, the Consultant's Proposal Response, and the public record of the City Council's approval of the Agreement as applicable. This Agreement may be amended only by written instrument which must be signed by both the City and the Consultant. Any such authorization of change in services or amendment must be approved by the City's governing body unless the compensation for which does not exceed \$50,000.00.

- (n) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.



JOHN C. SARDELICH – Mayor
JOHNNY TRAN – Mayor Pro-Tem – Councilmember Place 1
JUDY CHAVEZ – Councilmember Place 2
MARY CROCKER – Councilmember Place 3
GLEN SMITH – Councilmember Place 4
ANDY ERDELT – Councilmember Place 5
TROY LEWIS – Councilmember Place 6

**CITY OF PALACIOS
CITY COUNCIL MEETING MINUTES
May 10, 2016**

INCOMING & OUTGOING COUNCILMEMBER RECEPTION

6:30PM

Drinks and snacks

REGULAR COUNCIL MEETING

CALL TO ORDER – Mayor Sardelich called the Regular Meeting to order at 7:00 p.m.
City Staff present: David Kocurek, Angela Flores, Chief Miles, Jackie Jones
Council Members Absent: Councilmember Chavez, Councilmember Erdelt

INVOCATION – Mayor Sardelich

PLEDGE OF ALLEGIANCE – Councilmember Tran

PLEDGE TO TEXAS FLAG – Councilmember Tran

PLEDGE TO PALACIOS FLAG – Councilmember Tran

VISITOR / CITIZEN FORUM – Larry Glenn asked for protocol on the recycling situation. Felt the matter was handled with a piece of property being taken from the City Clean Up. Susan Dancer, the director of Texas Blessings, spoke about Palacios Impound needing change. Spoke about spay/neuter laws needing to be in effect. Brought a picture of Palacios Pound that showed a dog in feces. She asks that there is transparency in the pound and that she be put on a future agenda to talk about ordinances she would like in place. Vonnie Dunn, self-proclaimed Cat-Lady who runs CART says to keep all cats that are fixed. She will fix cats as well. Asks for spay/neuter law. Amanda Foytik spoke about how she made an anti-tethering law. Melony Colina spoke about the changes being made to Sweeny Pound such as new facilities being paid for by Zachry. Alicia Karsh says because of volunteers she is able to save many animals in Sweeny. Chip Wolf was thankful for the Agenda Packet being put on the webpage. Spoke about special items not being very descriptive in the budget. Also said he still had concerns about money spent on EDC.

ADMINISTRATIVE REPORTS

1. Certificate of Recognition for Outstanding Recycling Efforts in 2015.

ITEMS TO BE CONSIDERED

1. Discuss and consider action to approve the following consent agenda items:

- a) Minutes of the April 26, 2016 Regular Council Meeting

Mayor Sardelich motioned to approve the consent agenda.

Councilmember Crocker seconded.

There was no opposition.

With no opposition the motion carried.

2. Present the Certificate of Election and administer the Oath of Office for the new Mayor and Councilmember for Place 6.

Mayor Sardelich and Councilmember Lewis were given plaques in honor of their time spent with the City Council.

The new Mayor Smith and Councilmember McGovern were given the Oath of Office by City Secretary Angela Flores.

3. Discuss and accept the Quarterly Investment.

Councilmember McGovern moved to accept the Quarterly Investment.

Mayor Smith seconded.

There was no opposition.

With no opposition the motion carried.

4. Discuss and accept the Quarterly Financials.

Councilmember Tran moved to accept the Quarterly Financials.

Councilmember McGovern seconded.

There was no opposition.

With no opposition the motion carried.

5. Discuss and consider action to approve Ordinance 2016-O-4 amending the City of Palacios 2015-2016 budget.

Councilmember Crocker motioned to approve Ordinance 2016-O-4.

Councilmember Tran seconded.

There was no opposition.

With no opposition the motion carried.

6. Discuss and consider action to approve first reading of Ordinance 2016-O-5 JEC Franchise Agreement.

Councilmember Crocker motion to approve the first reading of Ordinance 2016-O-5.

Councilmember Tran seconded.

There was no opposition.

With no opposition the motion carried.

EXECUTIVE SESSION

In accordance with Chapter 551, Government Code, (Open Meetings Law) the Council May go into Executive (closed) session in order to:

Consult with its attorney (551.071)

Discuss Real Estate transaction (551.072)

Deliberation regarding prospective gifts or donation (551.073)

Discuss personnel matters (551.074)

Deliberation regarding security devices (551.076)

Discuss economic development negotiations (551.087)

ACTION ON EXECUTIVE SESSION

ADJOURN

Councilmember Crocker moved to adjourn at 8:08 pm.

Councilmember Tran seconded.

Opposition: None.

With no opposition, the motion carried.

Glen Smith, Mayor

Angela Flores, City Secretary

12. Discuss and consider action to approve the following consent agenda items:
 b) Travel expenses Mayor Glen Smith.

TRAVEL EXPENSE FORM

Name: MAYOR GLEN SMITH

Purpose: MUNICIPAL ANNEXATION (TML)

Destination: AUSTIN

Depart Date: MAY 11, 2016 Return Date: MAY 13, 2016

MEALS

DATE	BREAKFAST	LUNCH	DINNER	TOTALS
5.11.16			31.52	31.52
5.12.16			15.20	15.20

TOTAL MEALS 46.72

TOTAL LODGING _____

TRANSPORTATION & OTHER EXPENSES

Mileage reimbursement only if City card not used

Personal auto 352 miles @ .54 cents per mile* 190.08

Other Transportation Expense (attach receipt) _____

TOTAL TRANSPORTATION & OTHER EXPENSES _____

Less Totals Charged to Credit Card (attach receipts) _____

TOTAL REQUEST FOR REIMBURSEMENT 236.80

I certify that the expenses as shown on the above form are true and correct and were incurred by me, while traveling on official city business.

Glen Smith
 Signature of person submitting request

* IRS standard rate of mileage reimbursement changes every year on January 1, 20xx

Westin Austin At The Domain
 11301 Domain Drive
 Austin, TX 78758
 United States
 Tel: 512-832-4197 Fax: 512-973-3703



Glen Smith
 P.o. Box 845
 Palacios, TX 77465
 United States

Page Number : 1 : 345064
 Guest Number : 469907
 Folio ID : B
 Arrive Date : 11-MAY-16 15:59
 Depart Date : 13-MAY-16 10:14
 No. Of Guest : 2
 Room Number : 201
 Club Account :

Tax Invoice

Westin Austin At The 13-MAY-16 10:20 ANGECRU

Date	Time	Reference	Description	Charges (USD)	Credits (USD)
11-MAY-16	17:44	1720	Urban Restaurant	31.52	
12-MAY-16	18:39	1818	Urban Restaurant	15.20	
13-MAY-16	10:13	MC	MasterCard Diners-1126		-46.72
For Authorization Purpose Only					
xxxxxx1126					
	Date	Code	Authorized		
	13-MAY-16	H9064B	46.72		
** Total				46.72	-46.72
*** Balance				0.00	

PACK LIGHT, STAY FIT - With the Westin Gear Lending program, New Balance(TM) workout gear is conveniently delivered to your room so you can keep moving. Experience it during your next stay. Learn more at westin.com/newbalance

Tell us about your stay. www.westin.com/reviews

Urban Grill
2010 Jessilyn

35/1 1818 GST 1
MAY12'16 6:04PM

1 The Champ 12.00
Food 12.00
Food Tax 0.99
Payment Due 12.99

Tip: \$2.21
Total: \$15.20

Room #: _____
Name: _____
Signature: _____

Let us know how we did:
<http://globaltivity.com/3232rest>

GRATUITY IS NOT INCLUDED

For your convenience we are
providing the following
SUGGESTED TIP Amounts:

15% is \$1.80
18% is \$2.16
20% is \$2.40
22% is \$2.64

Urban Grill
2010 Jessilyn

35/1 1720 GST 1
MAY11'16 5:08PM

1 Iced Tea 2.50
1 Meatloaf 22.00
Food 24.50
Food Tax 2.02
Payment Due 26.52

Tip: 5.00
Total: \$31.52

Room #: _____
Name: _____
Signature: _____

Let us know how we did:
<http://globaltivity.com/3232rest>

GRATUITY IS NOT INCLUDED

For your convenience we are
providing the following
SUGGESTED TIP Amounts:

15% is \$3.68
18% is \$4.41
20% is \$4.90
22% is \$5.39

1402 N. MECHANIC
EL CAMPO TX 77437

WELCOME TO
SPEEDY STOP #85
WELCOME
SS 1085
502 N Mechanic
El Campo TX
77437

SHELL , 57542309882
1402 N MECHANIC ST
EL CAMPO , TX
77437

05/13/2016 01:00:10 PM 180985332

SHELL
INVOICE 797811
AUTH 013343

PUMP# 5
PLUS 12.4396
PRICE/GAL 2.299

FUEL TOTAL \$ 28.60

Subtotal = \$ 28.60
Tax = \$ 0.00

Total = \$ 28.60

CREDIT \$ 28.60

THANK YOU !!

DATE 05/11/16 12:58
TRAN# 9116885
PUMP# 11
SERVICE LEVEL: SELF
PRODUCT: MID
GALLONS: 16.707
PRICE/G: \$ 1.999
FUEL SALE \$ 33.40
DEBIT \$33.40

Debit
Payment from
Primary Account
XXXXXXXXXXXX9690
Auth #: 121728
Resp Code: 0
Stan: 03393190691
Invoice #: 632024
Shift #: 1

Store #
SITE ID: FE481327660
01

THANK YOU
HAVE A NICE DAY

START- 20460 182
AUSTIN- 20642 -170
Palacios- 20812 352

ADJOURN

In compliance with the Americans with Disabilities Act, the City of Palacios will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meeting. Please contact City Hall, at 361.972.3605.

CERTIFICATION

I certify that a copy of the May 24, 2016 agenda of items to be considered by the City Council was posted on the City Hall bulletin board by 5:00p.m. on May 20, 2016.