



STANDARD AGREEMENT

(version 2-20-2018)

This AGREEMENT (“Agreement”) is entered by and between **Lockwood, Andrews & Newnam, Inc.** (“Contractor”), located at **2925 Briarpark Drive, Suite 400 Houston, TX 77042** and **City of League City** (“City”), a municipal corporation, located at 300 W. Walker, League City, Texas 77573 on the date set forth below.

Terms:

1. **Scope of Services:** Contractor will perform the designated services and/or provided the designated products, as set forth in **Exhibit A**, which is attached and incorporated herein, and which can be generally described as **Grant Application and Planning associated with Disaster Recovery..** If there is a conflict between the terms of this Agreement and Exhibit A, the terms of this Agreement will prevail.
2. **Term and Termination:** This Agreement shall begin on **June 27, 2018** and shall terminate on **upon completion and acceptance of application(s)**. This City reserves the right to terminate this Agreement for convenience upon seven (7) days-notice to the Contractor. Upon such termination, the City shall pay Contractor, at the rate set out in **Exhibit A**, for services satisfactorily performed or products satisfactorily provided up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, the City will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor. This Agreement is eligible for **NA** renewal option(s) with a term of **NA** year.
3. **Compensation:** Contractor shall be paid for the services, as set forth in **Exhibit A**, attached and incorporated for all purposes. In no event shall the total compensation exceed **\$22,990.00** during the term of this Agreement. The City shall pay Contractor in accordance with the Texas Government Code 2251. Contractor must submit invoices for all services, which invoices must include dates of service and details of services provided. Payment for delivery of services rendered shall not be unreasonably withheld or delayed. If the City disapproves any amount submitted for payment by Contractor, the City shall give Contractor specific reasons for disapproval in writing. Upon resolution of any disputed charges, Contractor shall submit an amended invoice covering any remaining charges to the City.
4. **Insurance:** The Contractor **is** required to maintain insurance through the term of this Agreement.

If required by the City, Contractor shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence or medical malpractice insurance (whichever applies) throughout the entire term of the Agreement. If at any point during the Agreement, Contractor will enter City property, Contractor shall also maintain the following insurance: (i) Worker’s Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder’s Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name the City as Additional Insured. Contractor shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City.

Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Independent Contractor:** Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of the City. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City of League City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by the City for such expenses except as otherwise provided in this Agreement.
6. **Intellectual Property:** This Agreement shall be an Agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work for hire under federal copyright law. Ownership of the work shall belong to and remain the exclusive property of the City. The work may be edited at any time within the City's discretion. If the work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to City of League City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the work, the City maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within the City's discretion. Contractor shall not sell, disclose or obtain any other compensation for the services provided herein. If the work is one to which the provisions of 17 U.S.C. § 106A apply, the Contractor hereby waives and appoints the City to assert on the Contractor's behalf the Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for the City's purposes.
7. **Confidentiality:** During the course of the work and/or services to be provided under this Agreement, Contractor may come in contact with confidential information of the City. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this Agreement and not to use, copy, or disclose such information to any third party unless authorized in writing by the City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify the City of any misuse or unauthorized disclosure of its confidential information and upon expiration of this Agreement shall return to the City all confidential information in Contractor's possession or control. Contractor shall further comply with all information security policies of the City that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this Agreement or the engagement of Contractor without the prior written approval of the City.
8. **Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by the City, Contractor warrants and agrees that Contractor will perform the Services in compliance with all City Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
9. **Licenses/Certifications:** Contractor represents and warrants that it will obtain and maintain in effect, and pay the cost of all licenses, permits or certifications that may be necessary for Contractor's performance of this Agreement. If Contractor is a business entity, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Contractor.
10. **Performance/Qualifications:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under

this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.

11. **Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the Services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and the City that could be construed as a conflict of interest with regard to this Agreement.
12. **INDEMNIFICATION: CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, AND EACH OF ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.**
13. **Force Majeure:** Neither the City nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.
14. **Notices:** Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.
15. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
16. **State Auditor:** Contractor understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
17. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.
18. **Alternative Dispute Resolution:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for

in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by the City and the Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Director of Finance of the City shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, (ii) neither the issuance of this Contract by the City nor any other conduct, action or inaction of any representative of the City relating to this contract constitutes or is intended to constitute a waiver of the City's or the state's sovereign immunity to suit; and (iii) the City has not waived its right to seek redress in the courts.

19. **Entire Agreement:** This Agreement contains the entire Agreement between the parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the parties executed subsequent to this Agreement.
20. **Eligibility to Receive Payment:** Contractor certifies that, as a matter of State law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
21. **Payment of Debt/Delinquency to State:** Contractor certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debt or delinquency that Contractor owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.
22. **Products and Materials Produced in Texas:** If Contractor will provide services under the Agreement, Contractor covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
23. **Risk of Loss:** If applicable, all work performed by Contractor pursuant to the Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, such loss or damage will be Contractor's responsibility.
24. **Publicity:** Contractor shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
25. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
26. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.

27. **Sovereign Immunity:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.
28. **Authority:** Contractor warrants and represents that Contractor has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of the City represents that he/she has authority to sign this Agreement on behalf of City.
29. **Non-Waiver:** No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
30. **Prohibition on Boycotting Israel:** Pursuant to Section 2270.002, Texas Government Code, by executing this Agreement Contractor verifies that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
31. **Prohibition Against Business with Iran, Sudan or Foreign Terrorists Organizations:** Contractor warrants, covenants, and represents that Contractor is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

Executed on this ____ day of _____, _____. *(date to be filled in by City Secretary)*

LOCKWOOD, ANDREWS & NEWNAM, INC. - "Contractor"



Derek St. John, Vice President

CITY OF LEAGUE CITY - "City"

John Baumgartner, City Manager

Attest:

Diana Stapp, City Secretary

Approved as to Form:

Office of the City Attorney

Exhibit A

Scope of Services / Description of Products

June 19, 2018

Mr. Christopher Sims, PE, Director of Engineering
City of League City
500 W Walker Street
League City, Texas 77573

Re: Proposal for On-call Project Funding Pursuit and Professional Engineering Services

Dear Mr. Sims,

LAN is pleased to provide this proposal for support to City staff in pursuit of project funding. This proposal for **CITY OF LEAGUE CITY (CLIENT)** by **LOCKWOOD, ANDREWS & NEWNAM, INC. (CONSULTANT)** is for grant pursuit and planning associated to disaster recovery in response to repeated flooding within the city limits (hereinafter referred to as the 'Project'). This scope includes "On-call" support to the City as follows:

Task A – TWDB Flood Protection Grant Application

LAN will prepare one (1) TWDB Flood Protection Grant (FPG) Application for the City's Master Drainage Plan including all associated attachments including problem statement, scope and fee, and local project match commitment. LAN will communicate the application intent to the Texas Water Development Board (TWDB) early in the process and will maintain open channels of communication with the TWDB throughout the application development. LAN will coordinate with City staff for review and authorization of funding application and associated attachments.

Funding administration and development of final engineering design plans and specification to be contracted separately following funding award. Grant administration support includes preparation of quarterly status reports, project financial summaries, coordination with funding stakeholders, and facilitating public outreach.

Deliverables Task A

Submittal Item:	Submittal Description:
FPG Application	One electronic copy (in PDF format via email) of 8.5 x 11 complete funding application and support documentation including City signatures and authorizations.
Application Review Meeting Minutes, Agenda and Sign-in sheet	One Electronic copy, in PDF format of the documents. LAN has included time for one application review meeting.

Task B – FEMA Hazard Mitigation Grant Program (HMGP) Application

Task 100 - Notice of Intent

Preparation and completion of FEMA Hazard Mitigation Grant Program (HMGP) Notice of Intent (NOI) forms to communicate the City’s intent to seek HMGP funding for the City’s Master Drainage Plan.

Deliverables Task B – 100

Submittal Item:	Submittal Description:
Notice of Intent (NOI)	One electronic copy (in PDF format via email) of 8.5 x 11 complete Notice of Intent (NOI) for one (1) project. LAN has included time for one round of review by the City of the draft NOI.

Task 200 – HMGP Funding Application

Prepare one (1) HMGP funding applications including all associated attachments including problem statement, summary documentation of damages, alternatives evaluation report, scope and fee for selected alternative, local project match commitment, and maintenance agreement. Coordinate with City staff for review and authorization of HMGP application and associated attachments. LAN will support the City in responding to up to three rounds of TDEM Request For Information (RFI) following submittal of the initial application.

Funding administration and development of final engineering design plans and specification to be contracted separately following funding award.

Deliverables Task B - 200

Submittal Item:	Submittal Description:
HMGP Application	One electronic copy (in PDF format via email) of 8.5 x 11 complete funding application for one (1) project with support documentation including City signatures and authorizations.

Proposal Assumptions & Clarifications

This contract is based on the following assumptions and clarifications:

- The City shall furnish LAN with all flood damage assessments, reports, studies, GIS data, and similar information in its possession relating to the project. Unless otherwise specified, LAN may rely upon City-furnished information without independent verification.
- The City shall designate a single representative to have authority to issue instruction, receive information, interpret and define City policies and make decisions with respect to LAN’s activities.
- The City will attend meetings with LAN, provide feedback, and participate in the services to the extent necessary to allow LAN to perform the services requested.
- On-call support will be provided to the City staff via email, telephone, and WebEx to answer questions and consult on various application issues.
- LAN is prepared to attend and participate in one (1) requested meetings, as needed, to support these services.
- Grant Administration, Detailed Engineering, Permitting Services, Bid and Construction Phase Services will be authorized under separate agreement.

Mr. Christopher Sims, PE
League City
June 19, 2018
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- We have assumed deliverable documents will be provided in electronic format (PDF) to the City for reproduction and distribution by internal document controls personnel. Reproduction cost are not included.
- The services to be provided by LAN are support services to the City. The funding applications will be submitted by the City to the granting agency (TWDB/TDEM) and the City will serve as the primary point of contact for all information requests and communications from TWDB/TDEM following the application submittal.

To meet the accelerated nature of the services described herein, it is estimated that Task A will be completed by the application deadline of July 11, 2018. The NOI for HMGP will be completed prior to FEMA's August deadline. Communication with the TWDB will commence within one (1) week following notice of proceed to communicate the City's intent on applying. The project schedule assumes the City will provide prompt, one week or less, response to information requests and review of project deliverables.

LAN agrees not to distribute project materials including those provided by the City and those generated as part of this effort to others without written approval from the City. LAN agrees not to share confidential information and agrees not to post information associated to the project to websites or any other public domains.

LAN proposes to perform these 'On call' professional services on a **time and materials basis not to exceed \$22,960** based on hourly rates included in Attachment B. A detailed fee estimate for the services to be provided is included as Attachment A.

Attachment A, Fee Estimate, consisting of 1 page.
Attachment B, Office Hourly Rates, consisting of 1 page.

Thank you for this opportunity to serve you.
Sincerely,
LOCKWOOD, ANDREWS & NEWNAM, INC.



Derek St. John, PE, CFM
Vice President, Business Group Director

ATTACHMENT A

FEE ESTIMATE – MAN-HOUR BREAKDOWN

FEE ESTIMATE - MAN-HOUR BREAKDOWN							
CITY OF LEAGUE CITY							
On-call Project Funding Pursuit and Professional Engineering Services							
Jun-18							
Task No.	TASK DESCRIPTION	Principal in Charge	Project Manager	Program Expert	GIS Analyst	Admin.	Total
		Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	
	Hourly Rate	\$260	\$185	\$150	\$130	\$80	
A	FPG Application	4	30	50	4	11	\$15,490.00
1	Prepare Application (1 Total)	2	20	40	4	4	\$11,060.00
2	Address 1 round of City Comments on Application	0	2	4	0	4	\$1,290.00
3	Communication with TWDB	0	0	6	0	1	\$980.00
4	On-site meeting & Meeting Notes	2	8	0	0	2	\$2,160.00
B	HMGP Applicatioin	0	18	14	2	16	\$6,970.00
1	Prepare NOI	0	4	0	2	4	\$1,320.00
2	Prepare HMGP Application	0	8	12	0	4	\$3,600.00
3	Address 1 round of City Comments on Application	0	0	2	0	4	\$620.00
4	Address up to 3 rounds of TDEM RFI	0	6	0	0	4	\$1,430.00
EXP	Expenses						\$500.00
TOTAL							\$22,960.00

ATTACHMENT B HOURLY RATES

1.0 Hourly Rate Schedule

Classification	Rate
Project Principal / Team Leader	\$280 - \$200
Senior Project Manager	\$280 - \$180
Project Manager	\$220 - \$160
Program Manager	\$155 - \$110
Project Engineer	\$160 - \$145
Engineer In Training	\$140 - \$110
GIS Analyst	\$150 - \$125
Designer	\$135 - \$70
CAD Technician	\$90 - \$60
Project Controls	\$140 - \$95
Administrative Assistant	\$100 - \$80

- 2.0 Reimbursables and other fees beyond direct employee hours are calculated and billed in addition to the above rate.
- 3.0 **Travel and Subsistence:** All travel and subsistence expenses will be invoiced at actual cost plus ten (10) percent. Cost of mileage for private and company vehicles is computed at the prevailing rate designated by the U.S. Internal Revenue Service. The current rate is \$0.535 per mile.
- 4.0 **Purchased Services:** All purchased services are invoiced at actual cost plus ten (10) percent. These include but are not limited to reproduction, rented or leased equipment, etc.
- 5.0 **Subconsultant Services:** All subconsultant services (survey, geotechnical, landscape architecture, etc.) are invoiced at cost plus ten (10) percent.