

PLANNING SERVICES AGREEMENT

AGREEMENT made as of the _____ day of _____ in the year 2014

BETWEEN the Client:

the City of Corpus Christi a Texas home rule municipal corporation, acting by and through its duly authorized City Manager or designee, 1201 Leopard Street, Corpus Christi, Texas, 78401 (“City” or “Client”),

and the Consultant:

Goody Clancy & Associates, Inc., 420 Boylston Street, Boston, Massachusetts 02116-3866 (“Goody Clancy” or “Consultant”)

For the following Project:

**Corpus Christi Strategic Comprehensive Plan
Downtown Area Development Plan**

The Client and the Consultant agree as set forth below.

ARTICLE 1 CONSULTANT'S SERVICES

Service to be provided:

Scope of work is as described and shown in Exhibit A and Exhibit D, which are attached to and incorporated in this Agreement as if written here verbatim.

ARTICLE 2 CLIENT'S RESPONSIBILITIES

§ 2.1 The Client shall provide full information regarding requirements for the Project. The Client shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Consultant shall be entitled to rely on the accuracy and completeness thereof.

§ 2.2 The Client shall designate a representative authorized to act on the Client's behalf with respect to the Project. The Client or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

ARTICLE 3 USE OF CONSULTANT'S DOCUMENTS

§ 3.1 The documents prepared by the Consultant for this Project are created and produced for the City under the terms of this Agreement and, the City shall retain the copyright.

ARTICLE 4 ARBITRATION

§ 4.1 Not used.

ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 This Agreement may be terminated with cause by either party upon not less than thirty days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.2 This Agreement may be terminated without cause by either party upon not less than ninety days' written notice.

§ 5.3 In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination pursuant to the terms and conditions described in Section 8.2, together with Reimbursable Expenses then due.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 This Agreement shall be governed by the laws of the State of Texas.

§ 6.2 Venue shall lie exclusively in Nueces County, Texas.

§ 6.3 The Client and 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. Neither Client nor Consultant shall assign this Agreement without the written consent of the other.

§ 6.4 This Agreement represents the entire and integrated agreement between the Client and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and Consultant.

§ 6.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Consultant.

§ 6.6 **INSURANCE REQUIREMENTS:** Consultant shall maintain the insurance coverages as provided under Exhibit G.

§ 6.7 **INDEMNIFICATION:** *Consultant, its officers, agents, employees, representatives, subconsultants and contractors (Indemnitors) shall indemnify, save harmless and defend the City of Corpus Christi, its officers, agents, employees, and representatives (Indemnitees) and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorneys' fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property to the extent caused by Indemnitor's negligent performance of the services covered by this contract. The foregoing indemnity shall apply except to the extent that such injury, death or damage is caused by the sole or concurrent negligence of Indemnitees.*

ARTICLE 7 PAYMENTS TO THE CONSULTANT

§ 7.1 REIMBURSABLE EXPENSES

§ 7.1.1 Reimbursable Expenses are in addition to the Consultant's compensation and include expenses incurred by the Consultant and Consultant's employees and sub-consultants in the interest of the Project for:

- .1 expense of transportation and living expenses in connection with out-of-town travel authorized by the Client;
- .2 long-distance communications;
- .3 fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 reproductions;
- .5 postage and handling of documents;
- .6 expense of overtime work requiring higher than regular rates, if authorized by the Client;
- .7 renderings and models requested by the Client; and
- .8 Expense of computer-aided design and drafting equipment time when used in connection with the Project.

§ 7.2 PAYMENTS ON ACCOUNT OF THE CONSULTANT'S SERVICES

§ 7.2.1 Payments on account of the Consultant's services and for Reimbursable Expenses shall be made monthly upon presentation of the Consultant's statement of services rendered or as otherwise provided in this Agreement. Consultant's statement of services or invoice will include any necessary supporting documentation, itemization and supporting receipts, where applicable.

§ 7.3 CONSULTANT'S ACCOUNTING RECORDS

§ 7.3.1 Records of Reimbursable Expenses shall be available to the Client or the Client's authorized representative at mutually convenient times.

ARTICLE 8 BASIS OF COMPENSATION

The Client shall compensate the Consultant as follows:

§ 8.1 **COMPENSATION FOR THE CONSULTANT'S SERVICES**, as described in Article 1, Consultant's Services, shall be computed as follows:

See Exhibit B and Exhibit E

§ 8.2 **FOR REIMBURSABLE EXPENSES**, as described in Article 7, and any other items agreed to be categorized as Reimbursable Expenses, a multiple of One (1.00) times the expenses incurred by the Consultant, the Consultant's employees and sub-consultants in the interest of the Project.

§ 8.3 Payments are due and payable Thirty (30) days from the date of the Consultant's invoice. Amounts that are unpaid Sixty (60) days after the invoice date shall bear interest in accordance with the Texas Prompt Payment Act.

§ 8.4 **IF THE SCOPE** of the Project or of the Consultant's services is changed materially, the amounts of compensation shall be equitably adjusted. All reallocation of resources as described more fully in the scope of work shall be pre-approved by the City.

ARTICLE 9 TERM

§ 9.1 The term of this Agreement is for twenty-four (24) months beginning on the date this Agreement is signed by the City Manager or designee and continuing through to the end of the twenty-fourth month. The term includes an option to extend for up to two additional twelve-month periods subject to the approval of the Contractor and the City Manager or designee.

ARTICLE 10 FISCAL YEAR

§ 10.1 All parties recognize that the continuation of any contract after the close of any fiscal year of the City (the City's current fiscal year ends on July 31st), is subject to appropriations and budget approval providing for covering such contract item as an expenditure in said budget. The City does not represent that said budget item will be actually adopted as that determination is within the sole discretion of the City Council at the time of adoption of each budget. The City's current fiscal year is from August 1 through July 31, and will change to October 1 through September 30, pending Council's approval of an ordinance to that effect.

ARTICLE 11 WAIVER

§ 11.1 No waiver of any breach of any term or condition of this Agreement, or **Request for Qualification No. BI-0032-14**, or the Contractor's response to **Request for Qualification No BI-0032-14** waives any subsequent breach of the same.

ARTICLE 12 NOTICE TO PROCEED

§ 12.1 No work shall commence under this agreement until an official notice to proceed has been given to the consultant. This will include all phases of the agreement to include the City of Corpus Christi Strategic Comprehensive Plan, the Downtown Area Development Plan, the Southside Area Development Plan and/or any other work scope that is developed by the Consultant.

ARTICLE 13 NOTICE DESIGNATION

§ 13.1 Notice may be given by hand delivery or certified mail; postage prepaid, and is received on the day faxed or hand-delivered and on the third day after deposit in the U.S. mail if sent certified mail. Notice shall be sent as follows:

IF TO CLIENT:

Client: City of Corpus Christi
Contact Person: Ronald L. Olson, City Manager
Address: P.O. Box 9277
City, State, Zip: Corpus Christi, Texas 78469-9277

IF TO CONSULTANT:

Consultant: Goody Clancy & Associates, Inc.
Contact Person: Larissa Brown, Project Director
Address: 420 Boylston St.
City, State, Zip: Boston, MA 02116

ARTICLE 14 OTHER CONDITIONS

§ 14.1 The following Exhibits are attached are incorporated in this Agreement and made a part hereof:

- Exhibit A: Consultant's Scope of Work - Corpus Christi Strategic Comprehensive Plan
- Exhibit B: Cost Proposal - Corpus Christi Strategic Comprehensive Plan
- Exhibit C: Schedule - Corpus Christi Strategic Comprehensive Plan
- Exhibit D: Consultant's Scope of Work – Downtown Area Development Plan
- Exhibit E: Cost Proposal - Downtown Area Development Plan
- Exhibit F: Schedule - Downtown Area Development Plan
- Exhibit G: Insurance Requirements

CLIENT: CITY OF CORPUS CHRISTI

CONSULTANT: GOODY CLANCY & ASSOCIATES

(Signature)




(Signature)

(Printed name and title)

DAVID DIXON, PRESIDENT

(Printed name and title)

Approved as to Legal form: 1-30-14



Veronica Ocañas
Assistant City Attorney
For City Attorney