

ENVIRONMENTAL CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT ("Agreement") is made and entered into by and between the City of Corpus Christ, a Texas home-rule municipal corporation ("City"), acting through its duly authorized City Manager or designee, and Sarosdy Consulting, Inc., a Texas corporation with its principal place of business in Austin, Texas ("Consultant").

WITNESSETH:

WHEREAS, Consultant is recognized as an expert in matters involving restoration grant funding arising from the April 2010 Deepwater Horizon incident and its legal aftermath; and

WHEREAS, Consultant has experience working with contractors managing federal disaster response and recovery funding for a state agency; and

WHEREAS, the City desires to retain Consultant to provide services related to and in support of efforts in which Consultant has expertise and experience; and

WHEREAS, Consultant is in the business of providing such consulting services and has agreed to provide the services in accordance with the terms and conditions set forth in this agreement;

NOW, THEREFORE, in consideration of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Services Performed By Consultant:** Consultant shall furnish the City with its advice, information, judgment and knowledge with respect to the services related to and in support of efforts in which Consultant has expertise that is to be provided in accordance with this Agreement. Specifically, Consultant shall perform the services with respect to Deepwater Horizon restoration funding described in Exhibit A, which is considered part of the Agreement in its entirety ("Services").
- 2. Term:** This Agreement is for 12 months, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator. The parties may mutually extend the term of this Agreement for up to two additional 12-month periods ("Option Periods"), provided the parties do so in writing and prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Early Termination:** Either party may terminate this Agreement without cause at any time by giving written notice specifying a termination date at least thirty (30) days subsequent to the date of the notice. Consultant shall be entitled to payment for services performed prior to the effective date of termination.
- 4. Compensation and Payment:** The total value of this Agreement is not to exceed **FORTY-NINE THOUSAND FIVE HUNDRED NINETY-FIVE AND ZERO ONE-HUNDREDTHS DOLLARS (\$49,595.00)**, payable in monthly installments as described herein. The first installment should be paid at the end of the month that includes the effective date of the Agreement in the amount of **FOUR THOUSAND ONE HUNDRED THIRTY-TWO AND EIGHTY-EIGHT ONE-HUNDREDTHS DOLLARS (\$4,132.88)**, and additional monthly installments should be paid at the end of each following month in the amount of **FOUR THOUSAND ONE HUNDRED THIRTY-TWO AND NINETY-TWO ONE-HUNDREDTHS DOLLARS**

(\$4,132.92), subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice.

5. **Contract Administrator.** The Contract Administrator designed by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Sharon Bailey Lewis, Environmental Program Specialist

6. **Confidentiality.** Consultant shall treat its performance hereunder and all information generated in the performance of this Agreement, whether the property of City or Consultant, as confidential, and shall not release such information to any governmental agency or third party without the written consent of City, unless the release of such information is required by a lawful court order. Consultant shall not publicize the performance of services for the City in any sales brochure, resume of work, or reference list without City's written consent. These obligations shall continue beyond the termination of this Agreement.
7. **Breach:** In the event of a breach hereunder and a failure to cure such breach within thirty (30) days of written notice of such breach, this Agreement may be terminated by either party upon written notice.
8. **Severability:** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions, and any partially enforceable provision to the extent enforceable in any jurisdiction, shall nevertheless be binding and enforceable.
9. **Assignment:** The rights and obligations of the City under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the City. The rights, obligations and duties of Consultant hereunder may not be assigned or delegated without the City's prior written consent.
10. **Relationship of the Parties.** Consultant is and shall be an independent contractor and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for City any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Consultant. Consultant may not use subcontractors in connection with the work performed under this Agreement except with prior written approval of the Contract Administrator. In using subcontractors, the Consultant is responsible for all of their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Consultant. All requirements set forth as part of this Agreement, including the necessity of providing a certificate of insurance in advance to the City as applicable to all subcontractors and their employees to the same extent as if the Consultant and its employees had performed the work.

- 11. Warranty:** Consultant warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards. City must report any deficiencies in Consultant's services to Consultant in writing within sixty (60) days of performance to receive warranty remedies. City's exclusive remedy for any breach of the above warranty shall be the re-performance of Consultant's services. If Consultant is unable to re-perform the services, City shall be entitled to recover the fees paid to Consultant for the deficient services. **THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE PRIOR TO THIS AGREEMENT.**
- 12. Taxes:** The charges included here do not include taxes. Consultant acknowledges and agrees that it shall be solely responsible to pay any and all taxes including but not limited to payroll, FICA, corporate and franchise taxes on any moneys earned from City while performing services contemplated under this Agreement.
- 13. Notices:** Any notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given and delivered when delivered in person, three (3) days after being mailed postage prepaid by certified or registered mail with return receipt requested, or when delivered by overnight delivery service or by facsimile to the recipient at the following address or facsimile number, or to such other address or facsimile number as to which the other party subsequently shall have been notified in writing by such recipient:

If to the City:

City of Corpus Christi
Attn: Sharon Bailey Lewis, Environmental Program Specialist
P.O. Box 9277
Corpus Christi, TX 78469-9277
Phone: (361) 826-4066
Email: SharonL@cctexas.com

If to the Consultant:

Jane Sarosdy
Sarosdy Consulting, Inc.
13505 Lamplight Village Avenue
Austin, TX 78727-1509
Phone: 512.217.1223
Fax: 512.223.2978
Email: jane@sarosdyconsulting.com

- 14. Remedies.** Either party's failure to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions as to prior or future violations thereof or of any other provision of this Agreement, nor prevent that party thereafter from enforcing each and every other provision of this Agreement. The rights granted the parties herein are cumulative and the waiver by a party of any single remedy shall not constitute a waiver of such party's right to assert all other legal remedies available to him or it under the circumstances.
- 15. Governing Law and Venue.** This Agreement shall be governed by, and construed according to, the substantive laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Nueces County, Texas. **NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY CITY.**
- 16. Use of Pronouns.** The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.
- 17. Entire Agreement.** With respect to its subject matter, this Agreement constitutes the entire understanding of the parties superseding all prior agreements, understandings, negotiations and discussions between them whether written or oral, and there are no other understandings, representations, warranties or commitments with respect thereto.
- 18. Original Documents.** This Agreement may be signed in one or more counterparts, each of which when exchanged will be deemed to be an original, binding upon the parties as if a single document had been signed by all, and all of which when taken together will constitute the same agreement. Any true and correct copy of this Agreement made by customary, reliable means (e.g., photocopy or facsimile) shall be treated as an original.
- 19. Modifications.** No modification to this Agreement, nor any waiver of any rights, will be effective unless assented to in writing by the party to be charged.
- 20. Indemnification.** **CONSULTANT COVENANTS TO FULLY INDEMNIFY, SAVE, AND HOLD HARMLESS THE CITY, ITS RESPECTIVE OFFICERS, EMPLOYEES, AND AGENTS ("INDEMNITEES") AGAINST ALL LIABILITY, DAMAGE, LOSS, CLAIMS DEMANDS, AND ACTIONS OF ANY KIND ON ACCOUNT OF PERSONAL INJURIES (INCLUDING, WITHOUT LIMITING THE FOREGOING, WORKERS' COMPENSATION AND DEATH CLAIMS), OR PROPERTY LOSS OR DAMAGE OF ANY KIND, WHICH ARISE OUT OF OR ARE IN ANY MANNER CONNECTED WITH, OR ARE CLAIMED TO ARISE OUT OF OR BE IN ANY MANNER CONNECTED WITH CONSULTANT ACTIVITIES CONDUCTED UNDER OR INCIDENTAL TO THIS AGREEMENT. CONSULTANT MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL THOSE CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED ON THOSE CLAIMS AND DEMANDS WITH COUNSEL SATISFACTORY TO INDEMNITEES, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COST AND EXPENSES OF ANY KIND ARISING FROM THE LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, OR ACTIONS.**
- 21. Insurance.** Before performance can begin under this Agreement, Consultant must deliver a certificate of insurance ("COI") as proof of the required insurance coverages to the City's

Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be provided copies of all insurance policies within 10 days of the City Manager's written request. Consultant shall provide insurance as required by the attached Exhibit B.

22. Disclosure of Interests. Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the Disclosure of Interests form as part of this Agreement. Consultant agrees to comply with Texas Government Code Section 2252.908 and complete and submit Form 1295 Certificate of Interested Parties. Consultant agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City Secretary's Office is required. The signatory executing this Agreement on behalf of Consultant verifies that the Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

23. Non-appropriation of funds. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council sole discretion when adopting each budget.

24. Duties upon termination or expiration of this Agreement. Within 30 days of termination or expiration of this Agreement, Consultant shall provide City with copies of all records created or maintained by Consultant arising under this Agreement.

25. Authority To Execute. The person(s) executing this agreement hereby represent and warrant that each respectively has the authority to execute this agreement on behalf of the party for which he is executing.

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date set forth in Paragraph 3 herein.

CITY OF CORPUS CHRISTI

Sarosdy Consulting, Inc.

Margie C. Rose (Date)
City Manager

Jane Sarosdy (Date)
President
13505 Lamplight Village Avenue
Austin, TX 78727
512/217-1223 Office
512/233-2978 Office Fax

RECOMMENDED

Daniel McGinn (Date)
Assistant Director of Environmental and
Strategic Initiatives

APPROVED

Office of Management and Budget (Date)

APPROVED AS TO LEGAL FORM

Legal Department (Date)

Project Number: XXXXXXXXXXXX
Funding Source: 530000-4010-30030
Encumbrance Number: _____

EXHIBIT A

SCOPE OF SERVICES

As part of the City of Corpus Christi's contract with Sarosdy Consulting, Inc. ("Consultant"), the City requires the following Scope of Services:

- **Task 1:** Provide assistance in developing strategies to achieve successful outcomes for available grant funds from Deepwater Horizon restoration funders (e.g., Gulf Coast Ecosystem Restoration Council, National Fish & Wildlife Foundation, Deepwater Horizon Natural Resource Damage Assessment Trustees, TCEQ's RESTORE Act Grant Program) to support City's environmental, infrastructure, economic sustainability and resiliency goals.
- **Task 2:** Provide assistance to City staff as appropriate by helping to formulate and review project goals, budgets, scopes of work, estimated budgets, permit applications (where applicable), and similar documents to develop projects aligned with the Deepwater Horizon funders' and the State of Texas' frameworks, guidelines, or other relevant plans for available restoration grant funding opportunities which achieve City's environmental, infrastructure, economic sustainability and resiliency goals.
- **Task 3:** Assist in coordinating the collection of critical environmental, economic, financial, demographic, and other necessary data for projects aligned with the Deepwater Horizon restoration funders' and the State of Texas' frameworks, guidelines, or other relevant plans and to advocate the City's project submittals and promote successful grant award funding decisions.
- **Task 4:** With the review and approval of City departmental staff, prepare and submit applications for available grant funding opportunities which achieve City's environmental, infrastructure, economic sustainability and resiliency goals for projects aligned with the Deepwater Horizon restoration funders' and the State of Texas' frameworks, guidelines, or other relevant plans.
- **Task 5:** Assist in developing partnerships and collaborations on project submittals with other governmental entities and non-governmental organizations which achieve City's environmental, infrastructure, economic sustainability and resiliency goals for projects aligned with the Deepwater Horizon restoration funders' and the State of Texas' frameworks, guidelines, or other relevant plans.
- **Task 6:** Provide assistance to City staff to gain an understanding of federal and state disaster response and recovery programs of potential benefit to the City in the aftermath of Hurricane Harvey and guidance as appropriate in procuring and working with contractors to help the City obtain funding and reimbursement through such programs.
- **Task 7:** Work with any necessary subcontractors or consultants approved by City

contract administrator/project manager to accomplish the tasks and achieve the successful outcomes of the contract.

- **Task 8:** Attend meetings, conferences, hearings, and events as assigned by the contract manager or project manager to represent the City and its interests. May be authorized to speak on behalf of the City.
- **Task 9:** Additional duties may be requested by the contract manager or project manager to accomplish the tasks and achieve the successful outcomes of the contract.