

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

AGREEMENT FOR HAZARD MITIGATION ACTION PLAN

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Jeffrey S. Ward & Associates, Inc. (hereinafter "Contractor"), a corporation authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide professional services related to the preparation and submission of a hazard mitigation action plan (hereinafter "Services"); and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Article I. Scope of Services

Contractor shall render Services to County as defined in the Scope of Services (attached hereto as Exhibit A).

Article II. Personnel

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the Project shall, upon request of County, immediately be removed from association with the Project.

Article III. Compensation and Payment

3.1 The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is eighty-two thousand two hundred and ninety dollars and

no/100 (\$82,290.00). In no case shall the amount paid under this Agreement exceed the Maximum Compensation without an approved change order.

3.2 All performance of the Scope of Services including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County. Payment will be made in accordance with those payment procedures set forth in Section 3.3 below.

3.3 It is understood and agreed that payments will be made to Contractor by County based on the following procedures: Upon completion of each milestone identified in the attached Exhibit B, Contractor shall submit to County two (2) original copies of invoices showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Article IV. Time of Performance

It is understood and agreed that the time for performance of the Scope of Services under this Agreement shall begin with receipt of Notice to Proceed and end no later than one hundred and eighty (180) days after receipt of Notice to Proceed. Tasks described in the Scope of Services shall be completed within this time or within such additional time as may be extended by the County.

Article V. Modifications

Any modifications to this Agreement must be in writing and must be signed by both parties.

Article VI. Termination

6.1 Termination for Convenience

6.1.1 County may terminate this Agreement at any time upon thirty (30) days written notice.

6.2 Termination for Default

6.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

6.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

6.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in

accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

6.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 6.1 above.

6.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

6.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Article VII. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. All such data and material shall be promptly furnished to County on request.

Article VIII. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Article IX. Insurance

9.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

9.1.1 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

9.1.2 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

9.1.3 Professional Liability insurance with limits not less than \$1,000,000.

9.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies written on behalf of Engineer shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

9.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

Article X. Indemnity

CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

Article XI. Confidential and Proprietary Information

11.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is furnished by County to others without restrictions similar to those imposed by this Agreement; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (d) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

11.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

11.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

11.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

Article XII. Independent Contractor

12.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

12.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Article XIII. Contract Administration

13.1 All written notices, demands, and other papers or documents to be delivered to County under this Agreement shall be delivered to the Fort Bend County Office of Emergency Management, 307 Fort Street, Richmond, Texas 77469, or at such other place or places as it may

from time to time designate by written notice delivered to Contractor. For purposes of notice under this Agreement, a copy of any notice or communication hereunder shall also be forwarded to the following address: Fort Bend County, 301 Jackson Street, Suite 719, Richmond, Texas 77469, Attention: County Judge.

13.2 All written notices, demands, and other papers or documents to be delivered to Contractor under this Agreement shall be delivered to Jeffrey S. Ward & Associates, Inc., 14401 Bookcliff Court, Purcellville, Virginia, 20132, or such other place or places as Contractor may designate by written notice delivered to County.

Article XIV. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Article XV. Assignment

Neither party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party.

Article XVI. Applicable Law

This Agreement shall be construed under and in accordance with the laws of the State of Texas. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all disputes arising hereunder and waive the right to sue or be sued elsewhere.

Article XVII. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Article XVIII. Publicity

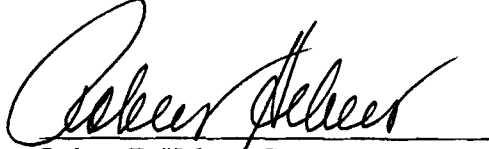
Contractor shall not make news releases, publicize or issue advertising pertaining to this Agreement without first obtaining the written approval of County.

Article XIX. Conflict

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the 23 day of November, 2010.


FORT BEND COUNTY

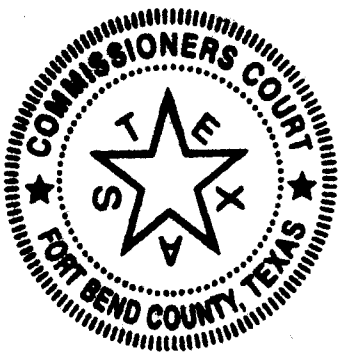

Robert E. Heber, County Judge

JEFFREY S. WARD & ASSOCIATES,
INC.


Authorized Representative

ATTEST:


Dianne Wilson, County Clerk



AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 2270.⁰⁰ to accomplish and pay the obligation of Fort Bend County under this contract.


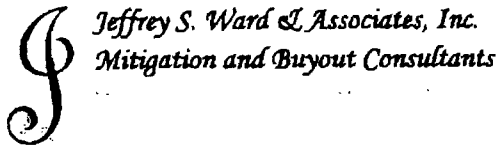

Robert Edward Sturdivant, County Auditor

EXHIBIT A



Jeffrey S. Ward & Associates, Inc.
Mitigation and Buyout Consultants

14401 Bookcliff Ct.
Purcellville, VA 20132

(W) 540-668-6945- (F) 866-635-6582
jward@rstarmail.com

November 2, 2010

Cost Proposal for Fort Bend County Plan Update

Scope of Work – Task	Task Details	Cost
Organize to prepare the plan	Coordinate the proposed plan update effort with Fort Bend County Project Manager and the leads from each Jurisdiction	\$7,000.00
Involve the Public	Documents will be prepared to brief the public on the plan update process. Three Public meetings will be held during the planning process and one meeting in conjunction with a Council Meeting when the plan is presented for adoption.	\$15,000.00
Assess the Hazard	Collect and incorporate previous Fort Bend County hazards information that may be available. Include map and description of known flood hazards and/or repetitive loss areas, and discuss past floods. Include a map and description of other natural hazards. This will focus on events that have occurred since the original plan development/adoption.	\$15,000.00
Assess the Problem	The plan will discuss the number and type of buildings subject to the hazards identified in the hazard assessment. It will also discuss: <ul style="list-style-type: none">• The impact of flooding on buildings, infrastructure, and public health and safety;• The need and procedures for warning and evacuating residents and visitors;• Critical facilities, such as hospitals, fire stations, and chemical storage companies;• Areas that provide natural and beneficial functions, such as wetlands;• Development trends and what the future brings for development and redevelopment in the floodplain, the watershed, and natural resource areas; and Impact of flooding on the community and its economy.	\$15,000.00
Set Goals	The update will include a review of Fort Bend County mitigation and floodplain management program's goals to ensure they are still consistent and correct.	\$7,500.00

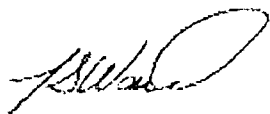
Mitigation

Planning

Buyouts

Review Possible Alternatives	The plan will describe all potential mitigation activities that were considered and note why they are or are not recommended.	\$7,500.00
Review and Revise Draft Plan	The plan will update will overview the results of all above mentioned analysis/data collection and will specify activities appropriate to the community's resources, flood hazard, and vulnerable properties. It will recommend who will do what, and how it will be financed.	\$15,000.00
Adopt the Plan	Hold public meetings to review the Mitigation Plan update and incorporate relevant comments. Commissioner's Court approves and adopts the plan.	Covered under "Involve the Public"
Implement, evaluate, and revise the plan	The plan will show Fort Bend County's procedures for monitoring implementation, reviewing progress, and recommending revisions to the plan in an annual evaluation report.	Cover under "Review and Revise Draft Plan"
Submit to the State and FEMA for review and approval	Submit the plan to State and FEMA for review and approval.	\$290.00
	Total	\$82,290.00

Submitted by:



Jeffrey S. Ward, CFM
President

EXHIBIT B

Payment Milestones

20%	Kickoff meeting completed.
45%	Draft plan, first public presentation, and second team meeting completed.
15%	Final plan approved by planning team and submitted to State and FEMA.
10%	Final plan re-submitted with State and FEMA comments incorporated.
10%	FEMA letter of approval received.