

PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF MANOR, TEXAS,
AND
GRANT DEVELOPMENT SERVICES

STATE OF TEXAS §

COUNTY OF TRAVIS §

This Agreement (“Agreement”), made and executed this 17th day of April 2024 by and between the City of Manor, Texas acting by and through its duly authorized official, Christopher Harvey, Mayor, (hereinafter referred to as the “City”) and Grant Development Services, (hereinafter referred to as “GDS”), acting by and through its duly authorized official J. Gandolf Burrus, President. (The City and GDS are collectively referred to herein as the “Parties”).

Whereas the City desires to secure Non-Urban Outdoor Recreation grant from the Texas Parks and Wildlife Department grant funding (hereinafter referred to as “TPWD”) to construct a additional recreation facilities at the existing Timmerman Park, and

Whereas the City desires that GDS develop and submit one application for TPWD grant funds up to \$750,000 to construct an indoor gymnasium and supporting recreational facilities.

Now therefore, in consideration of the premises and mutual undertakings of the parties hereto and in conformity with all applicable statutes and ordinances, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS. The above recitals, having been found to be true and correct, are incorporated herein by reference.
2. TIME OF PERFORMANCE: The services to be provided by GDS shall commence upon execution of this Letter of Agreement. All services required and rendered under this Agreement shall be completed and submitted TPWD by August 1, 2024.
3. The City is currently developing an update to its Outdoor Recreation Plan that documents the citizen needs for outdoor recreation opportunities. GDS will utilize that documentation in the development of the Grant application.
4. The services provided under this Agreement shall terminate upon the final determination of the TPWD to fund or not fund the submitted application.

5. SCOPE OF SERVICES: GDS shall provide the following professional services in connection preparing and submitting a complete application for TPWD recreational grant funding application as follows:

A. Scope of Services for preparing and submitting a complete TPWD grant application

- Conduct review of all previously submitted documents, Master Plans and applications submitted to TPWD.
- Incorporate current TPWD Goals and Objectives in the design of the application.
- Assist city in securing appraisal or other valuation of the proposed construction location which is not currently classified as "Parkland";
- Incorporate into the application the environmental documentation that the proposed construction site is suitable for the proposed construction of indoor recreational opportunities.
- Incorporate into the application the city-approved designs, maps and cost estimates provided by the City's engaged project engineer/architect.
- Secure demographic data on City and surrounding area ethnicity and poverty needed to support the Environmental Justice documentation.
- Identify any communities of special need that will benefit from the project.
- Assist in conduct of all public hearings and meetings as required.
- Deliver to the City a complete draft of the Grant Application by or before July 10, 2024.
- Revise application if needed after City completes its review of the application draft.
- Submit complete Non-Urban Outdoor Recreation grant to TPWD prior to the August 1, 2024 deadline.

6. CITY RESPONSIBILITIES

The City agrees to perform the following:

- A. The City designates City Manager Scott Moore, as the City's coordinator with responsibility for all communication with, TPWD, GDS, and project engineer /architects.
- B. The City shall agree to supply GDS with copies of all communication or correspondence received regarding its TPWD application.
- C. The City shall provide GDS with a letter authorizing GDS as its representative, to interact with TPWD on behalf of the City.
- D. The City will assist GDS in securing from the City all documentation and local support letters required for the preparation of the application;
- E. The City will obtain from a registered engineer or architect the required cost estimates, maps, illustrations and technical specifications of facilities to be utilized in the development of the grant application. GDS will work closely with the selected professional.
- F. The City will secure from a professional environmentalist an assessment of the suitability of the proposed location for the proposed construction. GDS will work closely with the selected environmentalist.
- G. The City will publish public notices as required by the TPWD. GDS shall verify that all such notices meet both State and Federal requirements for the TPWD program.

7. COMPENSATION:

- A. **GRANT APPLICATION** GDS shall be compensated by the City for professional services rendered under this Agreement for application design and submission services as described in Section 3 above at a total cost of **\$10,000.00** (Ten Thousand Dollars). This fee shall be payable as follows:
 - **\$2,000.00** (Two Thousand Dollars) shall be due upon execution of this Letter of Agreement,
 - **\$1,500.00** shall be due upon completion of the recreation needs survey and public hearings.
 - **\$1,000.00** shall be due upon the City Council's Resolution listing the recreational opportunities that are to be included in the grant application.
 - **\$2,000.00** shall be due upon notice that the Preliminary designs and cost estimates have been accepted by the City.
 - **\$1,000.00** shall be due upon notice that the Environmental Assessment has been accepted
 - **\$1,500.00** (One Thousand Dollars) shall be due on upon delivery of the complete draft of the Park Grant application to the City for review.
 - **\$1,000.00** (One Thousand Dollars) shall be due upon shall be upon due proof of delivery of the completed grant application to the TPWD.

- B. **HARD COST RECOVERY**: In addition to the payment of fees for professional services, the City will reimburse GDS for the hard costs incurred in connection with the preparation of the application and presentation materials including but not limited to GDS out-of-pocket expenses, including mileage, photocopies, mail and delivery charges,. This fee will not exceed a **total of \$2,000** (Two Thousand Dollars) without the advance written approval of the City and will be billed throughout the project.
- C. **GRANT COMMISSION**: If the Application **does not receive approval** of the TPWD, the City shall have no further financial obligations to GDS.
- If the application **does receive approval** from the TPWD, the City shall pay GDS to a Professional Services commission equal to **3% (Three Percent) of the grant funds secured**. Grant The commission shall be considered earned when the City receives a Notification of Funding from the TPWD and shall be paid from local funds.
- D. **GRANT ADMINISTRATION** : **GDS will perform all administrative services required to implement the construction TPWD Grant in the Electronic Recreational Grants Online system for a fee equal fee of 6.50% (Six and one half per cent) of the total amount of grant funds awarded** The City is under no obligation to accept the offer of administrative services. If the City chooses to engage GDS to perform administrative services, the City shall pay the administrative fee from local funds.
- E. **INVOICES**: GDS shall periodically invoice the City for the fees due to GDS hereunder as described above in Section 5, A thru D. The City shall pay to GDS all undisputed invoiced amounts within thirty days of receipt of each invoice. City shall abide by the Texas Prompt Payment Act, Ch. 2251 Tex. Gov Code in connection with payment for the professional services rendered under this Agreement.
8. **AMENDMENTS TO LETTER OF AGREEMENT**: The sum of the sections set forth in this Agreement constitutes a legally binding contract between the City and GDS. This Agreement may be amended only in writing and shall require the consent of both parties.
9. **GDS RESPONSIBILITIES**: In addition to the obligations outlined in Sections 2. "Time of Performance" and Section 3. "Scope of Services," GDS agrees to comply with all requirements of all applicable laws, rules, and regulations, Federal, State, and Local. GDS shall assume full responsibility for payments of Federal, State and Local taxes on contributions imposed or required under the Social Security, Worker's Compensation, and Income Tax Statutes for compensation received for services rendered under this Agreement. GDS recognizes that the City is employing GDS for its expertise in writing grants, and optionally for administering grants. In fulfilling its obligations under this Agreement, GDS shall exercise the skill and care appropriate to a firm that has professional grant writing and administration expertise.

10. TERMINATION OF AGREEMENT:

- A. The City may terminate this Agreement if, through any cause, GDS shall fail to fulfill its obligations under this Agreement in a timely and proper manner, or if GDS shall violate any of the covenants, agreements, or stipulations of this Agreement. To effectuate the City's termination rights, City shall give written notice to GDS of such termination by certified mail, return receipt requested at the mailing address listed below in Paragraph 11 of Attachment A, such notice specifying the effective date thereof, at least fifteen days before the effective date of such termination. During such notice period, GDS shall have the opportunity to cure any allegations of breach as reflected in the City's notice letter.

- B. If after the cure period cited above, the Agreement is terminated for cause by the City, no consideration is due GDS except reimbursement for actual out-of-pocket expenses incurred by GDS in connection with providing the professional services contemplated by this Agreement.

- C. In the event this Agreement is terminated by the City for reasons other than good cause prior to the grant project's completion, GDS shall be entitled to receive just and equitable compensation for any work completed hereunder. All completed work will be billed at an hourly rate of One Hundred and Forty Dollars (\$140.00) per hour, but not more than \$500.00 hard costs as described in Article 5.A.

- D. Upon termination of this Agreement, GDS and the City shall utilize good faith efforts to wind up their affairs and obligations arising under this Agreement in a businesslike and reasonable manner, and in a manner, that fully protects the rights of the parties.

11. ADDITIONAL TERMS AND CONDITIONS: The Parties agree to honor and abide by the additional terms and conditions which are appended hereto as "Attachment A" and which are incorporated herein by reference.

EXECUTED in duplicate originals this _____ day of _____ 2024.

GRANT DEVELOPMENT SERVICES, INC.

J Gandolf Burrus, President
Grant Development Services, Inc.

CITY OF MANOR

ATTEST:

Scott Moore, City Manager
City of Manor, Texas

Lluvia T. Almaraz, City Secretary
City of Manor, Texas

ADDITIONAL TERMS AND CONDITIONS

1. Changes to Professional Services. The City may, from time to time, request changes in the scope of the services of GDS to be performed hereunder. Such changes, including any increase or decrease in the amount of GDS' compensation, which are mutually agreed upon by and between the City and GDS, shall be incorporated in written amendments to this Agreement.
2. Personnel.
 - A. GDS represents that it has, or will secure at his own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
 - B. All the services required hereunder will be performed by GDS or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - C. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracts hereundershall be specified by written agreement and shall be subject to each provision of this Agreement.
3. Assignability. GDS shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: provided, however, that claims for money by GDS from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly by GDS to the City.
4. Reports and Information. GDS, at such times and in such forms as the Funding Agency may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
5. Records and Audits. GDS will keep and maintain accurate books and records of the dates and time periods for which it has furnished Professional Services pursuant to this Agreement and shall allow the City to review and inspect such information upon request during the term of this Agreement for purposes of assuring compliance with the terms of this Agreement and state and federal laws, rules and regulations. GDS and the City shall ensure that reasonable steps are undertaken to ensure confidentiality in the sharing of such records and information, to the extent applicable.
6. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by GDS under this Agreement are confidential and GDS agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
7. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of GDS.

8. Compliance with Applicable Laws. GDS shall comply with all applicable laws, ordinances and codes of the State and local governments, and GDS shall save and hold the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
9. Equal Employment Opportunity. During the performance of this Agreement, GDS agrees as follows:
 - A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - C. The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
 - D. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

10. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

11. Section 109 of the Housing and Community Development Act of 1974. The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

12. Section 504 Rehabilitation Act of 1973, as amended. The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

13. Age Discrimination Act of 1975. The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

1. ADDRESS OF PARTIES FOR NOTICES:

To City:

City of Manor, Texas
Attn: Scott Moore
City Manager
105 East Eagleston
Manor, Texas 78653

To GDS:

Grant Development Services
Attn: JGandolf Burrus, President
Grant Development Services.
Post Office Box 33043
Austin, Texas 78764

Or to such other address as may from time to time be specified in a notice given to the other party at the address provided in this Section.

2. **JURISDICTION.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Travis County, Texas. Venue for any legal proceedings to enforce or interpret this Agreement shall be in a court of appropriate jurisdiction in Travis County, Texas.
3. **ENFORCEMENT COSTS.** If any party hereto institutes an action or proceeding to enforce any rights arising under this Agreement, the party prevailing in such action or proceeding will be paid all reasonable attorneys' fees and costs to enforce such rights by the other party, such fees and costs to be set by the court, not by a jury, and to be included in the judgment entered in such proceeding.
4. **NO OTHER AGREEMENTS.** This Agreement supersedes all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating herein shall be valid or binding. Neither this Agreement nor any duties or obligations hereunder shall be assignable by either party without the prior written consent of the other.
5. **AMENDMENTS TO THIS AGREEMENT.** This Agreement, including the Attachments thereto constitutes a legally binding contract between the City and GDS This Agreement may be amended only in writing and shall require the mutual consent of both parties.
6. **COUNTERPARTS.** This Agreement may be signed in counterparts, each of which shall be deemed to be an original for all purposes.
7. **SEVERABILITY.** If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (i) that provision will be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.