



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS MAY 13, 2014 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – May 6, 2014
- * Confirmation of committee appointments

- A) Approve a resolution accepting the donation of property for the Northwest Parkway Project

- B) Approve a resolution approving the purchase of property for the Northwest Parkway Project



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Patrick Donart, Public Works Director

MEETING DATE: May 13, 2014

REQUESTED ACTION: Council consider a resolution accepting the donation of property for the Northwest Parkway Project.

BACKGROUND

As part of the Northwest Parkway Project, the City of Beaumont has acquired four (4) of the ten (10) parcels of land needed for this project. The owner of the property listed below, has agreed to donate their property to the City:

Parcel #1A 2.970 acre situated in A. Duwe Survey, Abstract No. 459
Owner: LaTex Investors, LP
Appraised Value: \$355, 776.00

FUNDING SOURCE

None.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, LaTex Investors, LP, has agreed to donate 2.970 acres situated in the A. Duwe Survey, Abstract No. 459, as described in Exhibit "A" and shown on Exhibit "B," attached hereto, to the City of Beaumont for the Northwest Parkway Project and,

WHEREAS, the City Council has considered the donation of said tract and is of the opinion that the delivery and receipt of said tract is necessary and desirable and that same should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the donation of the above described property donated by LaTex Investors, LP, is hereby in all things accepted.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 13th day of May, 2014.

- Mayor Becky Ames -

PROPERTY DESCRIPTION OF PARCELS 1A & 1B

**METES AND BOUNDS DESCRIPTION OF
PARCEL 1A (2.970 ACRES) & PARCEL 1B (0.560 ACRES) OF LAND
SITUATED IN AND A PART OF THE
A. DUWE SURVEY, ABSTRACT NO. 459 AND THE
FREDERICK BIGNER SURVEY, ABSTRACT 1
JEFFERSON COUNTY, TEXAS**

PARCEL 1A

Being a 2.970 acre tract or parcel of land, a portion of the residue of that certain tract of land (called 46.70 acres) as conveyed by deed to LaTex Investors, LP as recorded in Clerk's File No. 2001041210, Jefferson County, Texas as situated in and a part of the A. Duwe Survey, Abstract No. 459 and the Frederick Bigner Survey, Abstract No. 1 of said County and being more particularly described by metes and bounds as follows;

FOR LOCATIVE PURPOSES, commence at concrete monument with disc marked C.A. Kohler found located on the Northerly line of Dowlen Road, a 100 Feet wide public dedicated Right-of-Way as conveyed by deed recorded in Volume 1711, Page 47 of said Real Property Records, this point marks the Southeast corner of said 46.70 acre tract of land and the Southwest corner of the Parkdale Mall Addition to the City of Beaumont, Texas (called 126.52 acres) as recorded in Volume 14, Page 245 of the Map Records of said County;

THENCE North 03 deg. 06 min. 54 sec. West along and with the East line of said 46.70 acre tract of land and the West line of said Parkdale Mall Addition a distance of 1579.54 feet to a ½" steel rod with cap marked Arceneaux & Gates set for the **PLACE OF BEGINNING** and the Southeast corner of the herein described tract of land,

THENCE South 86 deg. 53 min. 06 sec. West a distance of 223.79 feet to a ½" steel rod with cap marked Arceneaux & Gates set for the beginning of a curve to the right;

THENCE along said curve with a radius of 1130 feet, a central angle of 14 deg. 12 min. 14 sec., a chord bearing of North 86 deg. 00 min. 47 sec. West, a chord length of 279.41 feet and an arc distance of 280.13 feet to a ½" steel rod with cap marked Arceneaux & Gates set for point of tangency;

THENCE North 78 deg. 54 min. 41 sec. West a distance of 70.05 feet to a ½" steel rod with cap marked Arceneaux & Gates set for the beginning of a curve to the left;

THENCE along said curve with a radius of 1000 feet, a central angle of 14 deg. 07 min. 28sec., a chord bearing of North 85 deg. 58 min. 25 sec. West, a chord length of 245.90 feet and an arc distance of 246.52 feet to a ½" steel rod with cap marked Arceneaux & Gates set for point of tangency;

THENCE South 86 deg. 57 min. 51 sec. West a distance of 137.96 feet to a ½” steel rod with cap marked Arceneaux & Gates set for angle point;

THENCE South 42 deg. 08 min. 26 sec. West a distance of 42.60 feet to a ½” steel rod with cap marked Arceneaux & Gates set for angle point;

THENCE North 02 deg. 51 min. 34 sec. West a distance of 190.30 feet to a ½” steel rod with cap marked Arceneaux & Gates set for angle point;

THENCE South 47 deg. 51 min. 34 sec. East a distance of 42.68 feet to a ½” steel rod with cap marked Arceneaux & Gates set for angle point;

THENCE North 86 deg. 57 min. 51 sec. East a distance of 137.50 feet to a ½” steel rod with cap marked Arceneaux & Gates set for the beginning of a curve to the right;

THENCE along said curve with a radius of 1130 feet, a central angle of 14 deg. 07 min. 28 sec., a chord bearing of South 85 deg. 58 min. 25 sec. East, a chord length of 277.86 feet and an arc distance of 278.57 feet to a ½” steel rod with cap marked Arceneaux & Gates set for point of tangency;

THENCE South 78 deg. 54 min. 41 sec. East a distance of 70.05 feet to a ½” steel rod with cap marked Arceneaux & Gates set for the beginning of a curve to the left;

THENCE along said curve with a radius of 1000 feet, a central angle of 14 deg. 12 min. 14 sec., a chord bearing of South 86 deg. 00 min. 47 sec. East, a chord length of 247.27 feet and an arc distance of 247.90 feet to a ½” steel rod with cap marked Arceneaux & Gates set for point of tangency;

THENCE North 86 deg. 53 min. 06 sec. East a distance of 223.79 feet to a ½” steel rod with cap marked Arceneaux & Gates set in the East line of said 46.70 acre tract of land and the West line of said Parkdale Mall Addition and marking the Northeast corner of the herein described tract of land;

THENCE South 03 deg. 06 min. 54 sec. East along and with the East line of said 46.70 acre tract of land and the West line of said Parkdale Mall Addition a distance of 130.00 feet to the **PLACE OF BEGINNING** of the herein described tract of land and containing 2.970 acres of land more or less.

PARCEL 1B

Being a 0.560 acre tract or parcel of land, a portion of the residue of that certain tract of land (called 46.70 acres) as conveyed by deed to LaTex Investors, LP as recorded in Clerk's File No. 2001041210, Jefferson County, Texas as situated in and a part of the A. Duwe Survey, Abstract No. 459 of said County and being more particularly described by metes and bounds as follows;

BEGINNING at a 1/2" steel rod with cap marked Faust found for the Northwest corner of said 46.70 acre tract of land and the most northerly corner of the herein described tract of land;

THENCE South 09 deg. 29 min. 38 sec. East a distance of 260.78 feet to a 5/8" iron rod with cap marked Wortech found for angle point;

THENCE South 02 deg. 51 min. 34 sec. East a distance of 550.00 feet to a 5/8" iron rod with cap marked Wortech found for angle point;

THENCE South 03 deg. 47 min. 23 sec. West a distance of 260.20 feet to a 1/2" steel rod with cap marked Arceneaux & Gates set in the West line of said 46.70 acre tract of land and the East line of Old Dowlen Road, a public dedicated Right-of-Way, and marking the most southerly corner of the herein described tract of land;

THENCE North 02 deg. 51 min. 34 sec. West along and with the West line of said 46.70 acre tract and East line of said Old Dowlen Road a distance of 1067.48 feet to the **PLACE OF BEGINNING** of the herein described tract of land and containing 0.560 acres of land more or less.

Surveyed: December 2013



Ronald J. Arceneaux
Ronald J. Arceneaux, R.P.L.S. #4572

Notes:

Bearings, distances and coordinates referenced to the Texas State Plane Coordinate System, South Central Zone, NAD 83

An Exhibit of even date is being submitted with and being made a part of this Metes and Bounds Description.

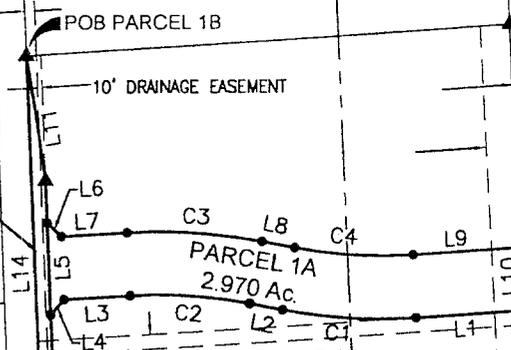
PAULA RENE MARTIN
TO BRIAN BRETT MARTIN
85.710 AC.
05/22/2012
CF# 2012017083
O.P.R.J.C.

APSHV INVESTMENT.
TO
VR PRESERVE LIMITED
15.00 AC.
02/16/2011
CF# 2011005829
OPRJC



20' UTILITY EASEMENT
TO
CITY OF BEAUMONT
VOL. 2396, PG. 41

PARCEL 1B
0.560 Ac.



40' DETENTION POND EASEMENT
TO J.C.D.D.6
60' ACCESS EASEMENT
TO
APSHV INVESTMENT
CF# 2007015181
O.P.R.J.C.

G.S.U.
09/10/1970
VOL. 1651, PG. 451
D.R.J.C.

RESIDUE OF
AMOCO PRODUCTS CO.
TO
LATEX INVESTORS, LP
46.70 AC.
11/21/2001
CF# 2001041210
O.P.R.J.C.

PARKDALE MALL ADDITION
126.52 AC.
09/14/1986
VOL. 14, PG. 245
D.R.J.C.

OLD DOWLEN ROAD

A. DUVE SURVEY
A-459

WALMART REPLAT
26.774 AC.
11/21/2001
VOL. 15, PG. 277
D.R.J.C.

PARKDALE LOOP
N 03° 06' 54" W 1579.54'
(S 3° 06' 36" E - PLAT)

F. BIGNER SURVEY
A-7

60' ACCESS EASEMENT
TO
WAL-MART
3.017 AC.
12/20/1994
CF# 9440812
O.P.R.J.C.

POC
KOHLER
MON.

DOWLEN ROAD

LEGEND

- ▲ FOUND CORNER
- SET 1/2" STEEL ROD W/CAP MARKED ARCENEUX & GATES
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT

DATE OF SURVEY: DECEMBER 2013



ARCENEUX & GATES
Consulting Engineers, Inc.
Engineers Surveyors Planners
3501 Turtle Creek Drive, Suite 102
Port Arthur, Texas 77642
(409) 724-7888
A Burrow Global Company

TEXAS REGISTERED ENGINEERING FIRM F-30
TEXAS LICENSED SURVEYING FIRM 100142-00

PARCEL PLAT PARCELS 1A & 1B		PAGE 4
NORTHWEST PARKWAY BEAUMONT, JEFFERSON COUNTY, TX		OF 5
DATE: DECEMBER 2013	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: CAI-040	DESIGN:	CHECKED: RJA

EXHIBIT "B"

Parcel Line Table

Line #	Length	Direction
L1	223.79'	S86° 53' 06"W
L2	70.05'	N78° 54' 41"W
L3	137.96'	S86° 57' 51"W
L4	42.60'	S42° 08' 26"W
L5	190.30'	N02° 51' 34"W
L6	42.68'	S47° 51' 34"E
L7	137.50'	N86° 57' 51"E
L8	70.05'	S78° 54' 41"E
L9	223.79'	N86° 53' 06"E
L10	130.00'	S03° 06' 54"E
L11	260.78'	S09° 29' 38"E
L12	550.00'	S02° 51' 34"E
L13	260.20'	S03° 47' 23"W
L14	1067.48'	N02° 51' 34"W

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	280.13'	1130.00'	14° 12' 14"	N86° 00' 47"W	279.41'
C2	246.52'	1000.00'	14° 07' 28"	N85° 58' 25"W	245.90'
C3	278.57'	1130.00'	14° 07' 28"	S85° 58' 25"E	277.86'
C4	247.90'	1000.00'	14° 12' 14"	S86° 00' 47"E	247.27'

NOTES:
 COORDINATES, BEARINGS AND DISTANCES REFERENCED
 TO THE TEXAS STATE PLANE COORDINATE SYSTEM,
 SOUTH CENTRAL ZONE, NAD 83.
 GRID SCALE: 0.999958339

I, RONALD J. ARCENEUX, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4572
 IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE PLAT CORRECTLY
 REFLECTS AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION
 AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE LIMITS, BOUNDARIES AND
 CORNERS ARE TRULY SHOWN JUST AS FOUND AT THE TIME OF THIS SURVEY.

THIS PLAT IS BEING SUBMITTED ALONG WITH METES AND BOUNDS DESCRIPTION OF
 EVEN DATE BASED ON THIS SURVEY.

GIVEN UNDER MY HAND SEAL THIS THE 19 DAY OF FEB, 2013/14

Ronald J. Arceneux
 RONALD J. ARCENEUX, RPLS NO. 4572



ARCENEUX & GATES
 Consulting Engineers, Inc.
 Engineers Surveyors Planners
 3601 Turtle Creek Drive, Suite 102
 Port Arthur, Texas 77642
 (409) 724-7886
 A Burrow Global Company

TEXAS REGISTERED ENGINEERING FIRM F-30
 TEXAS LICENSED SURVEYING FIRM 100142-00

PARCEL PLAT		PAGE
PARCELS 1A & 1B		5
NORTHWEST PARKWAY		OF
BEAUMONT, JEFFERSON COUNTY, TX		5
DATE: DECEMBER 2013	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: CAI-040	DESIGN:	CHECKED: RJA

LAST PRINTED: 11/14/13 FROM: C:\WORK\PROJECTS\100142-00\100142-00.PLOT



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Patrick Donart, ^{PD} Public Works Director

MEETING DATE: May 13, 2014

REQUESTED ACTION: Council consider a resolution approving the purchase of property for the Northwest Parkway Project.

BACKGROUND

As part of the Northwest Parkway Project, the City of Beaumont has acquired four (4) of the ten (10) parcels of land needed for this project. The owner of the property listed below, has agreed to sell their property to the City:

Parcel #1B 0.560 acre situated in A. Duwe Survey, Abstract No. 459
Owner: LaTex Investors, LP
Appraised Value: \$56,000.00

FUNDING SOURCE

Beaumont Municipal Airport Oil and Gas Revenue.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, an agreement has been negotiated for the acquisition of property described below and in Exhibit "A" and shown on Exhibit "B," attached hereto, for the development of Northwest Parkway Project:

Description: 0.560 acre situated in the A. Duwe
Survey, Abstract No. 459
Owner: LaTex Investors, LP
Appraised Value: \$56,000.00

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the purchase of the above described property in the amount of \$56,000 be, and the same is, hereby approved.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 13th day of May, 2014.

- Mayor Becky Ames -

PROPERTY DESCRIPTION OF PARCELS 1A & 1B

**METES AND BOUNDS DESCRIPTION OF
PARCEL 1A (2.970 ACRES) & PARCEL 1B (0.560 ACRES) OF LAND
SITUATED IN AND A PART OF THE
A. DUWE SURVEY, ABSTRACT NO. 459 AND THE
FREDERICK BIGNER SURVEY, ABSTRACT 1
JEFFERSON COUNTY, TEXAS**

PARCEL 1A

Being a 2.970 acre tract or parcel of land, a portion of the residue of that certain tract of land (called 46.70 acres) as conveyed by deed to LaTex Investors, LP as recorded in Clerk's File No. 2001041210, Jefferson County, Texas as situated in and a part of the A. Duwe Survey, Abstract No. 459 and the Frederick Bigner Survey, Abstract No. 1 of said County and being more particularly described by metes and bounds as follows;

FOR LOCATIVE PURPOSES, commence at concrete monument with disc marked C.A. Kohler found located on the Northerly line of Dowlen Road, a 100 Feet wide public dedicated Right-of-Way as conveyed by deed recorded in Volume 1711, Page 47 of said Real Property Records, this point marks the Southeast corner of said 46.70 acre tract of land and the Southwest corner of the Parkdale Mall Addition to the City of Beaumont, Texas (called 126.52 acres) as recorded in Volume 14, Page 245 of the Map Records of said County;

THENCE North 03 deg. 06 min. 54 sec. West along and with the East line of said 46.70 acre tract of land and the West line of said Parkdale Mall Addition a distance of 1579.54 feet to a ½" steel rod with cap marked Arceneaux & Gates set for the **PLACE OF BEGINNING** and the Southeast corner of the herein described tract of land,

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THENCE South 03 deg. 06 min. 54 sec. East along and with the East line of said 46.70 acre tract of land and the West line of said Parkdale Mall Addition a distance of 130.00 feet to the **PLACE OF BEGINNING** of the herein described tract of land and containing 2.970 acres of land more or less.

PARCEL 1B

Being a 0.560 acre tract or parcel of land, a portion of the residue of that certain tract of land (called 46.70 acres) as conveyed by deed to LaTex Investors, LP as recorded in Clerk's File No. 2001041210, Jefferson County, Texas as situated in and a part of the A. Duwe Survey, Abstract No. 459 of said County and being more particularly described by metes and bounds as follows;

BEGINNING at a 1/2" steel rod with cap marked Faust found for the Northwest corner of said 46.70 acre tract of land and the most northerly corner of the herein described tract of land;

THENCE South 09 deg. 29 min. 38 sec. East a distance of 260.78 feet to a 5/8" iron rod with cap marked Wortech found for angle point;

THENCE South 02 deg. 51 min. 34 sec. East a distance of 550.00 feet to a 5/8" iron rod with cap marked Wortech found for angle point;

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THENCE North 02 deg. 51 min. 34 sec. West along and with the West line of said 46.70 acre tract and East line of said Old Dowlen Road a distance of 1067.48 feet to the **PLACE OF BEGINNING** of the herein described tract of land and containing 0.560 acres of land more or less.

Surveyed: December 2013



Ronald J. Arceneaux
Ronald J. Arceneaux, R.P.L.S. #4572

Notes:

Bearings, distances and coordinates referenced to the Texas State Plane Coordinate System, South Central Zone, NAD 83

An Exhibit of even date is being submitted with and being made a part of this Metes and Bounds Description.

PAULA RENE MARTIN
TO BRIAN BRETT MARTIN
85.710 AC.
05/22/2012
CF# 2012017083
O.P.R.J.C.

APSHV INVESTMENT.
TO
VR PRESERVE LIMITED
15.00 AC.
02/16/2011
CF# 2011005829
OPRJ



20' UTILITY EASEMENT
TO
CITY OF BEAUMONT
VOL. 2396, PG. 41

POB PARCEL 1B

10' DRAINAGE EASEMENT

40' DETENTION POND EASEMENT
TO J.C.D.D.6

60' ACCESS EASEMENT
TO
APSHV INVESTMENT
CF# 2007015181
O.P.R.J.C.

PARCEL 1B
0.560 Ac.

PARCEL 1A
2.970 Ac.

POB PARCEL 1A

30' G.S.U. EASEMENT
VOL. 1683 PG. 126

RESIDUE OF
AMOCO PRODUCTS CO.
TO
LATEX INVESTORS, LP
46.70 AC.
11/21/2001
CF# 2001041210
O.P.R.J.C.

PARKDALE MALL ADDITION
126.52 AC.
09/14/1986
VOL. 14, PG. 245
D.R.J.C.

G.S.U.
09/10/1970
VOL. 1651, PG. 451
D.R.J.C.

OLD DOWLEN ROAD

A. DUWE SURVEY
A-459

WALMART REPLAT
26.774 AC.
11/21/2001
VOL. 15, PG. 277
D.R.J.C.

PARKDALE LOOP
N 03° 06' 54" W 1579.54'
(S 3° 06' 36" E - PLAT)

F. BIGNER SURVEY
A-1

60' ACCESS EASEMENT
TO
WAL-MART
3.017 AC.
12/20/1994
CF# 9440812
O.P.R.J.C.

LEGEND

- ▲ FOUND CORNER
- SET 1/2" STEEL ROD W/CAP
MARKED ARCENEUX & GATES
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT

DATE OF SURVEY: DECEMBER 2013

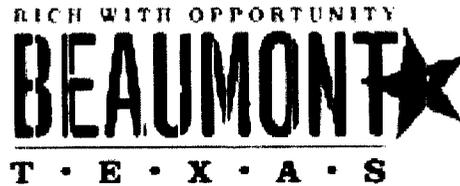


ARCENEUX & GATES
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3601 Turtle Creek Drive, Suite 102
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TEXAS REGISTERED ENGINEERING FIRM F-30
TEXAS LICENSED SURVEYING FIRM 100142-00

PARCEL PLAT PARCELS 1A & 1B		PAGE 4
NORTHWEST PARKWAY BEAUMONT, JEFFERSON COUNTY, TX		OF 5
DATE: DECEMBER 2013	SCALE: SHOWN	DRAWN: BJB
PROJ. No.: CAI-040	DESIGN:	CHECKED: RJA

EXHIBIT "B"



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS MAY 13, 2014 1:30 P.M.**

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 1-3/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider approving a resolution authorizing the City Manager to enter into a contract with the South East Texas Regional Planning Commission for the administration of Hurricane Ike disaster recovery funds
2. Consider approving a resolution approving a contract with Moncla's, Inc. for the 2014 Summer Food Service Program
3. Consider approving a resolution approving the award of a three-year contract to Patriot Security, Inc., of Nederland, for Security Guard and Event Staff Services

WORK SESSION

- * Review and discuss a proposed Gaming Machine Ordinance

COMMENTS

- * Councilmembers/City Manager comment on various matters
- * Public Comment (Persons are limited to 3 minutes)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

May 13, 2014

Consider approving a resolution authorizing the City Manager to enter into a contract with the South East Texas Regional Planning Commission for the administration of Hurricane Ike disaster recovery funds



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: ^{CJD} Chris Boone, Planning & Community Development Director

MEETING DATE: May 13, 2014

REQUESTED ACTION: Council consider authorizing the City Manager to enter into a contract with the South East Texas Regional Planning Commission for the administration of Hurricane Ike disaster recovery funds.

BACKGROUND

As the result of the damage caused by Hurricane Ike, a variety of programs have been made available to aid in recovery. In prior funding rounds, the City has partnered with the Department of Housing and Urban Development, the Texas Department of Housing and Community Affairs, the Texas General Land Office and the South East Texas Regional Planning Commission to rebuild homes, purchase repetitively flooding properties, demolish damaged structures and repair and enhance a variety of city facilities.

In this latest round of funding, the City will contract with the Planning Commission to identify and properly condemn no more than four hundred fifty-five (455) damaged residential structures. The City will receive an administrative fee of \$250 for identifying, processing and condemning each structure. The Planning Commission will then be responsible for removing the structures in accordance with established City of Beaumont standards. The City will be required to file a lien on each property once the demolition is complete. Any paid liens will be returned to the Texas General Land Office.

FUNDING SOURCE

Funds are available through this grant, with no required local match.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute a contract with the Southeast Texas Regional Planning Commission, substantially in the form attached hereto as Exhibit "A," for the administration of Hurricane Ike disaster recovery funds provided by the Texas Department of Housing and Community Affairs CDBG Disaster Program to identify and properly condemn no more than four hundred fifty-five (455) damaged residential structures.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 13th day of May,
2014.

- Mayor Becky Ames -

CONTRACT FOR DEMOLITION PROGRAM SERVICES

DRAFT

PARTIES TO THE AGREEMENT

This Contract for Demolition Program Services (the “Contract”) is made and entered into by and between South East Texas Regional Planning Commission (hereinafter referred to as the “SETRPC”), acting herein by its Executive Director duly authorized by SETRPC’s Executive Committee, and the City of Beaumont, Jefferson County, Texas (hereinafter referred to as the “City of Beaumont”), pursuant to the Community Development Block Grant Disaster Recovery Program (“CDBG-DR”) funded by the Texas General Land Office (“GLO”) and the U.S. Department of Housing and Urban Development (“HUD”). The parties hereto agree, by the execution hereof, that they are bound to the mutual obligations and to the performance and accomplishment of the tasks described herein.

WITNESS THAT:

WHEREAS, Chapter 791 of the Texas Government code, also known as the Inter-local Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services, including administrative entity functions normally associated with the operation of government, such as administration and management of programs designed to assist its citizens; and

WHEREAS, the SETRPC is the Contract Administrator for the Texas General Land Office (hereinafter referred to as the “GLO”) for the Community Development Block Grant Hurricane Ike Disaster Program that was legislated to assist individuals and families who meet one of the three national objectives (i.e., Low or Moderate Income, Urgent Need, and Slum and Blight) recover from the devastating effects of Hurricane Ike and to provide them with a home that is decent, safe, and with sanitary conditions; and

WHEREAS, under the terms of the agreement between the SETRPC and the GLO, SETRPC must ensure that all applicable state and federal requirements are met concerning the disbursement of funds;

WHEREAS, SETRPC and the City of Beaumont desire to enter into this Contract for the purpose of fulfilling and implementing their respective public and governmental purposes as agreed to by both parties;

WHEREAS, SETRPC and the City of Beaumont are of the opinion that cooperation in the implementation of the programs and services to be provided by Ike Program funds will be beneficial to the citizens and the governments located in the City of Beaumont through the efficiency and potential savings to be realized;

WHEREAS, SETRPC certifies that it is the designated GLO Contract Administrator of the Ike Program as allocated by the Texas General Land Office;

WHEREAS, SETRPC certifies that it is independently authorized to enter into this Contract as a unit of local government as defined under State of Texas Local Government Code, Subtitle C., Chapter 391; and,

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and contract as follows:

I. STATEMENT OF RESPONSIBILITIES – Contract Administrator (SETRPC)

Receiving CDBG funds designated for Disaster Assistance for Hurricane Ike, SETRPC shall have the following responsibilities:

- A. **Administrative:** SETRPC shall have certain legal and administrative responsibilities including, but not limited to:
 - 1. Execute and approve all GLO documents necessary to request and receive funds;
 - 2. Receive and respond to citizen inquiries;
 - 3. Prepare and monitor budgets based on need;
 - 4. Disburse funds to City of Beaumont;
 - 5. Execute and approve all GLO documents necessary to submit annual compliance and performance reports;
 - 6. Complete all reports as required by GLO;
 - 7. Respond to all GLO inquiries; and
 - 8. Monitor and evaluate services and projects provided by the City of Beaumont.

- B. **Financial:** SETRPC shall comply with fiscal accountability duties in compliance with federal regulations. These services will include, but are not limited to:
 - 1. Prepare vouchers and draw-downs for reimbursement of Ike Program funds;
 - 2. Prepare annual project budgets; and
 - 3. Maintain accounting requirements in accordance with applicable OMB Circulars.

- C. **Management:** Administrator will be responsible for, but are not limited to, the following activities:
 - 1. Complete all strategic planning documents;
 - 2. Perform Environmental Review and other compliance regulations;
 - 3. Develop program guidelines;
 - 4. Maintain and provide project and program file documentation in accordance with federal requirements;
 - 5. Monitor and evaluate contractors receiving funds to ensure compliance with Program Guidelines; and
 - 6. Maintain management compliance requirements as needed to meet the Ike Program regulations.

II. STATEMENT OF RESPONSIBILITIES – Sub-Contractor (City of Beaumont)

- A. City of Beaumont agrees to comply with all sections requirements of Title 24 Code of Federal Regulations, Parts 91 and 92 of the U.S. Housing and Urban Development regulations concerning the Ike Program and all federal regulations and policies issued pursuant to these regulations.

- B. City of Beaumont agrees to utilize funds made available under this Contract to supplement rather than to supplant funds otherwise available.
- C. City of Beaumont shall collect and submit on a regular basis documentation regarding leverage funds being used in collaboration with Ike Program funds.

1. **Demolition:** The City of Beaumont must issue an invoice for projects submitted by the City and approved by the SETRPC for demolition. The City of Beaumont will comply with the document titled "City of Beaumont/SETRPC Hurricane Ike CDBG-DR Program Required Documents for Properties Approved for Demolition" which is attached hereto as Attachment A.

2. **Records:**

- a. City of Beaumont shall provide SETRPC and/or GLO with the ability to directly review, monitor, or audit the operational and financial performance or records of work performed under this Contract in accordance with OMB Circular A-87 or A-122, as applicable, 24 CFR 570.490 of the Regulations.
- b. City of Beaumont shall maintain fiscal records and supporting documentation for all expenditures of funds made under this Contract in a manner which conforms to OMB Circular A-87 or A-122, as applicable, 24 CFR 570.490 of the Regulations in Exhibit C, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. The City of Beaumont shall retain such records, and any supporting documentation, for the greater of: (i) five years after close-out of this Contract; (ii) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction, or (iii) a date consistent with the period required by other applicable laws and regulations as described in 24 CFR 570.487 and 570.488.

The City of Beaumont shall cooperate fully with any audit, review, or investigation of the CDBG Program by the Department or any state or federal body lawfully conducting any such audit, review or investigation and shall give the United States Department of Housing and Urban Development, the Inspector General, the General Accounting Department, the Auditor of the State of Texas, an Department or agency of the State of Texas, and the Department, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the City pertaining to this Contract. Such rights to access shall continue as long as the records are retained by the City. The City agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act.

- c. All customer/client information shall be maintained in a secure and confidential manner, and the City of Beaumont agrees to comply with all local, state, and federal guidelines.

III. PERFORMANCE

- A. Time of Performance: Services of the City of Beaumont designated herein are to commence on _____ and end on the latter date of _____ or the expiration of any extended period for the receipt of Ike Program funds.
- B. Scope of Performance: The maximum number of units to be reimbursed for will not exceed four hundred fifty-five (455.)
- C. Performance Standards:
 1. The City of Beaumont will complete the tasks in this agreement in a timely, efficient and professional manner.
 2. The City of Beaumont will make monthly reports to SETRPC electronically on the 5th of each month that contains information requested by SETRPC and GLO.

IV. CONTRACT SUSPENSION/TERMINATION

- A. If the City of Beaumont shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the City of Beaumont shall violate any of the covenants, agreements, or stipulations of this Contract, SETRPC shall, upon concurrent opinion of HIHAC, have the right to terminate this Contract by giving written notice to the Sub-Contractor of such termination and specifying the effective date thereof at least thirty(30) days before the effective date of such termination.
- B. All finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by the City of Beaumont under this Contract shall, at the option of SETRPC, become the property of SETRPC. City of Beaumont shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
- C. Debarment: Failure to adequately perform under this Contract may result in penalties including the possibility of debarment from performing additional work for GLO.

V. COMPENSATION

- A. Minimum Financial Standards Requirement: No compensation may be paid to the City of Beaumont until a qualified Certified Public Accountant has provided written certification to SETRPC that the City of Beaumont is in full compliance with the standards set forth in OMB A-102.
- B. Compensation Amount: City of Beaumont will be reimbursed a fee of \$250.00 per property approved for demolition through the Texas General Land Office and the SETRPC.

- C. Compensation Amount: City of Port Arthur will be reimbursed a fee of _____ per property approved for demolition through the Texas General Land Office and the SETRPC.
- D. Compensation Structure: City of Beaumont warrants and acknowledges that no other compensation will be paid for administration of the Ike Program under this Contract.
- E. Payment Structure: City of Beaumont shall be reimbursed only for those items that are eligible expenses under the Ike Program and are specifically related to demolition.

VI. PROGRAM INCOME

- A. Any program income shall be returned to the State of Texas.
- B. Program Income means gross income, including interest earned on Ike Program funds or received by the City of Beaumont, which is directly generated from the use of Ike Program funds.
- C. When program income is generated by an activity that is only partially assisted with Ike Program funds, the income shall be prorated to reflect the percentage of said funds. (The definitions to be utilized are contained in CPD Notice 97-9.). Income generated by a project which is funded with program income, is also program income.
- D. City of Beaumont shall report monthly all program income as defined at 24 CFR Part 570 generated by activities carried out with CDBG funds made available under this contract.
- E. City of Beaumont will track and account for any program income as required by HUD and outlined in HUD CPD Notice 97-9.

VII. MANAGEMENT, AUDIT, PROCUREMENT AND CLOSE-OUT

- A. Financial Management: It is understood by the City of Beaumont that CDBG funds are subject to the requisite CFRs and the Federal Government's Office of Management and Budget circulars (OMB Circular):
 - 1. The general requirements for financial management systems and reporting are found in 24 CFR Part 84-85;
 - 2. OMB Circular no. A-87, "Cost of Principles for State, Local, and Indian Tribal Governments";
 - 3. OMB Circular no. A-133, "Audits of State and Local Governments;" and
 - 4. OMB Circular no. A-102, "Grants and cooperative agreements with state and local governments".
- B. Policies and Procedures: City of Beaumont must establish and use a set of written accounting policies and procedures which meet the minimum standards established by the relevant OMB Circulars for contract accounting. Standards must include adequate internal controls and maintaining necessary source documentation for all costs incurred.

C. Audit:

1. If the City of Beaumont expends \$500,000 or more in Federal funds a year, the City shall have an audit conducted in accordance with the Federal Governments' OMB Circular No. A-133:
 - a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits on funds provided under this Contract.
 - b. City of Beaumont shall provide SETRPC with a copy of this audit within six (6) months of the ending of the City's fiscal year(s) coinciding with this Contract.
2. If the City of Beaumont expends less than \$500,000 in Federal funds per fiscal year the City shall submit to SETRPC a copy of its annual audit within six (6) months of the close of the City's fiscal year.

D. Documentation and Record-Keeping: City of Beaumont shall maintain this Contract and all applicant files transmitted to SETRPC for completion.

E. Access to Records: At any time during normal business hours and as often as SETRPC, GLO or the Comptroller General of the United States may deem necessary, there shall be made available to these entities all of the City of Beaumont's records with respect to all matters covered by this Contract and the City of Beaumont shall permit said entities to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Contract.

F. Information on File: City of Beaumont must have on file and provide access to current copies of:

1. Documentation of governmental status;
2. Copy of City statutes;
3. Any license applicable to the City of Beaumont's proposed activities;
4. Listing of the current Mayor and City Council (including name, address, occupation, position on council, and tenure);
5. Current organizational chart showing management and staffing structure;
6. The City of Beaumont's written personnel (including staff and volunteers) policies;
7. The City of Beaumont's written accounting policies and procedures; and
8. The City of Beaumont's written procurement policies and procedures.

G. Procurement:

1. City of Beaumont shall comply with all SETRPC, City, State, and Federal policy concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property as defined by such policies as may be procured with funds provided herein.

2. City of Beaumont shall procure materials in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Attachment N, Property Management Standards, covering utilization and disposal of property.
- H. Property Records: City of Beaumont shall maintain real property inventory records that clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the restrictions specified in Subparts E and F 24 CFR Part 570.
- J. Close-Outs: City of Beaumont's obligation to SETRPC shall not end until all close-out requirements are completed.

VIII. PERSONNEL AND PARTICIPANT CONDITIONS

- A. Independent Contractor: Neither the City of Beaumont nor its employees are considered to be employees of SETRPC for any purpose whatsoever. The City of Beaumont is considered to be an independent contractor at all times in the performance of the scope of services described herein.
1. City of Beaumont further agrees that neither it nor its employees are entitled to any benefits from SETRPC under the provisions of the Worker's Compensation Act of the State of Texas or to any of the benefits granted to employees of SETRPC under the provisions of the Personnel Policies as now enacted or hereafter amended.
 2. City of Beaumont certifies that it will establish, publish and post a statement of its policies and requirements on maintaining a drug free workplace which complies with the "Drug Free Workplace Act" (P.L. 100-690) and shall require all providers of services under this Contract to comply with Drug Free Workplace requirements of the above noted Act.
- B. Personnel: City of Beaumont represents that it has, or will secure, all personnel required in performing all of the services required under this Contract. Such personnel shall not be employees of or have any contractual relationships with SETRPC.
1. All the services required hereunder will be performed by the City of Beaumont 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.
 2. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
 3. City of Beaumont shall have in its possession a documented set of personnel policies and procedures, including fringe benefits, if any, available to its employees that have been formally adopted by its City Council. Such a

document shall be made available for inspection and determination by the SETRPC as to its acceptability.

- C. Prohibited Activity: City of Beaumont is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, sectarian, or religious activities, lobbying, political patronage, and nepotism activities.
- D. Hatch Act: City of Beaumont agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.
- E. Compliance with Civil Rights Laws and Executive Orders: City of Beaumont will comply with the provisions of, and act in accordance with, all federal laws, rules and regulations, and Executive Orders related to equal employment opportunity, affirmative action, equal access to programs and services, and the enforcement of Civil Rights, including, but not limited to:
 - 1. Section 3 of the Housing and Urban Development Act of 1968;
 - 2. Sections 103 and 109 of the Housing and Community Development Act of 1974, as amended;
 - 3. Title VI and Title VII of the Civil Rights Act of 1964, as amended;
 - 4. Title VIII of the Civil Rights Act of 1968;
 - 5. Sections 502, 503, 504 and 505 of the Rehabilitation Act of 1973;
 - 6. Equal Pay Act of 1963;
 - 7. Age Discrimination in Employment Act of 1967, as amended;
 - 8. The Vietnam Era Veterans Readjustment Act of 1974;
 - 9. The 1986 U. S. Immigration Reform and Control Act;
 - 10. Americans with Disabilities Act of 1990;
 - 11. Executive Order 11063 of 1962; and
 - 12. Executive Order 11246 of 1965, as amended.
- F. City of Beaumont will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or ancestry, physical or mental handicap, marital/familial status or disabled veteran status.
- G. City of Beaumont will make reasonable accommodation to the known physical or mental handicap of an otherwise qualified employee or applicant for employment.
- H. City of Beaumont will ensure and maintain a working environment free of sexual harassment and other unlawful forms of harassment, intimidation, and coercion in all facilities at which the City of Beaumont's employees are assigned to work.
- J. City of Beaumont will in all solicitations or advertisements for employees placed by or on behalf of the City, state that all qualified applicants will receive consideration of employment without regard to race, color, religion, sex, age, national origin or ancestry, or physical or mental handicap.
- K. City of Beaumont agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- L. City of Beaumont will, in all solicitations or advertisements for employees placed by or on behalf of the City, state that it is an Equal Opportunity or Affirmative Action employer.

IX. GENERAL REQUIREMENTS AND CONDITIONS

- A. Debarment, Suspension, Ineligibility and Exclusion Compliance:
 - 1. City of Beaumont certifies that it has not been debarred, suspended or otherwise found ineligible to receive funds by an agency of the executive branch of the federal government.
 - 2. City of Beaumont agrees that should any notice of debarment, suspension, ineligibility or exclusion be received by the City, the City will notify SETRPC immediately.
 - 3. City of Beaumont agrees to not procure or subcontract with any agency, organization, or Contractor that has been debarred, suspended, or otherwise found ineligible to receive funds by an agency of the executive branch of the federal government.
- B. Use of Funds for Sectarian Religious Purposes: City of Beaumont covenants and agrees that no funds awarded through this program will be used for sectarian religious purposes, and specifically that:
 - 1. There will be no religious test for admission for services;
 - 2. There will be no requirement for attendance at religious services;
 - 3. There will be no inquiry as to a client's religious preference or affiliation;
 - 4. There will be no proselytizing; and
 - 5. Services provided will be essentially secular.
- C. Lobbying: City of Beaumont understands that utilization of any federally appropriated funds provided the City by SETRPC pursuant hereto to influence or attempt to influence any member or employee of the Executive or Legislative branches of the federal government with respect to a covered federal action is prohibited. City of Beaumont further agrees that it shall comply with the certification and disclosure requirements of the applicable regulations.
- D. Publication, Reproduction and use of Materials: If this Contract results in any book, publication, video, audio, or any other copyrightable material, then the material produced with Federal funds shall be considered public domain.
- E. Identification of Documents: All reports, maps, and other documents completed as a part of this contract, other than documents exclusively for internal use within The City of Beaumont shall contain the following information on the front cover or title page (or in the case of maps, in an appropriate block): GLO Ike Program, month and year of the preparation, SETRPC and descriptive title.

- F. Compliance with Laws: In performing the services required hereunder, the City of Beaumont shall comply with all applicable laws, ordinances, and codes of the federal, state and local governments, including environmental protection regulations. Failure to comply with the Administrative entity Requirements shall constitute grounds for termination of this Contract.
- G. Insurance and Bonding: City of Beaumont shall carry sufficient insurance to protect contract assets from loss due to theft, fraud, and/or undue physical damage.
- H. Assignability: City of Beaumont shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of SETRPC thereto.
- J. Conflict of Interest:
1. The City of Beaumont shall ensure that no employee, officer, or agent of the City shall participate in the selection, or in the award or administration of a subcontract supported by funds provided if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: 1) the employee, officer, or agent; 2) any member of his or her immediate family; 3) his or her partner; or, 4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract. The City shall comply with Chapter 171, Texas Local Government Code and 24 CFR 570.489(h) of the federal regulations.
 2. In all cases not governed by Subsection 1 of this Section, no persons specified in Subsection 3 of this Section who exercise or have exercised any functions or responsibilities with respect to the activities assisted under this Contract or any other CDBG contract or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have any interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.
 3. The conflict of interest provisions of Subsection 2 of this Section apply to any person who is an employee, agent, consultant, department, or elected official or appointed official of the City or of a subcontractor of the City.
 4. In the procurement of supplies, equipment, construction and services by contractors, the conflict of interest provisions in 24 CFR Part 570 and OMB Circular A-110, respectively, shall apply.
 5. City of Beaumont and SETRPC state to the best of their knowledge, no member of the Beaumont City Council and no other officer, employee, or agent of the City of Beaumont who exercises any function or responsibility in connection with the carrying out of the Program or the funds to which this Contract pertains, has any personal interest, direct or indirect, in this Contract.

K. Affirmative Action:

1. City of Beaumont agrees that it shall be committed to Affirmative Action principles as provided in the President's Executive Order 11246 of September 24, 1965.
2. City of Beaumont will use its best effort to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract.
3. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The City of Beaumont may rely on written representations regarding their status as minority and female business enterprises in lieu of an independent investigation.

X. LEGAL

- A. Representation in Proposal: SETRPC has relied on all representations of the City of Beaumont in awarding this contract and the City of Beaumont warrants the accuracy of all representations in said proposal. Misrepresentation in the proposal shall be cause to terminate this contract and the City of Beaumont shall owe as liquidated damages all amounts paid to it should these amounts not be legitimate reimbursements for Ike Program eligible activities.
- B. GLO CDBG Disaster Recovery Funds Recognition: The City of Beaumont shall insure recognition of the role of GLO Ike Program funds in providing services through this Contract. All activities, facilities, and items utilized pursuant to this Contract shall be prominently labeled as to the funding source. In addition, the City will include a reference to the support provided herein in all publications made possible with funds made available under this Contract.
- C. Notifications: Any notice hand-delivered or sent by mail (with a return receipt which indicates delivery) to the addresses below shall be deemed received for any purposes arising out of the execution of this contract.

For SETRPC, notices may be sent to:

Shaun Davis, Executive Director
South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703
409-899-8444; 409-347-0138 (fax)

For City of Beaumont, notice may be sent to:

- D. Construction and Severability: If any part of this Contract is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Contract so long as the remainder of the Contract is reasonably capable of completion.
- E. Enforcement: City of Beaumont agrees to pay to SETRPC all costs and expenses including reasonable attorney's fees incurred by SETRPC in exercising any of its rights or remedies in connection with the enforcement of this Contract.
- F. Entire Contract: This Contract contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written.
- G. Amendments: The City of Beaumont or SETRPC may amend this Contract at any time provided that such amendments make specific reference to this Contract, and are executed in writing and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Contract, nor relieve or release the City of Beaumont or SETRPC from its obligations under this Contract.
 - 1. SETRPC may, in its discretion, amend this Contract to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons.
 - 2. If such amendments result in a change in the funding, the scope of services, or the schedule of the activities to be undertaken as part of this Contract, such modifications will be incorporated only by written amendment signed by both the City of Beaumont and SETRPC.
 - 3. Further, any future change in federal regulations or federal requirements governing the use or eligibility of Ike Program funds are deemed to be immediately incorporated into this Contract and subject to the provisions herein.
- H. Applicable Law: This Contract shall be governed by and construed and enforced in accordance with the laws of the State of Texas, the by-laws, rules and regulations of the SETRPC and the applicable regulations of the U.S. Department of Housing and Urban Development and Texas General Land Office.
- J. Approval Required: The parties hereto state that they are appropriately empowered by their respective Board/City Council to sign this Contract. This Contract shall not become effective or binding until approved by Beaumont City Council.

XI. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between SETRPC and the City of Beaumont concerning the Demolition Program Services described herein consist of the following:

- A. This Contract (pages 1 to 13, inclusive).
- B. Attachment A, City of Beaumont List/SETRPC Hurricane Ike CDBG-DR Program Required Documents for Properties Approved for Demolition
- C. Attachment B, GLO Contract No. 12-496-000-6694
- D. Attachment C, Federal Assurance and Certifications
- E. Attachment D, General Affirmations
- E. Attachment E, SETRPC Disaster Recovery Housing Program, Housing Demolition Only Guidebook

APPROVED BY

THE CITY OF BEAUMONT ON the ___ day of _____, 2014

and

THE SOUTH EAST TEXAS REGIONAL PLANNING COMMISSION ON the ___ day of _____, 2014.

By:

Kyle Hayes
City Manager
City of Beaumont

Shaun P. Davis.
Executive Director
South East Texas Regional Planning Commission

CITY OF BEAUMONT
SETRPC Hurricane Ike CDBG-DR Program
Required Documents for Properties Approved for Demolition

In exchange for the fee provided for in the Contract attached hereto, the City of Beaumont agrees to provide the SETRPC and/or its Program Administrator, URS, with the following documents for each property it would like to submit to this program.

1. Initial Inspection Report
2. Before Photos
3. Red Tag Notification
4. Hold Orders for Utilities
5. 101 Letter (Initial Letter to Homeowner)
6. Tax Roll Search or Title report
7. 102 letter notifying owner of public hearing
8. Public Hearing Newspaper Publication and publisher's affidavit
9. Posting Notice for Public Hearing
10. Board Meeting Agenda and related documents
11. 103 Letter (Notifies owner of Board's decision)
12. Board Decision Newspaper publication and publisher's affidavit
13. 104 Letter (Notifies owner of demolition and cost)
14. Slum and Blight Approved Form
15. City Council Resolution (sample provided)

In addition to the list of documents the City must provide to receive the fee per demolition, the City will be required to file a lien on each property once the demolition is complete pursuant to Texas Local Government Code § 214.0015.



GLO CONTRACT NO. 12-496-000-6694
COMMUNITY DEVELOPMENT BLOCK GRANT
DISASTER RECOVERY PROGRAM NON-RENTAL HOUSING PROJECTS
ROUND 2 SUBRECIPIENT GRANT AGREEMENT

This Community Development Block Grant Disaster Recovery (“CDBG-DR”) grant agreement (the “Contract”) is entered into by and between the GENERAL LAND OFFICE (“the GLO”), a Texas state agency, and SOUTH EAST TEXAS REGIONAL PLANNING COMMISSION (“Subrecipient”), hereinafter referred to collectively as “the Parties,” to provide financial assistance with funds appropriated by the Consolidated Security, Disaster Assistance, and Continuing Appropriation Act (Public Law 110-329) enacted on September 30, 2008, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing, in accordance with Executive Order 12892, in areas affected by Hurricanes Dolly and Ike, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

ARTICLE 1 - GENERAL PROVISIONS

1.01 SCOPE OF PROJECT AND GRANT AWARD

(a) Scope of Project

The purpose of this Contract is to set forth the terms and conditions of a Grant from the GLO to Subrecipient under the CDBG Disaster Recovery program (“CDBG-DR”). In strict conformance with the terms and conditions of this Contract, Subrecipient shall perform, or cause to be performed, homeowner repair, reconstruction, new construction, and homebuyer assistance of non-rental housing in Subrecipient's jurisdictional area (the "Project"). The Project shall be conducted in strict accordance with the terms of this Contract, including all Contract Documents in SECTION 1.02, below, and any Amendments, Revisions or Technical Guidance Letters issued by the GLO.

(b) Grant Award

Subrecipient submitted a Grant Application for grant under the Program, and the GLO is entering into this Contract based on Subrecipient's Application.

Subject to the terms and conditions of this Contract and Subrecipient's Application, the GLO agrees to make a grant to Subrecipient in an amount not to exceed **ONE HUNDRED TWENTY-SIX MILLION EIGHT HUNDRED SIXTY-TWO THOUSAND THREE HUNDRED NINETY DOLLARS (\$126,862,392.00)**, payable as reimbursement of

allowable expenses incurred by Subrecipient, to be used in strict conformance with the terms of this Contract, and the Project Budget in **Attachment B**.

The GLO is not liable to Subrecipient for any costs incurred by Subrecipient before the effective date of this Contract or after the expiration or termination of this Contract. However, the GLO in its sole discretion, may reimburse Subrecipient for allowable program costs incurred prior to the effective date of this Contract.

1.02 CONTRACT DOCUMENTS

The GLO and Subrecipient hereby agree that this document and the following Attachments, attached hereto and incorporated herein in their entirety for all purposes, shall govern this Contract:

- ATTACHMENT A:** Performance Statements and Benchmarks for Non-Rental Housing Projects
- ATTACHMENT B:** Project Budgets for Non-Rental Housing Projects
- ATTACHMENT C:** Nonexclusive list of Applicable Laws, Rules, and Regulations
- ATTACHMENT D:** General Affirmations
- ATTACHMENT E:** Federal Assurances – Non-Construction Programs SF-424B (Rev. 7-97) and Certifications Regarding Lobbying Lower Tier Covered Transactions (Form CD-512, Rev. 12-04)
- ATTACHMENT F:** Special Conditions

1.03 GUIDANCE DOCUMENTS

Subrecipient shall be deemed to have read and understood and agrees to abide by all guidance documents applicable to the CDBG-DR program including but not limited to:

- (1) the CDBG-DR Project Implementation Manual found at:
<http://www.glo.texas.gov/GLO/disaster-recovery/nonhousing/forms-publications.html>;
- (2) the State of Texas Action Plan for Disaster Recovery found at;
<http://www.glo.texas.gov/GLO/disaster-recovery/action-plans.html>; and
- (3) the Conciliation Agreement between: the Texas Low Income Housing Information Service and Texas Appleseed, and the State of Texas, by and through the Texas Department of Rural Affairs and the Texas Department of Housing and Community Affairs, as approved by HUD in its letter dated May 26, 2010, to the Office of the Attorney General of Texas.

1.04 DEFINITIONS

“Act” means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Sec. 5301 *et seq.*); and Public Law 110-329.

“Administrative and Audit Regulations” means the regulations included in Title 24, CFR, Part 85. Chapter 321 of the Government Code; Subchapter F of Chapter 2155 of the Government Code; and the requirements of Article VII herein. With regard to any federal

funding, agencies with the necessary legal authority include: the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of Inspector General, and any of their authorized representatives. In addition, with regard to any state funding, state agencies with the necessary legal authority include: the GLO, the GLO's contracted examiners, the State Auditor's Office, and the Texas Attorney General's Office.

"Amendment" means a written agreement, signed by the parties hereto, which documents alterations to the Contract other than those permitted by Work Orders, Technical Guidance Letters, or Revisions, as herein defined.

"Application" or "Grant Application" means the information provided by Subrecipient, which is the basis for the award of funding under this Contract.

"Benchmark" means the time periods allowed in **Attachment A** for the completion by Subrecipient of various requirements under the Contract.

"Budget" means the budget for the Projects funded by the Contract, a copy of which is included in **Attachment B**.

"CDBG-DR" means the U.S. Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery program.

"Construction Documents" means the engineering specifications, construction plans, and/or architectural plans for the construction of improvements approved by the GLO under the Contract, if any.

"Contract" means this entire document, along with any Attachments, both physical and incorporated by reference; and any Amendments, Revisions, or Technical Guidance Letters that may be issued by the GLO, to be incorporated by reference herein for all purposes as they are issued, if any.

"Contract Documents" means the documents listed in **SECTION 1.02**.

"C.F.R." means the United States Code of Federal Regulations.

"Deliverable(s)" means the work product(s) required to be submitted to the GLO as set forth in the Performance Statement, which is included in **Attachment A**.

"Equipment" means tangible personal property have a useful life of more than one (1) year and an acquisition cost of Five Thousand Dollars (\$5,000.00) or more per unit.

"Event of Default" means the occurrence of any of the events set forth in **SECTION 3.03** herein.

"Federal Assurances" means Standard Form 424B (Rev. 7-97), as prescribed by OMB Circular A-102 (non-construction programs) in **Attachment E**.

"Federal Certifications" means U.S. Department of Commerce Form CD-512 (Rev 12-04), "Certifications Regarding Lobbying - Lower Tier Covered Transactions," and Standard Form LLL (Rev. 7-97), Disclosure of Lobbying Activities, in **Attachment F**.

"Final Inspection Report" means the document submitted by a housing inspector to a Subrecipient under a CDBG-DR Housing grant contract, indicating the completed construction of one Housing Unit (as defined below).

"Fiscal Year" means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

"GAAP" means "generally accepted accounting principles" as applicable.

"GASB" means accounting principals as defined by the Governmental Accounting Standards Board, as applicable.

"General Affirmations" means the affirmations in **Attachment D**, to which Subrecipient certifies by the signing of this Contract.

"GLO" means the Texas General Land Office, its officers, employees, and designees.

"Housing" refers to a project involving home repair, home reconstruction, and new home construction; including housing for single-family and multi-family units under a CDBG-DR program grant.

"Housing Guidelines" means a set of guidelines adopted by Subrecipient and approved by the GLO governing the implementation of the Program under this Contract.

"Housing Unit" means one house, or one single-family unit.

"HQS" means the Housing Quality Standards adopted by HUD and found at 24 CFR Part 982, which standards shall apply to any services authorized under this Contract.

"HUB" means Historically Underutilized Business as defined by Chapter 2161 of the Texas Government Code.

"HUD" means the United States Department of Housing and Urban Development.

"Performance Statement" means the statement of work contained in **Attachment A**.

"PMC" means the GLO's Project Management Company, HNTB Corp., Inc.

"Program" means the Community Development Block Grant Disaster Recovery program, administered by HUD, in cooperation with the GLO.

"Project" means the work to be performed under this Contract, as described in **SECTION 1.01(a)** above, **SCOPE OF PROJECT**, and as detailed in **Attachment A**.

"Project Completion Report" means a report containing an "as built" accounting of all projects completed under a CDBG-DR grant, and containing all information required to completely close out a grant file.

"Project Implementation Manual" means a set of guidelines for the CDBG-DR grant program.

"Public Information Act" means Chapter 552 of the Texas Government Code.

"Quarterly Reports" means written progress reports that must be received by the GLO, as set forth in **Attachment A**.

"Revision" means written approval by the GLO to allow changes to Deliverable due dates, movement of funds among budget categories, and other Contract adjustments that may be approved outside the GLO's formal Amendment process.

“Setup” means documentation, submitted by a Subrecipient, necessary for the GLO to determine that housing sites meet minimum eligibility criteria, resulting in approval for the Subrecipient to move forward with the projects.

“Subrecipient” means South East Texas Regional Planning Commission, awarded the CDBG-DR grant that is the subject of this Contract.

“Technical Guidance Letter (or TGL)” means an instruction, clarification, or interpretation of the requirements of the CDBG-DR, issued by the GLO to specified recipients, applicable to specific subject matter, to which the addressed Program participants shall be subject.

“Texas General Code Construction Requirements” means Section 2306.514 of the Texas Government Code.

“U.S.C.” means the United States Code.

1.05 INTERPRETIVE PROVISIONS

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms;
- (b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, attachment, work order, or schedule of this Contract, unless otherwise specified;
- (c) The term “including” is not limiting, and means “including without limitation” and, unless otherwise expressly provided in this Contract,
- (d) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and
- (e) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;
- (d) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- (e) All Attachments within this Contract, including those incorporated by reference, and any Amendments, are considered part of the terms of this Contract;
- (f) This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each shall be performed in accordance with its terms;
- (g) Unless otherwise expressly provided, reference to any action of the GLO or by the GLO by way of consent, approval, or waiver shall be deemed modified by the phrase “in the sole discretion of the GLO.”

Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the GLO shall not be unreasonably withheld or delayed;

- (h) All due dates and/or deadlines referenced in this Contract that occur on a weekend or holiday shall be considered as if occurring on the next business day;
- (i) All time periods in this Contract shall commence on the day after the date on which the applicable event occurred, report is submitted, or request is received; and
- (j) Time is of the essence in this Contract.

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**ARTICLE 2 – REIMBURSEMENT, ADVANCE PAYMENT,
BUDGET VARIANCE, AND INCOME**

2.01 REIMBURSEMENT REQUESTS

Each invoice shall be supported by actual receipts, cancelled checks, and/or such other documentation that, in the judgment of the GLO, allows for full substantiation of the costs incurred. Requests for payment must be submitted in Word or WordPerfect format via email.

2.02 REQUESTS FOR REIMBURSEMENT UNDER THIS CONTRACT MUST BE RECEIVED BY THE GLO NOT LATER THAN SIXTY (60) DAYS FROM THE DATE SUBRECIPIENT INCURS THE EXPENSE, INCLUDING INVOICES FOR EXPENSES INCURRED BY ANY SUBCONTRACTOR. FAILURE BY SUBRECIPIENT TO COMPLY IN A TIMELY MANNER WITH THIS REQUIREMENT MAY, AT THE GLO'S SOLE DISCRETION, RESULT IN DENIAL OF THE REQUEST FOR REIMBURSEMENT.

2.03 ADVANCE PAYMENTS

If necessary and if allowed by law, Subrecipient's requests for an advance of funds shall be limited to the minimum amount needed for effective accomplishment of the Project under this Contract, and shall be timed as closely as possible to actual cash requirements. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from the GLO to Subrecipient, and shall ensure that such funds are disbursed as soon as administratively possible.

2.04 BUDGET VARIANCE

Amendments to decrease or increase the Budget, or to add or delete an Activity may be made only by written agreement of the parties, under the formal amendment process. In the sole discretion of the GLO, and in conformance with federal law, other adjustments as may be required during project performance may be approved by the GLO by way of a Revision or Technical Guidance Letter. Such approvals must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission.

SUBRECIPIENT SHALL SUBMIT AN ACTUAL BUDGET AND A CERTIFICATE OF EXPENDITURES TO THE GLO NO LATER THAN SIXTY (60) DAYS AFTER THE CONTRACT TERMINATION DATE OR AT THE CONCLUSION OF ALL CONTRACT ACTIVITIES, WHICHEVER OCCURS FIRST. THE CERTIFICATE OF EXPENDITURES SHALL BE IN A FORMAT PRESCRIBED BY THE GLO AND SHALL BE ACCOMPANIED BY A FINAL PROJECT COMPLETION REPORT OF ALL ACTIVITIES PERFORMED UNDER THIS CONTRACT.

2.05 INCOME

Subrecipient shall maintain records of the receipt and accrual of all Program income in the same manner as required for all other funds under this Contract, and Subrecipient shall provide reports of Program income to the GLO with each form submitted by Subrecipient in accordance with ARTICLE 4 of this Contract. All Program income must be returned to the GLO on at least a quarterly basis and must be reported to the GLO, as requested.

2.06 GRANT OFFER SUBJECT TO CANCELLATION

IF SUBRECIPIENT DOES NOT RETURN THE ORIGINAL SIGNED CONTRACT TO THE GLO WITHIN THIRTY (30) DAYS OF TRANSMITTAL OF THE CONTRACT TO SUBRECIPIENT, GRANT FUNDING FOR THE PROJECT MAY BE SUBJECT TO CANCELLATION.

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ARTICLE 3 -- DURATION, EXTENSION, AND TERMINATION OF CONTRACT

3.01 DURATION OF CONTRACT AND EXTENSION OF TERM

This Contract shall become effective on the date signed by the last party, and shall terminate on December 31, 2015 ("Contract Period"), or upon the completion of all Benchmarks listed in **Attachment A**, and required closeout procedures, whichever occurs first.

Upon receipt of a written request and acceptable justification from Subrecipient, the GLO may amend this Contract to extend the Contract Period. **ANY REQUEST FOR EXTENSION MUST BE RECEIVED BY THE GLO AT LEAST SIXTY (60) DAYS BEFORE THE ORIGINAL TERMINATION DATE OF THIS CONTRACT AND, IF APPROVED, SUCH EXTENSION SHALL BE BY WRITTEN AMENDMENT.**

3.02 EARLY TERMINATION

The GLO may terminate this Contract by giving written notice specifying a termination date at least thirty (30) days subsequent to the date of the notice. Upon receipt of such notice, Subrecipient shall cease work, undertake to terminate any relevant subcontracts, and incur no further expense related to this Contract. Such early termination shall be subject to the equitable settlement of the respective interests of the parties, accrued up to the date of termination.

3.03 EVENTS OF DEFAULT

Each of the following events shall constitute an Event of Default under this Contract: (i) Subrecipient's failure to comply with any term, covenant, or provision contained in this Contract; (ii) Subrecipient makes a general assignment for the benefit of creditors or takes any similar action for the protection or benefit of creditors; or (iii) if at any time, Subrecipient makes any representation or warranty that is incorrect in any material respect to the Performance Statement, any request for payment submitted to the GLO, or any report submitted to the GLO related to the Contract.

3.04 REMEDIES; NO WAIVER

Upon the occurrence of any such Event of Default, the GLO shall be entitled to avail itself of any equitable or legal remedy. A right or remedy conferred by this Contract upon either party is not intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Contract, or hereafter legally existing, upon the occurrence of an Event of Default. The failure of the GLO either to insist at any time upon the strict observance or performance of any of the provisions of this Contract, or the GLO's failure to exercise any right or remedy as provided in this Contract, shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent Events of Default.

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ARTICLE 4 - GRANT ADMINISTRATION

4.01 SUBMISSIONS – GENERALLY

Except for legal notices that must be sent by specific instructions pursuant to **SECTION 8.11** of the Contract, **NOTICES**, and all other reports and documentation as required by the Project Implementation Manual; any report, form, or request required to be submitted to the GLO under this Contract shall be sent in the format prescribed by the GLO.

(A) HOUSING GUIDELINES

No later than the close of business sixty (60) days subsequent to the effective date of this Contract, Subrecipient must submit Housing Guidelines to the GLO.

(B) FORMS

Subrecipient must execute the forms included in **Attachment E**, and certifies by the execution of this Contract to all affirmations in **Attachment D**, confirming compliance with required state and federal laws applicable to the Contract.

- (i) General Affirmations are found in **Attachment D**, and Subrecipient certifies by the execution of this Contract to all statements therein.
- (ii) The Federal Assurances for Non-Construction Programs (Standard Form 424B), as applicable to the Project, is found at Page 1 of **Attachment E**, and must be executed by Subrecipient.
- (iii) Certifications Regarding Lobbying Lower Tier covered Transactions (Form CD-512) is found at Page 3 of **Attachment E**, and must be executed by Subrecipient.
- (iv) If any funds granted under this Contract have been used for lobbying purposes, Subrecipient must complete and execute Standard Form LLL, Disclosure of Lobbying Activities, found at Page 4 of **Attachment E**.

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ARTICLE V - FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

- (a) Funding for this Contract is appropriated under the Consolidated Security, Disaster Assistance, and Continuing Appropriation Act (Public Law 110-329) enacted on September 30, 2008, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by Hurricanes Dolly and Ike, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-DR Program, and any other applicable laws. Further, Subrecipient acknowledges that all funds are subject to recapture and repayment for non-compliance.
- (b) **All participants in the CDBG-DR grant program must have a data universal numbering system (DUNS) number, as well as a Commercial And Government Entity (CAGE) Code.**
- (c) **The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:**

<https://www.bpn.gov/ccr/>

Assistance with this web site may be obtained by calling **866-606-8220**.

5.02 STATE FUNDING

- (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- (b) Furthermore, any claim by Subrecipient for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Subrecipient, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

5.03 RECAPTURE OF FUNDS

Subrecipient shall conduct, in a satisfactory manner as determined by the GLO, the Project as set forth in the Contract. The discretionary right of the GLO to terminate for convenience under **SECTION 2.02** notwithstanding, it is expressly understood and agreed by Subrecipient that the GLO shall have the right to terminate the Contract and to recapture, and be reimbursed for any payments made by the GLO (i) that exceed the maximum allowable HUD rate; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures.

5.04 OVERPAYMENT

Subrecipient understands and agrees that it shall be liable to the GLO for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.

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ARTICLE 6 - INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND USE

- (a) The parties to this Contract expressly agree that all right, title, and interest in, and to, all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract shall be jointly owned by the parties with each party having the right to use, reproduce, or publish any or all of such information and other materials without the necessity of obtaining permission from the other party and without expense or charge.
- (b) The GLO and HUD are granted a royalty free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for U.S. Government purposes, all reports, drafts of reports, or other material, data, drawings, computer programs, and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract.

6.02 NONENDORSEMENT BY STATE AND THE UNITED STATES

Subrecipient shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) that states or implies State of Texas or U.S. Government, or government employee, endorsement of a product, service, or position that the Subrecipient represents. No release of information relating to this Grant may state or imply that the State of Texas or the U.S. Government approves of Subrecipient's work products, or considers Subrecipient's work product to be superior to other products or services.

6.03 APPROVAL OF PUBLICATION AND SPECIFIC DISCLAIMER REQUIRED

Prior to publication, Subrecipient must submit to the GLO, for HUD approval, any public information releases concerning this Grant Award that refer to HUD or any bureau or employee. The specific text, layout photographs, and so forth, of the proposed release must be submitted with the request for approval. The specific acknowledgements and funding statements that must be included in certain publications funded by the Subrecipient are set forth in the Contract Documents.

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ARTICLE 7 - RECORDS, AUDIT, AND RETENTION

7.01 BOOKS AND RECORDS

Subrecipient shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the GLO, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives, sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes including, but not limited to, the applicable laws and regulations provided in **Attachment C**.

7.02 INSPECTION AND AUDIT

- (a) Subrecipient agrees that all relevant records related to this Contract and any Work Product produced in relation to this Contract, including the records and Work Product of its Subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and Work Product shall be subject, at any time, to inspection, examination, audit, and copying at any location where such records and Work Product may be found, with or without notice from the GLO or other government entity with necessary legal authority. Subrecipient agrees to cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Subrecipient will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and Work Product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.
- (b) Subrecipient understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Subrecipient further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Subrecipient will ensure that this clause concerning the State Auditor's Office's authority to audit state funds and the requirement to fully cooperate with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Subrecipient relating to the Contract for any purpose. HUD, the Comptroller General, the General Accounting Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection. **SUBRECIPIENT SHALL ENSURE THAT ALL SUBCONTRACTS AWARDED REFLECT THE REQUIREMENTS OF THIS SECTION 7.02, AND THE REQUIREMENT TO COOPERATE.**
- (c) Subrecipient will be deemed to have read and have knowledge of all applicable federal, state, and local laws, regulations, and rules including, but not limited to those identified in **Attachment C**, governing audit requirements pertaining to the Project.

7.03 SUBRECIPIENT SELF-AUDIT AND TARGETED AUDITS

(a) Subrecipient Self-Audit

Subrecipient, on approval of the GLO and/or HUD may conduct an annual financial and compliance audit of funds received and performances rendered under this Contract. Subrecipient may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by the GLO under this Contract, provided however that the GLO shall not make payment for the cost of such audit services until the GLO has received from Subrecipient a satisfactory audit report and invoice, as determined by the GLO. The invoice submitted for reimbursement should clearly show the percentage of cost relative to the total cost of the audit services. Therefore, Subrecipient shall submit an invoice showing the total cost of the audit and the corresponding prorated charge per funding source. If applicable, an explanation shall be submitted with the reimbursement request, explaining why the percentage of audit fees exceeds the prorated amount allowable.

(b) Targeted Audits

In addition, the GLO shall have the right at any time to perform, or to instruct the performance of, an annual program and/or fiscal audit, or to conduct a special or targeted audit of any aspect of the operation of Subrecipient, using an auditor of the GLO's choice. Subrecipient shall maintain such financial records and other records as may be prescribed by the GLO or by applicable federal and state laws, rules, and regulations. Subrecipient shall retain these records for a period of five (5) years after final payment or until they are audited by the GLO, whichever event occurs first. These records shall be made available during the term of this Contract and the subsequent five (5) year period for examination, transcription, and audit.

7.04 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a period subsequent to the final closeout of the overall State of Texas CDBG-DR grant program, in accordance with federal regulations. **The GLO will notify all Program participants of the date upon which local records may be destroyed.**

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ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.01 LEGAL OBLIGATIONS

Subrecipient shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification, or certification required by statute, ordinance, law, or regulation to be held by Subrecipient to provide the goods or services required by this Contract. Subrecipient will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Subrecipient agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. Subrecipient shall not commence work on the Project until it has obtained the requisite licenses and/or permits, if applicable. **COPIES OF SUCH LICENSES AND PERMITS SHALL BE INCLUDED AS A PART OF THE MONTHLY REPORT FOR THE PERIOD DURING WHICH THEY ARE OBTAINED.**

8.02 INDEMNITY

AS GOVERNMENTAL ENTITIES AND REQUIRED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, EACH PARTY UNDERSTANDS THAT THEY ARE LIABLE FOR ANY PERSONAL INJURIES, PROPERTY DAMAGE, OR DEATH RESULTING FROM THE ACTS OR OMISSIONS OF SUCH PARTY. IN THE EVENT THAT THE GLO IS NAMED AS A PARTY DEFENDANT IN ANY LITIGATION ARISING OUT OF ALLEGATIONS OF PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RESULTING FROM THE ACTS OR OMISSIONS OF SUBRECIPIENT, AND FOR WHICH THE GLO IS LIABLE, IF AT ALL, ONLY THROUGH THE VICARIOUS LIABILITY OF SUBRECIPIENT, THEN, IN SUCH EVENT, SUBRECIPIENT AGREES THAT IT WILL PAY, ON BEHALF OF THE GLO, ALL COSTS AND EXPENSES OF LITIGATION (INCLUDING ANY COURT COSTS, REASONABLE ATTORNEYS' FEES, FEES OF ATTORNEYS APPROVED BY THE OFFICE OF THE TEXAS ATTORNEY GENERAL) AS WELL AS ALL AMOUNTS PAID IN SETTLEMENT OF ANY CLAIM, ACTION, OR SUIT, INCLUDING JUDGMENT OR VERDICT, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT. IN THE EVENT THAT SUBRECIPIENT IS NAMED AS A PARTY DEFENDANT IN ANY LITIGATION SEEKING ANY DAMAGES FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH RESULTING OUT OF THE GLO'S ACTIONS OR OMISSIONS, AND SUBRECIPIENT'S SOLE LIABILITY, IF ANY, IS ONLY VICARIOUSLY THROUGH THE GLO, THEN, IN SUCH EVENT, THE GLO AGREES TO PAY ANY AND ALL CLAIMS, DEMANDS, OR LOSSES, INCLUDING EXPENSES OF LITIGATION (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) INCURRED BY SUBRECIPIENT, INCLUDING ANY VERDICTS OR JUDGMENTS OR AMOUNTS PAID IN SETTLEMENT OF ANY CLAIM ARISING OUT OF, OR IN CONNECTION WITH THIS CONTRACT. ANY ATTORNEYS RETAINED BY SUBRECIPIENT TO REPRESENT ANY INTEREST OF THE GLO MUST BE APPROVED BY THE GLO AND BY THE OFFICE OF THE TEXAS ATTORNEY GENERAL. ANY ATTORNEYS RETAINED BY THE GLO TO REPRESENT THE INTEREST OF SUBRECIPIENT MUST BE APPROVED BY SUBRECIPIENT.

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8.03 INSURANCE AND BOND REQUIREMENTS

- (a) Unless Subrecipient is authorized pursuant to Chapter 2259 of the Texas Government Code, entitled "Self-Insurance by Governmental Units," to self-insure, Subrecipient shall carry insurance for the duration of this Contract in types and amounts necessary and appropriate for the Project.
- (b) Subrecipient shall require all contractors, subcontractors, vendors, service providers, or any other person or entity performing work described in **Attachment A** to carry insurance for the duration of Project in the types and amounts customarily carried by a person or entity providing such goods or services, for the duration of the Contract. Any person or entity required to obtain insurance under this Section must also be required to complete and file the declaration pages from the insurance policies with Subrecipient whenever a previously identified policy period expires during the term of Subrecipient's contract with the person or entity, as proof of continuing coverage. Subrecipient's contract with any such person or entity shall clearly state that acceptance of the insurance policy declaration pages by the Subrecipient shall not relieve or decrease the liability of the person or entity. Persons or entities shall be required to update all expired policies prior to Subrecipient's acceptance of an invoice for monthly payment from such parties.
- (c) Subrecipient shall require performance and payment bonds to the extent they are required under Chapter 2257 of the Texas Government Code.
- (d) Subrecipient shall require, on all construction projects, that any person or entity required to provide Federal Construction Assurances shall timely complete SF-424D, entitled "Assurances – Construction Programs," and Subrecipient shall maintain such documentation.

8.04 ASSIGNMENT AND SUBCONTRACTS

Subrecipient shall not convey any grant obligations or duties under this Contract without the prior written consent of the GLO. Notwithstanding this provision, it is mutually understood and agreed that Subrecipient may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Subrecipient shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Subrecipient as specified in this Contract. Nothing in this Contract shall be construed to relieve Subrecipient of the responsibility for ensuring that the goods delivered and/or the services rendered by Subrecipient and/or any of its subcontractors comply with all the terms and provisions of this Contract.

8.05 PROCUREMENT

Subrecipient must follow all federal, state, and local procurement procedures and laws applicable to this Project, and must confirm that no vendor is debarred from receiving state or federal funds at each of the following web addresses:

Texas Comptroller's Vendor Performance Program at:

http://www.window.state.tx.us/procurement/prog/vendor_performance;

and the Federal General Services Administration's Excluded Parties List System at:

<https://www.epls.gov/>

8.06 PURCHASES AND EQUIPMENT

Subrecipient shall not seek reimbursement for any Equipment or computer software not included as a reimbursable item in **Attachment B**. Any purchase of equipment or computer software shall be made in accordance with all applicable laws, regulations, and rules including, but not limited to those listed in **Attachment C**. Title and possession of any Equipment or computer software will remain the property of Subrecipient unless and until transferred to the GLO, upon written request of the GLO. Subrecipient shall furnish, with its final request for reimbursement, a list of all Equipment and computer software purchased with grant funds under the Contract, including the name of the manufacturer, the model number, and the serial number. The disposition of any Equipment or computer software shall be in accordance with all applicable laws, regulations, and rules, including but not limited to those listed in **Attachment C**.

8.07 COMMUNICATION WITH THIRD PARTIES

The GLO and the authorities named in **ARTICLE 7**, above, shall have the right to initiate communications with any subcontractor, and may request access to any books, documents, papers, and records of a subcontractor which are directly pertinent to this grant. Such communications may be required to conduct audits and examinations and gather additional information as provided in **ARTICLE 7** herein.

8.08 RELATIONSHIP OF THE PARTIES

Subrecipient is associated with the GLO only for the purposes and to the extent specified in this Contract and, with respect to Subrecipient's performance pursuant to this Contract, Subrecipient shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract 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 the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Subrecipient or any other party.

8.09 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Subrecipient shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to, those listed in **Attachments C, D, E, and F**. Subrecipient shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract. **Subrecipient will be deemed to have knowledge of these laws and regulations and be deemed to understand them.**

In addition, the GLO and Subrecipient mutually certify to that each party is in compliance with Notice of Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for Community Development Block Grant (CDBG) Disaster Recovery Subrecipients Under 2008 Supplemental CDBG Appropriations 74 Fed. Reg. 7,244-7,255 (2009).

8.10 CITIZEN PARTICIPATION

- (a) Subrecipient must have written procedures to respond to written complaints within fifteen (15) business days of receipt of such complaint. Citizens must be made aware of the location and the days and hours the location is open for business so they may obtain a copy of these written procedures.
- (b) When requested, Subrecipient shall provide technical assistance to a representative of a group of persons of low- and moderate-income in developing proposals for the use of CDBG-DR funds. The level and type of assistance shall be determined by the Subrecipient based upon the specific needs of the community's residents.
- (c) Subrecipient shall maintain a citizen participation file which includes a copy of the Plan Requirements described in the Round 2 General Housing Activities Application; Subrecipient's complaint procedures; any technical assistance provided by Subrecipient; and public notices, minutes, and attendance lists for public hearings, if any.

8.11 NOTICES

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

GLO

Texas General Land Office
1700 N. Congress Avenue, Mail Code 158
Austin, TX 78701
Attention: Legal Services Division

With a copy to:

Texas General Land Office
1700 N. Congress Avenue, 7th Floor
Austin, TX 78701
Attention: CDBG-DR

Subrecipient

South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, TX 77703
Attention: Shaun P. Davis, Executive Director

Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

8.12 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. Subrecipient irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction with respect to this Contract or any document related hereto. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

8.13 SEVERABILITY

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist, and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

8.14 DISPUTE RESOLUTION

If a Contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision shall not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

8.15 PUBLIC INFORMATION

Pursuant to the Public Information Act, records received from Subrecipient may be open to public inspection and copying. The GLO will have the duty to disclose such records, unless a particular record is made confidential by law or exempted from the Public Information Act. Subrecipient may clearly label any individual records as a "trade secret," provided that Subrecipient, to the extent permitted by law, agrees to indemnify and defend the GLO for honoring such designation. The failure to so label any record shall constitute a complete waiver of any and all claims for damages caused by release of the records. If a request for a labeled record is received by the GLO, the GLO will notify Subrecipient of the request in accordance with the Public Information Act.

Subrecipient shall release, to any requestor, the following information:

The amount of CDBG-DR funds expected to be made available;

The range of activities that may be undertaken with CDBG-DR funds;

The estimated amount of CDBG-DR funds proposed to be used for activities that will meet the national objective of benefit to low- and moderate-income persons; and

The proposed CDBG-DR activities likely to result in displacement and the Subrecipient's anti-displacement and relocation plan.

8.16 AMENDMENTS TO THE CONTRACT

Amendments to decrease or increase the Budget, or to add or delete a Subrecipient Activity, or to increase the term of the Contract may be made only by written agreement of the parties, under the formal amendment process. In the sole discretion of the GLO, and in conformance with federal law, other adjustments as may be required during project performance may be approved by the GLO by way of a Revision or Technical Guidance Letter. Such approvals must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission.

Pursuant to SECTION 2.04 hereof, a final **Project Completion Report** of all activities performed under this Contract shall be submitted and shall include all such informal revisions approved over the life of the Project.

8.17 ENTIRE CONTRACT AND MODIFICATIONS

This Contract, its integrated Attachment(s), Technical Guidance Letter, or Revision issued in conjunction with this Contract, if any, constitute the entire agreement of the parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such Attachment(s), Technical Guidance Letter, or Revision shall be harmonized with this Contract to the extent possible. Unless such integrated Attachment, Technical Guidance Letter, or Revision specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract.

8.18 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to legally bind its respective entity. Subrecipient acknowledges that this Contract is effective for the period of time specified in the Contract. Any work performed by Subrecipient after the Contract terminates is performed at the sole risk of Subrecipient.

8.19 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract.

8.20 SURVIVAL

The provisions of **ARTICLES 5, 6, AND 7; AND SECTIONS 1.01, 1.03, 2.05, 3.02, 3.04, 8.02, 8.03, 8.07, 8.08, 8.09, 8.10, 8.11, 8.13, 8.14, AND 8.15** of this Contract, and any other continuing obligations of Subrecipient shall survive the termination or expiration of this Contract.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE
FOR GLO CONTRACT NO. 12-496-000-6694
SUBRECIPIENT HOUSING GRANT AGREEMENT – ROUND 2**

GENERAL LAND OFFICE



Larry L. Laine, Chief Clerk/
Deputy Land Commissioner

Date of execution: 6/22/12

ARS LEGAL [Signature]
DIV [Signature]
AGC [Signature]
GC [Signature]

**SOUTH EAST TEXAS REGIONAL
PLANNING COMMISSION**



By: Shawn A. Davis
Title: Executive Director

Date of execution: 12-1-12

ATTACHED TO THIS CONTRACT:

- ATTACHMENT A:** Performance Statement and Benchmarks – Non-Rental Housing Projects
- ATTACHMENT B:** Project Budgets – Non-Rental Housing Projects
- ATTACHMENT C:** Nonexclusive list of Applicable Laws, Rules, and Regulations
- ATTACHMENT D:** General Affirmations
- ATTACHMENT E:** Federal Assurances – Non-Construction Programs SF-424B (Rev. 7-97) and Certifications Regarding Lobbying Lower Tier Covered Transactions (Form CD-512, Rev. 12-04)
- ATTACHMENT F:** Special Conditions

ATTACHMENTS FOLLOW

SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION
NON-RENTAL HOUSING PERFORMANCE STATEMENT

Subrecipient shall carry out the following housing activities in the Southeast Texas Regional Planning Commission area in strict accordance with the terms of the Sub-recipient's approved Housing Guidelines, Contract and all Attachments, whether attached physically or incorporated by reference.

Project Description

The Subrecipient will provide homeowner repair, reconstruction, homebuyer assistance and new construction activities for one thousand forty-eight (1,048) households at a not-to-exceed total amount of one hundred twenty six million, eight hundred sixty two thousand, three hundred ninety dollars and no cents (\$126,862,390.00), of which one hundred percent (100%) are of low to moderate income. Project Delivery and Administration costs will not exceed twelve percent (12%) of the total grant allocation for both Non-Rental and Rental Activities¹.

Housing Assistance Program (HAP-LMI)

The Subrecipient will provide homeowner rehabilitation and reconstruction assistance activities for seven hundred (700) households, including Homeowner Opportunity Program (HOP) assistance as applicable, with a not-to-exceed budget of ninety-seven million, eight hundred thirty-six thousand, three hundred fifty-five dollars and no cents (\$97,836,355.00)². The housing program will utilize a portion of the grant funds for demolition purposes only for one thousand one hundred eighty-four (1,184) households in slum and blighted areas totaling a not-to-exceed amount of five million nine hundred seventeen thousand seven hundred seventy dollars and no cents (\$5,917,770.00). All of the households served through this program must be low and moderate income families.

Sub-recipient must ensure that, upon completion, the rehabilitated portion of each property complies with local building codes, and that the entire structure complies with local health and safety codes and standards, and all applicable federal, state, and local housing quality standards (HQS).

All reconstructed and newly constructed housing units must comply with the universal design features in new construction, as established by §2306.514, Texas Government Code; Energy Standards verified by a U.S. Department of Energy Building Energy Codes Program RESCHECK Certification, and the International Residential Codes, as required by Subchapter G, Chapter 214, Local Government Code. All replacement housing, including manufactured

¹ The GLO has a separate contract with the SETRPC for their Rental Program. Both contracts represent a total grant allocation of (\$180,104,113).

² Includes State contracted grant administrator activity costs.

housing units or modular homes, must comply with Housing and Urban Development (HUD) construction standards, and state, local or regional building codes, as applicable.

Subrecipient shall conduct inspections on all Housing Units as follows: (1) foundation, including elevation certification when building in a floodplain; (2) rough-in (mechanical, plumbing, and electrical); (3) structural; (4) insulation; and (5) a final inspection; to meet the International Residential Code 2009, or the Local, County, State, or Federal Code whichever is most stringent.

If the Housing Unit is located in an unincorporated or rural area, Subrecipient shall hire a certified 2009 IRC inspector to conduct the required inspections, and shall maintain all inspection documentation in the activity file.

Homebuyer Assistance Program (HBA-LMI)

Subrecipient will provide assistance for three hundred forty-eight (348) households with funding that may include relocation assistance, down payment, reasonable closing costs, principal write-down assistance, subsidization of interest rates and private mortgage insurance to facilitate the purchase of a new or existing home, including Homeowner Opportunity Program (HOP) assistance as applicable. The Sub-recipient has allocated a not-to-exceed budget of seven million one hundred twenty-five thousand six hundred forty-four dollars and no cents (**\$7,125,644.00**) for these activities.

Subrecipient shall conduct inspections on all Housing Units as follows: (1) foundation, including elevation certification when building in a floodplain; (2) rough-in (mechanical, plumbing, and electrical); (3) structural; (4) insulation; and (5) a final inspection; to meet the International Residential Code 2009, or the Local, County, State, or Federal Code whichever is most stringent.

If the Housing Unit is located in an unincorporated or rural area, Subrecipient shall hire a certified 2009 IRC inspector to conduct the required inspections, and shall maintain all inspection documentation in the activity file.

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SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION

NON-RENTAL BENCHMARKS

Two (2) Months from the Contract effective date:

- The Subrecipient is required to submit Housing Guidelines for approval by the GLO within sixty (60) days of the effective date of the Contract.

Twelve (12) Months from the Contract effective date:

- One hundred percent (100%) of applicants have been identified;
- A total of fifty percent (50%) of setups for eligible households have been approved by the GLO;
- Ten percent (10%) of project funds have been drawn down by the Subrecipient.

Eighteen (18) Months from the Contract effective date:

- A total of one hundred percent (100%) of setups have been approved in the Housing Contract System for eligible applicants;
- Fifty percent (50%) of the homes must be under construction;
- Twenty-five percent (25%) of the project funds drawn down by the Subrecipient.

Twenty-Two (22) months from the Contract effective date

- A total of one hundred percent (100%) of the construction of all homes must be complete;
- Seventy-five percent (75%) of the Project funds drawn down in the Housing Contract System by the Subrecipient.

Twenty-Four (24) months from the Contract effective date

- One hundred percent (100%) of projects closed out and approved by the GLO.

SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION

NON-RENTAL BUDGET

<u>ACTIVITY CODE</u>	<u>CATEGORIES</u>		<u>ACTIVITY FUNDS</u>
HAP-LMI	Homeowner Rehabilitation, Reconstruction, New Construction	\$	91,159,830.00
HBA-LMI	Homebuyer Assistance Program	\$	7,125,644.00
DEMO ONLY	Demolition of Structures	\$	5,917,770.00
PPD/GA/CON	Project Delivery – Contracted Grant Administrator	\$	5,153,103.00 ³
ADMIN/GA/CON	Administration – Contracted Grant Administrator	\$	849,895.00 ³
ACT/GA/CON	Activity Costs (HAP) – Contracted Grant Administrator	\$	6,676,525.00 ³
PPD	Project Delivery – Subrecipient Retainage	\$	8,079,623.00
206-GA	Administration – Subrecipient Retainage	\$	1,900,000.00
	<u>TOTAL</u>	\$	<u>126,862,390.00</u>

³ The GLO will retain all funds for Contracted Grant Administrator categories and will process and pay invoices directly to the service provider.

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

If applicable to the Project, Grantee must be in compliance with the following laws, rules, and regulations; and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Grantee acknowledges that this list may not include all such applicable laws, rules, and regulations.

Grantee and is deemed to have read and understands the requirements of each of the following, if applicable to the Project under this Contract:

GENERALLY

The Act and Regulations specified in **SECTION 1.03** of this Contract;

Consolidated Security, Disaster Assistance, and Continuing Appropriation Act (Public Law 110-329);

Cash Management Improvement Act regulations (31 C.F.R. Part 205);

Community Development Block Grants (24 C.F.R. Part 570);

Disaster Recovery Implementation Manual;

Plan for Disaster Recovery;

Guidance Documents: 2008 Supplemental Disaster Recovery Fund: Hurricanes Dolly and Ike; and Non-Housing Activities Application Guide, issued by the Texas Department of Housing and Community Affairs

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d *et seq.*); 24 C.F.R. Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;"

Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e *et seq.*);

Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. 3601 *et seq.*), as amended;

Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063." The failure or refusal of Grantee to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;

The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*);

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development", 24 C.F.R. Part 8. By signing this Contract, Grantee understands and agrees that the activities funded shall be performed in accordance with 24 C.F.R. Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

LABOR STANDARDS

The Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5); 29 C.F.R. Part 5;

The Copeland "Anti-Kickback" Act (18 U.S.C. 874); 41 C.F.R. Part 3;

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327A and 330);

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 C.F.R. Part 5);

Federal Executive Order 11246, as amended;

EMPLOYMENT OPPORTUNITIES

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701u): 24 C.F.R. §§ 135.3(a)(2) and (a)(3);

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);

Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688);

GRANT AND AUDIT STANDARDS

Single Audit Act Amendments of 1996, 31 U.S.C. § 7501;

Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations (24 C.F.R. Part 84);

Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (24 C.F.R. Part 85);

OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments);

OMB Circular A-133 – Revised as of June 27, 2007 (Audits of States, Local Governments, and Non-Profit Organizations);

Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Uniform Grant Management Standards issued by Governor's Office of Budget and Planning;

Title 1 Texas Administrative Code § 5.167(c);

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b));

HISTORIC PROPERTIES

The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in §58.17 for Section 17 projects;

Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R. 1971-1975 Comp., p. 559, particularly section 2(c);

Federal historic preservation regulations as follows: 36 C.F.R. part 800 with respect to HUD programs;

The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*), particularly section 3 (16 U.S.C. 469a-1);

ENVIRONMENTAL LAW AND AUTHORITIES

Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);

National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347);

Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 C.F.R. part 55, particularly Section 2(a) of the Order (For an explanation of the relationship between the decision-making process in 24 C.F.R. part 55 and this part, see § 55.10.);

Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121 particularly Sections 2 and 5;

COASTAL ZONE MANAGEMENT

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended, particularly sections 307(c) and (d) (16 U.S.C. 1456(c) and (d));

SOLE SOURCE AQUIFERS

The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e);

Sole Source Aquifers (Environmental Protection Agency-40 C.F.R. part 149.);

ENDANGERED SPECIES

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) as amended, particularly section 7 (16 U.S.C. 1536);

WILD AND SCENIC RIVERS

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) as amended, particularly sections 7(b) and (c) (16 U.S.C. 1278(b) and (c));

AIR QUALITY

The Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended, particularly sections 176(c) and (d) (42 U.S.C. 7506(c) and (d));

Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-40 C.F.R. parts 6, 51, and 93);

FARMLAND PROTECTION

Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202);

Farmland Protection Policy (Department of Agriculture-7 C.F.R. part 658);

HUD ENVIRONMENTAL STANDARDS

Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. part 51)(other than the runway clear zone and clear zone notification requirement in 24 C.F.R. 51.303(a)(3); and

HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979).

ENVIRONMENTAL JUSTICE

Executive Order 12898 of February 11, 1994 --- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

OTHER REQUIREMENTS

Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58);

ACQUISITION/RELOCATION

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), 24 C.F.R. Part 42, and 24 C.F.R. Section 570.606.

FAITH-BASED ACTIVITIES

Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141).

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GENERAL AFFIRMATIONS

Grantee agrees without exception to the following affirmations:

1. The Grantee has not given, offered to give, nor intends to give at anytime hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.
2. Pursuant to Title 10, Section 2155.004 of the Texas Government Code, the Grantee has not received compensation from the GLO for preparing any part of this Contract.
3. Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Any Grantee subject to this section must include names and Social Security numbers of each person with at least twenty-five percent (25%) ownership in the business entity named in this Contract. This information must be provided prior to execution of any offer.
4. Grantee certifies that the individual or business entity named in this Contract: i) has not been subjected to suspension, debarment, or similar ineligibility to receive the specified contract as determined by any federal, state, or local governmental entity; ii) is in compliance with the State of Texas statutes and rules relating to procurement; and iii) is not listed on the federal government's terrorism watch list as described in executive order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>. Grantee acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
5. Grantee agrees that any payments due under this Contract will be applied towards any debt, including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
6. Grantee certifies that they are in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003, relating to contracting with the executive head of a state agency. If this section applies, Grantee will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Grantee: _____
Date of Employment with Grantee: _____

7. Grantee agrees to comply with Texas Government Code, Title 10, Subtitle D, Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.

8. Grantee understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the State Auditor's Office, or its successor, in conducting the audit or investigation, including providing all records requested. Grantee will ensure that this clause is included in any subcontract it awards.
9. Grantee certifies that if it employs any former employee of the GLO, such employee will perform no work in connection with this Contract during the twelve (12) month period immediately following the employee's last date of employment at the GLO.
10. The Grantee shall not discriminate against any employee or applicant for employment because of race, disability, color, religion, sex, age, or national origin. The Grantee shall take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, sex, religion, age, disability, or national origin. Such action shall include, but is 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 Grantee agrees to post notices, which set forth the provisions of this non-discrimination article, in conspicuous places available to employees or applicants for employment. The Grantee shall include the above provisions in all subcontracts pertaining to the work.
11. Grantee understands that the GLO does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Grantees are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or tracey.hall@glo.state.tx.us
12. Grantee must take steps to avoid or mitigate occurrences of fraud, abuse, and mismanagement, especially with respect to the financial management of the Contract and pronouncements made under this Contract, whether so directed by the GLO or at Grantee's initiative. Upon discovery of any alleged or suspected fraud, abuse of power, kickbacks, the embezzlement or loss of funds under this Contract, or the theft of any assets provided for under this Contract, the Grantee immediately shall notify the GLO and appropriate law enforcement authorities and cooperate in any investigation and enforcement action that follows.

NOTE: Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the "Public Information Act," Chapter 552 of the Texas Government Code.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

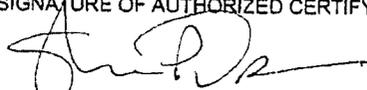
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Shaun P. Davis, Executive Director
APPLICANT ORGANIZATION South East Texas Regional Planning Commission	DATE SUBMITTED 12-1-12

THIS FORM MUST BE EXECUTED

FORM CD-512
 (REV 12-04)

U.S. DEPARTMENT OF COMMERCE

**CERTIFICATION REGARDING LOBBYING
 LOWER TIER COVERED TRANSACTIONS**

Applicants should review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 15 CFR Part 28, "New Restrictions on Lobbying."

LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 15 CFR Part 28, for persons entering into a grant, cooperative agreement or contract over \$100,000 or a loan or loan guarantee over \$150,000 as defined at 15 CFR Part 28, Sections 28.105 and 28.110, the applicant certifies that to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

In any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.

NAME OF APPLICANT

South East Texas Regional Planning Commission

AWARD NUMBER AND/OR PROJECT NAME

Contract No. 12-496-000-6694

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

James P. Davis, Executive Director

SIGNATURE

[Signature]

DATE

12-1-12

THIS FORM MUST BE EXECUTED

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure.)

Approved by OMB
 0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: ^{4c}	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

THIS FORM SHOULD BE EXECUTED ONLY WHEN REPORTING LOBBYING ACTIVITIES UNDERTAKEN WITH GRANT FUNDS

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

SPECIAL CONDITIONS

IF APPLICABLE TO THE PROJECT, SUBRECIPIENT MUST BE IN COMPLIANCE WITH THE FOLLOWING SPECIAL CONDITIONS AND ANY OTHER STATE, FEDERAL, OR LOCAL LAWS, RULES, AND REGULATIONS AS MAY BE APPLICABLE, THROUGHOUT THE TERM OF THE CONTRACT, PRIOR TO THE RELEASE OF ANY GRANT FUNDS FOR THE PROJECTS ANTICIPATED.

SUBRECIPIENT AND IS DEEMED TO HAVE READ AND TO UNDERSTAND THE REQUIREMENTS OF EACH OF THE FOLLOWING, IF APPLICABLE TO THE PROJECT UNDER THIS CONTRACT:

A. REIMBURSEMENT, GENERALLY

As provided for in Public Law 110-329, the Contract funds may not be used for activities that are eligible to be reimbursed by, or for which funds are made available by, (a) the Federal Emergency Management Agency (FEMA); (b) the Army Corps of Engineers (Corps); (c) any other federal funding source; or (d) covered by insurance, and Subrecipient shall ensure compliance with all such requirements.

B. NATIONAL FLOOD INSURANCE PROGRAM COMPLIANCE

- (1) Subrecipient must provide documentation which indicates that it has received approval from the Texas Water Development Board (TWDB), the National Flood Insurance Program (NFIP) State Coordinating Agency, that appropriate ordinances or orders necessary for Subrecipient to be eligible to participate in the NFIP have been adopted.
- (2) Where activities specified in Attachment A, Performance Statement, involve structures that are located in Special Flood Hazard Areas (SFHA), flood insurance may be required, and Subrecipient shall obtain such insurance, and shall maintain documentation evidencing compliance with such requirements.
- (3) Subrecipient acknowledges and agrees that if any property that is the subject of a Project under this Contract located within a floodplain, that the following terms and conditions shall apply:
 - a. Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Act (FEMA) as having special flood hazards, unless:
 - i. The community in which the area is situated is participating in the National Flood Insurance Program ("NFIP") (44 CFR parts 59 through 79), or less than one (1) year has passed since the FEMA notification regarding such hazards; and
 - ii. The community is participating in the NFIP, or that flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.
 - b. Where the community is participating in the NFIP and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special

flood hazards, Subrecipient is responsible for ensuring that flood insurance under the NFIP is obtained and maintained.

- c. Under Section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 515a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, or replacement or restoration for flood damage to any personal, residential, or commercial property if:
 - i. The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and
 - ii. The person failed to obtain and maintain flood insurance.
- d. Subrecipient understands and agrees that it has a responsibility to inform homeowners receiving disaster assistance that triggers the flood insurance purchase requirement of their statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so.

C. PROJECT MAPPING/DESIGN INFORMATION

For construction projects, Subrecipient shall require and maintain copies in written and/or digital format, of final Project record drawing(s) and engineering schematics, as constructed.

D. SEPTIC SYSTEM IMPROVEMENTS – IF APPLICABLE

- (1) Subrecipient shall provide documentation that final plans, specifications, and installation of its septic system improvements have been reviewed and approved by the City or County Health Department through authority granted by the TCEQ.
- (2) Subrecipient shall mitigate all existing septic systems in accordance with 30 Texas Administrative Code Chapter 285, Subchapter D, §285.36(b), which states, "All tanks, boreholes, cesspools, seepage pits, holding tanks, and pump tanks shall have the wastewater removed by a waste transporter, holding a current registration with the executive director. All tanks, boreholes, cesspools, seepage pits, holding tanks, and pump tanks shall be filled to ground level with fill material (less than three inches in diameter), which is free of organic and construction debris."
- (3) Prior to the selection of program recipients for proposed On-Site Sewer Facilities (OSSF), Subrecipient shall provide a copy of its proposed program guidelines for GLO review . All proposed OSSF programs must meet or exceed guidelines set forth in 30 Texas Administrative Code Chapter 285 Subchapter D.

E. HOUSING REHABILITATION ASSISTANCE PROGRAM GUIDELINES

Prior to the selection of program recipients, Subrecipient shall provide a copy of its proposed housing rehabilitation assistance program guidelines for GLO review and approval. The guidelines must include provisions for compliance with the Federal Fire Prevention and Control Act of 1974 (which requires that any housing unit rehabilitated with grant funds be protected by a hard-wired or battery-operated smoke detector) and provisions for compliance with 24 CFR 35 (HUD lead-based paint regulation).

HOUSING REHABILITATION OR RECONSTRUCTION ASSISTANCE:

- (1) The housing rehabilitation or reconstruction assistance provided by Subrecipient for single family owner-occupied unit shall be in the form of a three-year deferred payment loan (DPL), at zero interest. Provided all terms and conditions under which the assistance was provided continue to be fulfilled, the DPL will be forgiven at a rate of 33 percent per year, effective on the anniversary date of completion of the Project, evidenced by the date of the Certificate of Final Completion or Final Completion Form.
- (2) The full amount of the assistance provided shall be secured by a fully executed promissory note and Deed of Trust (DOT) filed against the property and recorded in the land records of each applicable county. The DPL may be in a first position (no existing indebtedness) or in a second position, subject or inferior only to an existing first mortgage.
- (3) If the homeowner occupies the home for the full three-year term, the note expires and no repayment is required; nor will any conditions be imposed relative to the disposition of the property. If any of the terms and conditions under which the assistance was provided are breached or if the property is sold, leased, transferred or vacated by the homeowner for any consecutive thirty (30) day period during the three-year lien term, the repayment provisions of the promissory note and DOT shall be enforced.
- (4) If, during the three-year lien term, the homeowner vacates the unit for any consecutive thirty (30) day period, the locality may forgive, as evidenced by city council or commissioner court action, the remaining loan balance. Prior to forgiveness of all or any portion of the assistance provided, the request for forgiveness must be approved by the local governing body and be based on documented and justifiable conditions or circumstances that would result in an unnecessary hardship to the homeowner and the determination that the national objective of benefiting low to moderate-income persons was met.
- (5) The national objective will be considered met only when the local governing body determines that a low to moderate-income person has occupied the rehabilitated or reconstructed home for a time sufficient to meet the national objective. Subrecipient is liable for repayment of an amount equal to the difference in the appraised value of the home prior to reconstruction and the sales price when the home is sold during the term of the three-year forgivable loan, if the national objective was not achieved.
- (6) If the property is sold or transferred to a person other than an eligible LMI person, the remaining pro-rated balance of the DPL must be repaid by the Subrecipient from the sales proceeds. Notwithstanding the preceding, Subrecipient shall be held liable for any balance remaining over and above the sales proceeds. In all instances where a Subrecipient lien exists, upon completion of the three-year occupancy or repayment of the assistance (in full or in part), the Subrecipient shall prepare and record a release of lien document in the land records of the applicable county.
- (7) In instances where another occupant proposes to occupy a previously assisted unit, the locality must document that the new applicant is income eligible and has been informed of the terms and conditions under which the assistance is being provided. The new homeowner(s) must acknowledge, in writing, that they have been informed of these terms and conditions and that they are subject to all of the provisions for the full remaining term of the DPL.

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ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§472B-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
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11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
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16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

THIS FORM MUST BE EXECUTED BY AN OFFICIAL AUTHORIZED TO BIND CONTRACTOR

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

THIS FORM MUST BE EXECUTED BY AN OFFICIAL AUTHORIZED TO BIND CONTRACTOR

FORM CD-512
(7-91) LF

U.S. DEPARTMENT OF COMMERCE

CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS AND LOBBYING

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 15 CFR Part 26, "Governmentwide Debarment and Suspension (Nonprocurement)" and 15 CFR Part 28, "New Restrictions on Lobbying."

1. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

As required by executive Order 12549, Debarment and Suspension, and implemented at 15 CFR Part 26, Section 26.510, Participants responsibilities, for prospective participants in lower tier covered transactions (except subcontracts for goods or services under the \$25,000 small purchase threshold unless the subtier recipient will have a critical influence on or substantive control over the award), as defined at 15 CF Part 26, Sections 26.105 and 26.110—

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 15 CFR Part 28, for persons entering into a grant, cooperative agreement or contract over \$100,000 or a loan or loan guarantee over \$150,000 as defined at 15 CFR Part 28, Sections 28.105 and 28.110, the applicant certifies that to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

In any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification(s).

NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME CDBG-DR HOME CONSTRUCTION PROJECTS
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

DO NOT EXECUTE UNLESS / UNTIL YOUR FIRM IS REPORTING LOBBYING ACTIVITIES

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the Ser above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

GENERAL AFFIRMATIONS

Contractor agrees without exception to the following affirmations:

1. Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.
2. Pursuant to Title 10, Section 2155.004 of the Texas Government Code, Contractor has not received compensation from the SETRPC for preparing any part of this Contract.
3. Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Any Contractor subject to this section must include names and Social Security numbers of each person with at least twenty-five percent (25%) ownership in the business entity named in this Contract. This information must be provided prior to execution of any offer.
4. Contractor certifies that the individual or business entity named in this Contract: i) has not been subjected to suspension, debarment, or similar ineligibility to receive the specified contract as determined by any federal, state, or local governmental entity; ii) is in compliance with the State of Texas statutes and rules relating to procurement; and iii) is not listed on the federal government's terrorism watch list as described in executive order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>. Contractor acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
5. Contractor agrees that any payments due under this Contract will be applied towards any debt, including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
6. Contractor certifies that they are in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003, relating to contracting with the executive head of a state agency. If this section applies, Contractor will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Contractor: _____
Date of Employment with Contractor: _____

Attachment D
General Affirmations

7. Contractor agrees to comply with Texas Government Code, Title 10, Subtitle D, Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.

8. Contractor understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office, or its successor, in conducting the audit or investigation, including providing all records requested. Contractor will ensure that this clause is included in any subcontract it awards.

9. Contractor certifies that if it employs any former employee of the SETRPC, such employee will perform no work in connection with this Contract during the twelve (12) month period immediately following the employee's last date of employment at the SETRPC.

10. Contractor shall not discriminate against any employee or applicant for employment because of race, disability, color, religion, sex, age, or national origin. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, sex, religion, age, disability, or national origin. Such action shall include, but is not being 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. Contractor agrees to post notices, which set forth the provisions of this nondiscrimination article, in conspicuous places available to employees or applicants for employment. Contractor shall include the above provisions in all subcontracts pertaining to the work.

11. Contractor understands that the SETRPC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Contractors are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or tracey.hall@glo.state.tx.us

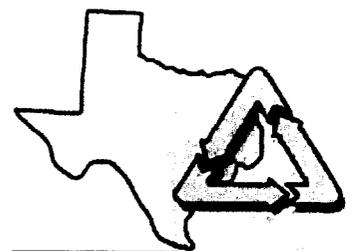
South East Texas Regional Planning Commission
Hurricane Ike Disaster Recovery Housing Program

Round 2

HOUSING DEMOLITION ONLY GUIDEBOOK



URS



SETRPC



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Part 1 Program Overview

1.1 Purpose of the Program

INTRODUCTION

The Texas General Land Office (GLO) is the administrator of a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. The GLO is the agency responsible for the administration of disaster funds allocated to housing activities and has contracted with the South East Texas Regional Planning Commission (SETRPC) to receive the benefit of these funds at the local level and carry out eligible housing activities.

These Round 2 Housing Demolition Only Guidelines do not replace or supersede the Guidelines developed by the SETRPC for the Round 1 Program.

PROGRAM OBJECTIVES

The SETRPC Disaster Recovery Housing Program (DRHP) will provide assistance to communities affected by Hurricane Ike that occurred on September 13, 2008. The SETRPC developed these Housing Demolition Guidelines to serve as the basis for the Hurricane Ike Round 2 Demolition Only Program, in meeting the HUD Slum and Blight National Objective. The purpose of this program is to address slum and blight on a spot basis and will include the removal of vacant deteriorated or abandoned homes, which pose a threat to the public's health and safety. This program's activity does not include reconstruction of the home on the project site. Funds to complete Demolition associated with the Reconstruction process are not provided from the Slum and Blight allocation.

Program Requirements

- A. The activities for this program will meet the Slum and Blight National Objective.
- B. The project site must be located within Hardin, Jefferson or Orange Counties.
- C. The SETRPC conducted a Needs Assessment to determine the types of programs it will offer and the Needs Assessment is the basis for Program Design. The Needs Assessment determined the need for a slum and blight elimination activities to be offered, and the target areas for which these activities are to take place.
- D. Sites will be selected by the local municipality.
- E. All sites must undergo a complete environmental review prior to any commitment of funds. No work can start on a site until the environmental assessment is complete. For assistance activities, it must be demonstrated that the damage or destruction to structures was the direct result of Hurricane Ike. Hurricane damage details are noted in Part 2 of this document.

1.2 Allocation and Housing Assistance Caps

A total of \$5,917,770.00 has been set aside for the Housing Demolition Only Program. This allocation may be increased or decreased based on the demand for the Program with GLO approval.



1.3 Funding Levels

There is a maximum cap of \$10,000 per project.

1.4 Type of Assistance Offered

The assistance consists of the demolition of Hurricane like damaged dilapidated residential structures, standing structure components and any building debris to address slum and blight according to HUD's Nation Objective. The demolition and proper disposal of this associated debris is included in the project.

1.5 Appeals/ Conflict of Interest

A complaint and appeals procedure will be afforded applicants to provide a quick and efficient system toward resolution of any and all concerns that applicants may have with the procedures followed and services provided by DRHP. Applicants have the right to participate in the process when they believe there is a mistake regarding their application.

An appeals process initiated by the applicant will include an informal and written grievance procedure which may include but not be limited to informal hearings, third-party review and director approval. A DRHP will render a decision regarding exception reviews and formal appeals. Appeals, grievances, and exceptions will be further explained in the Appeals and Exceptions Procedures.

Fair Housing Complaints –

Persons alleging a violation of fair housing laws will be referred to SETRPC's local contact and process to file a complaint. SETRPC will retain a log and record of all fair housing inquiries, allegations, complaints, and referrals. In addition, SETRPC will report suspected non-compliance to the state and HUD.

Conflict of Interest –

- a) The conflict of interest regulations contained in the contract between the SETRPC and GLO prohibit local elected officials, SETRPC employees, and consultants who exercise functions with respect to CDBG Disaster Recovery activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.
- b) For purposes of this section, "family" is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG conflict of interest regulations at 24 CFR Sec. 570.489(h).
- c) The Department is able to consider granting an exception to the conflict of interest provision should it be determined by GLO that the SETRPC has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. Do not enter into a conflict of interest until a request for an exception has been granted.



1.6 Anti-Fraud and Compliance Policies

DRHP will investigate all allegations regarding eligibility and the disbursement of funds or any other allegations of fraud or noncompliance. Where appropriate the program will assist Federal, State, and local agencies.

1.7 Files, Records and Reports

The SETRPC shall maintain accurate files and records on each applicant and shall retain all pertinent documentation for a period of three years beyond the close of the grant between HUD and the State.

Compliance will be maintained in accordance with the reporting requirements under GLO CDBG Disaster Recovery Program. This includes all information and reports as required under the GLO contract with the SETRPC and demographic data and other information on applicants and awardees processed by the SETRPC as required by the Conciliation Agreement. A list of each new report required will be available as an Appendix in this document as amended from time-to-time as necessary by requests from GLO for additional reports.

The SETRPC is committed to a minimum of producing regular reports on Section 3 progress, and civil rights and affirmatively furthering fair housing progress as required in the Conciliation Agreement and program contracts.

1.8 Procurement Requirements

- A. The SETRPC shall abide by the Procurement process mandated by Federal, State, and Local Government codes as they are applicable to the program. The procurement process includes the decision to purchase as well as the process to complete the purchase. The federal government has established a set of procurement rules at 24 CFR Part 84 and 85 that apply to CDBG-funded projects. These rules are in place to ensure that federal dollars are spent fairly and encourage open competition for the best level of service and price. In addition, the State of Texas has enacted a set of regulations that also apply to CDBG contracts through the Uniform Grant Management Standards the Texas Government Code and the Local Government Code. If a conflict between federal and state procurement regulations should occur, safe harbor is typically found in the more stringent regulation.



Part 2 Eligibility Requirements

2.1 Hurricane Ike Damage

The home must have been damaged by Hurricane Ike and must have been the subject of a City Council Resolution designating properties as slum and blight on a spot/area basis.

2.2 Location

The damaged home must be located in the SETRPC jurisdiction area as indicated in the SETRPC contract with the GLO.

2.3 Eligible Structure Type

Residential Structures which are vacant deteriorated or have been abandoned and have been determined by the municipality to pose a health and safety to the public.

Part 3 Inspections and Environmental Reviews

3.1 Overview

All United States Department of Housing and Urban Development (HUD) regulations regarding lead-based paint, environmental, housing quality standards, procurement, labor standards, etc. apply to this program. If issues are identified with an application, an application may be required to undergo additional reviews and this may take additional time to resolve.

3.2 Environmental Review

The program will conduct a Broad Environmental Review at the programmatic level. This will include coordination with Federal, State and local agencies where applicable. Additionally, all applications must pass a federally-required site specific environmental review which contains a statutory checklist of required review items. Site specific reviews will include the review of HUD defined environmental review topics.

The environmental review is a separate and distinct review from any other review. Other previously performed (or applicant-provided) environmental reviews will not satisfy the Program's requirements. If an applicant fails the environmental review, they will not be eligible to participate in the Program.

3.3 Notice to Proceed

Notice to Proceed is given after GLO approves the contract set-up and issues an activity number.

3.4 Final Inspection

Once demolition has been completed, a final inspection will be performed and will document the completion of the project with photographs.



Part 4 Municipality Process

4.1 Selection of Property

Each Municipality will follow its own process for approving a property for demolition. Vacant, dilapidated, sub-standard and/or dangerous structures are reported to the Building Codes Division. If the property is found to be in violation of City Code, property owners are notified to bring the structure into code compliance or demolish the structure. Failure by the owner to comply by making needed improvements to the structure or demolishing the structure results in the structure being approved for demolition.

4.2 Municipality Process

Each Municipality will provide the SETRPC and/or its Program Administrator with the following documents that prove valid property selection for each property it would like to submit to this program:

1. Initial Inspection Report
2. Before Photos
3. Hold Orders for Utilities
4. 101 Letter (Initial Letter to Homeowner)
5. Historical Assessment Letter
6. Title Report (if available) or Tax Roll Search
7. Public hearing Newspaper Publication and publisher's affidavit
8. Posting Notice for Public Hearing
9. Board Meeting Agenda and related documents
10. 103 Letter (Notifies owner of Board's decision)
11. Board Decision Newspaper publication and publisher's affidavit
12. 104 Letter (Notifies owner of demolition and cost)
13. Slum and Blight Approved Form
14. City Council Resolution



4.3 Placement of Liens

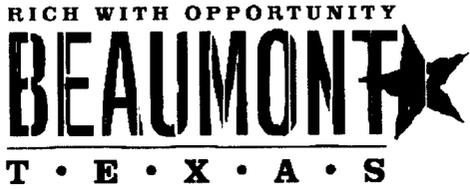
Each Municipality will be required to file a lien on each property once the demolition is complete pursuant to Texas Local Government Code § 214.0015. The lien will be filed and recorded for a period of three (3) years to match the affordability period of the program. After the three year affordability period, the lien shall be removed from the property.



End Document

May 13, 2014

Consider approving a resolution approving a contract with Moncla's, Inc. for the 2014 Summer Food Service Program



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: May 13, 2014

REQUESTED ACTION: Council consider a resolution approving a contract with Moncla's, Inc., in the estimated amount of \$56,982.10 for the 2014 Summer Food Service Program.

BACKGROUND

The Summer Food Service Program, which is funded by the US Department of Agriculture and administered by the Texas Department of Agriculture (TDA), provides free, nutritious, and well-balanced meals for any child from one (1) to eighteen (18) years of age. This is the twenty-second year the Recreation Division has participated in the program. Last year 24,907 meals were delivered at a cost of \$2.92 per lunch for a total of \$72,728.44.

The 2014 program will begin on June 9, 2014 and continue through August 15, 2014. Lunches will be served Monday through Friday excluding the Independence Day holiday on July 4. Summer activities and games will be provided at each site before meals are served.

This year's program will provide lunches for forty-nine (49) days at a cost of \$2.90 per meal at nine (9) locations throughout the City including, Cathedral of Faith Baptist Church, Perlstein Park, Northridge Apartments, Points North Apartments, Magnolia Park, Alice Keith Park, Sprott Park, Roberts Park and Central Park. A bid tabulation is attached.

FUNDING SOURCE

US Department of Agriculture.

RECOMMENDATION

Approval of the resolution.



**CITY OF BEAUMONT, BEAUMONT, TEXAS
PURCHASING DIVISION BID TABULATION**

Bid Name: 2014 Summer Food Program
Bid Number: TF0314-09
Bid Opening: Thursday, May 1, 2014, at 2:00 P.M.

Contact Person: Terry Welch, Buyer III
twelch@ci.beaumont.tx.us
Phone: 409-880-3107

Vendor		Moncla's Inc.	
City / State		Beaumont, TX	
Phone No.		Ken Moncla	
Contact:		409-840-9051	
Qty	Description	Unit Price	Total
19,649	Meal Service Program, Lunch	\$2.900	\$56,982.10

RESOLUTION NO.

WHEREAS, bids were received for a contract to furnish lunches for the Summer Food Service Program funded by the U.S. Department of Agriculture, administered by the Texas Department of Agriculture and sponsored by the City of Beaumont Recreation Division; and,

WHEREAS, Moncla's, Inc., of Beaumont, Texas, submitted a bid for an estimated quantity of 19,649 lunches served in the bid amount of \$2.90 per lunch for an estimated expenditure of \$56,982.10; and,

WHEREAS, City Council is of the opinion that the bid submitted by Moncla's, Inc., of Beaumont, Texas, should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bid submitted by Moncla's, Inc., of Beaumont, Texas, for the Summer Food Service Program administered through the Recreation Division for an estimated quantity of 19,649 lunches served in the bid amount of \$2.90 per lunch for an estimated expenditure of \$56,982.10 be accepted by the City of Beaumont; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with Moncla's, Inc. for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 13th day of May, 2014.

- Mayor Becky Ames -

May 13, 2014

Consider approving a resolution approving the award of a three-year contract to Patriot Security, Inc., of Nederland, for Security Guard and Event Staff Services



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: May 13, 2014

REQUESTED ACTION: Council consider a resolution authorizing the award of a three-year contract to Patriot Security, Inc., of Nederland, for Security Guard and Event Staff Services.

BACKGROUND

Temporary staffing services are required by the Events Facilities Department for events held at various locations including the Civic Center, Julie Rogers and Jefferson Theaters, and the Event Centre. These temporary staff services include security guards, ushers, ticket takers, and temporary staff supervisors that aid in equipment and property security as well as citizen safety and enjoyment. Each event has a unique set of staffing requirements. Factors including location and type of event being held, the size of the expected crowd and event promoter's specific needs dictate the number of temporary staff positions to be filled as well as the number of hours to be worked at each event. Security guards are also utilized at City Hall, the Health Department and Municipal Court.

Bids were solicited from five (5) staffing and security companies. Two (2) companies responded with bids indicating the hourly rate for typical staff positions. The quoted hourly rates were applied to five (5) model events at various venues, as well as Security Guard positions within City departments. The contract has an option of two (2) one (1) year extensions with annual percentage increases of hourly rates based on the Consumer Price Index for all Urban Consumers (CPI-U) for the Houston-Galveston-Brazoria areas. A bid tabulation of the results is attached.

FUNDING SOURCE

The cost of Security Guard and Event Staff services utilized within the Event Facilities Department are reimbursed by event promoters. Security Guard services utilized within City departments are funded in the General Fund.

RECOMMENDATION

Approval of resolution.



**CITY OF BEAUMONT, BEAUMONT, TEXAS
PURCHASING DIVISION BID TABULATION**

Bid Name: Tri-Annual Contract for Guard Services
Bid Number: TF1114-04
Bid Opening: Thursday, April 24, 2014

Contact Person: Terry Welch, Buyer III
 twelch@ci.beaumont.tx.us
 Phone: 409-880-3107

Item	DESCRIPTION	Events Per Year	Per Event	Total	Per Event	Total
1	Concert Staff	10	\$1,525.84	\$15,258.40	\$2,190.15	\$21,901.50
2	Julie Rogers Staff	40	\$1,267.00	\$50,680.00	\$2,070.32	\$82,812.80
3	Jefferson Theater	20	\$1,338.00	\$26,760.00	\$2,158.62	\$43,172.40
4	Civic Center	40	\$674.50	\$26,980.00	\$828.21	\$33,128.40
5	Events Centre	50	\$1,058.34	\$52,917.00	\$1,153.49	\$57,674.50
Locations Below Currently Have Daily Guard Service			Cost Per Hour	Total Annual Cost	Cost Per Hour	Total Annual Cost
6	City Hall	2,470	\$17.68	\$43,669.60	\$17.66	\$43,620.20
7	Municipal Court	1,198	\$19.37	\$23,205.26	\$17.66	\$21,156.68
8	Public Health	2,886	\$17.68	\$51,024.48	\$17.66	\$50,966.76
Total Bid:			\$290,494.74		\$354,433.24	

Patriot Security, Inc
 Nederland, Tx 77627
 409-722-8689

Global Elite Group
 Garden City, NY 11530
 832-201-6715

RESOLUTION NO.

WHEREAS, bids were received for a three (3) year contract for security guard and event staff services for the Event Facilities Department; and,

WHEREAS, Patriot Security, Inc., of Nederland, Texas, submitted a bid for an estimated annual amount of \$290,494.74 shown below:

Item	Description	Per Year	Per Event	Total
1	Concert Staff	10	\$1,525.84	\$ 15,258.40
2	Julie Rogers Staff	40	\$1,267.00	\$ 50,680.00
3	Jefferson Theater	20	\$1,338.00	\$ 26,760.00
4	Civic Center	40	\$ 674.50	\$ 26,980.00
5	Events Centre	50	\$1,058.34	\$ 52,917.00
	Locations Below Currently Have Daily Guard Service	Total Estimated Annual Hours	Cost Per Hour	Total Annual Cost
6	City Hall	2,470	\$17.68	\$ 43,669.60
7	Municipal Court	1,198	\$19.37	\$ 23,205.26
8	Public Health	2,886	\$17.68	\$ 51,024.48
Total Bid				\$ 290,494.74

and,

WHEREAS, City Council is of the opinion that the bid submitted by Patriot Security, Inc., of Nederland, Texas, should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the bid submitted by Patriot Security, Inc., of Nederland, Texas, for a three (3) year contract for security guard and event staff services for the Event Facilities Department in the amounts shown above, for an estimated annual amount of \$290,494.74, be accepted by the City of Beaumont.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 13th day of May,
2014.

- Mayor Becky Ames -

WORK SESSION

- * Review and discuss a proposed Gaming Machine Ordinance

ARTICLE 6.10 GAMING

Whereas, the necessity of this ordinance is to protect the public safety, health and welfare of the citizens of the city of Beaumont; and

Whereas, the City of Beaumont recognizes the Texas OCC Code Chapter 2153 provides facilities housing coin operated machines must be licensed by the State Comptroller of Public Accounts and comply with state regulations; and

Whereas, section 2153.451 of the Texas OCC Code specifically authorizes a municipality to impose an occupational tax on coin operated machines in this state; and

Whereas, the Police Department has discovered there are gaming sites within the city which operate in violation of state law providing for the permitting and licensing of coin operated machines in this state.

Division 1. Generally

Sec. 6.10.001 Definitions.

For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicant. The applicant is the intended operator, occupant or owner of the gaming site and/or gaming machines.

City Manager. The City Manager of the City of Beaumont or the designated representative of the City Manager.

Chief Building Official. The Chief Building Official for the City of Beaumont or the designated representative of the Chief Building Official.

Church. A building, in possession of a certificate of occupancy, in which persons regularly assemble for purposes of religious worship, intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Coin Operated Machine. Any kind of machine or device operated by or with a coin or other United States currency, metal slug, token, electronic card, or check including a skill or pleasure coin operated machine.

Fire Chief. The Chief of the City of Beaumont Fire Department or the designated representative of the Chief of the Fire Department.

Gaming Machine. Any coin operated machine or electronic, electromechanical or mechanical contrivance designed, made, and adopted solely for bona fide amusement purposes if the contrivance

rewards the player exclusively with non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than ten (10) times the amount charged to play the game or device once or \$5.00, whichever is less. Not included in this definition is a machine used only for entertainment purposes, as entertainment is defined in §372.1701 of the Texas Administrative Code.

Gaming Site. Any location that displays, exhibits, or maintains for public patronage any gaming machine.

Permit. A current, valid permit issued by the City Manager pursuant to the terms of this Article to an operator of a gaming site.

Permit Holder. A person who has been issued a valid permit pursuant to this Article.

Police Chief. The Chief of Police of the City of Beaumont Police Department or the designated representative of the Chief of Police.

Operator. The manager or other natural person principally in charge of the gaming site.

School. A building, in possession of a certificate of occupancy, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

- (1) public and private schools used for primary or secondary education, in which any regular kindergarten or grades one through 12 classes are taught; and
- (2) special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12.

Skill or Pleasure Coin Operated Machine. Any kind of coin operated machine that dispenses, or is used or is capable of being used to dispense or afford, amusement, skill, or pleasure, or is operated for any purpose, other than for dispensing only merchandise, music, or service. This includes:

- (1) a marble machine, marble table machine, marble shooting machine, miniature racetrack machine, miniature football machine, miniature golf machine, miniature bowling machine, billiard or pool game, or machine or device that dispenses merchandise or commodities or plays music in connection with or in addition to dispensing skill or pleasure; and
- (2) does not include an amusement machine designed exclusively for a child.

Sec. 6.10.002 Declaration of findings.

The necessity of the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained in sections 6.10.001 through 6.10.021 are in the

furtherance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.

Division 2. Permits

Sec. 6.10.003 Permit.

- (a) It shall be unlawful for any operator, occupant or owner of the gaming site to display, exhibit, or maintain for public patronage, or otherwise keep for operation by the public, any gaming machine without first obtaining a permit issued under the terms and conditions of this Article.
- (b) It shall be unlawful for any operator, occupant or owner of the gaming site to operate any gaming site located within the city unless the permit issued for that site is posted at or near the principal public entrance to the gaming site in such a manner that it will be conspicuous to patrons who enter the gaming site.
- (c) In any prosecution under subsection (a) above, it shall be presumed that there was no permit at the time of the alleged offense, unless a permit was then and there posted as provided in subsection (b).
- (d) A machine that provides the possibility, probability and/or certainty of dispensing a non-cash prize, toy or novelty with a value of not more than ten (10) times the amount charged to play the game or device once, or \$5.00, whichever is less at the time of play, but does not allow the player to amass or accumulate points, tokens or any other method to accumulate credits towards larger or greater value non-cash merchandise prizes, toys or novelties is exempt from the requirements of this Article.

Sec. 6.10.004 Signage.

- (a) Notwithstanding section 28.04.003 of the Code of Ordinances or any other city ordinance, code or regulation to the contrary, it shall be unlawful for the operator, occupant or owner of a gaming site not to clearly identify the site with a sign as required by this Article.
- (b) The sign displayed should be one provided by the City with a white background with black Arial font lettering of 1.5 inches.
- (c) The sign must clearly read "GAMING SITE" and may not include any advertisements.

Sec. 6.10.005 Machine registration requirements.

Gaming machines, as defined in this Article, shall be registered as follows:

- (a) The permit holder, owner, or operator is required to maintain on its gaming site a complete inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) below at all times. The initial application for permit shall include a certificate of the

inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) below, of the machines that the permit holder intends to put into operation when the gaming site begins its business activities.

- (b) Each renewal permit application shall contain a certificate of inspection of updated inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) below, of the gaming machines that the permit holder intends to put into operation when the gaming site begins its business activities under the renewal license.
- (c) Before a new gaming machine is put into operation at the gaming site, the permit holder shall notify the Chief of Police of the addition of the machine to the inventory and update its inventory accordingly.
- (d) Upon review of the inventory of machines under subsections (a), (b) and (c) above, the Chief of Police shall enter each machine into the gaming machine registry that the City shall create. For each machine registered, the City Manager shall cause to be issued and delivered to permit holder for each machine within seven (7) days of the notification required under subsection (c) a numbered metal or plastic decal. The registration decal for each machine shall be permanently affixed thereto and in plain view at all times. Registration decals are not transferable. The failure of any machine to display a current registration decal shall be a violation of this section and subject to enforcement action by the City.
- (e) The inventory of machines under subsections (a), (b) and (c) above shall provide the following information: the manufacturer(s); the serial number(s); common name, type or description of the game played on the machine. The registration decal shall contain the inventory number of the machine.

Sec.6.10.006 Application; term.

- (a) A permit issued under this Article does not vest any property rights in the applicant or permit holder; except to display, exhibit, or maintain for public patronage the use of any gaming machines in accordance with the terms and conditions of this Article.
- (b) A gaming permit is non-transferable and non-refundable.
- (c) A permit shall be issued for a twelve (12) month term beginning on the date of issuance.
- (d) Any false statement made by an applicant on the application shall subject the permit to immediate suspension pending revocation and the applicant may be prosecuted as a violation of section 37.10 of the Texas Penal Code (tampering with governmental records), a third degree felony.
- (e) An application for permit shall be made by the intended owner or operator of the gaming site.

- (f) The application shall be submitted with a two hundred dollar (\$200.00) processing fee to the City Manager on a form provided by the City for such purpose. The application must be completed for each location sought to be permitted. The following information is required in the application:
- (1) Name, address, and telephone number of the applicant, including the trade name by which applicant does business and the street address of the proposed gaming site, and, if incorporated, the name registered with the Secretary of State;
 - (2) Name, address, and telephone number of the operator of the gaming site to be permitted;
 - (3) Number of gaming machines on the gaming site and serial number of each machine;
 - (4) Whether a previous permit of the applicant, or, if applicable, a corporate officer of the applicant, has been revoked within two (2) years of filing of the application; and
 - (5) A statement that all the facts contained in the application are true and correct.

Sec.6.10.007 Renewal.

- (a) An application for renewal must be submitted thirty (30) days before the expiration date of the existing permit to the City Manager on a form provided by the City for such purpose with a one hundred dollar (\$100.00) processing fee.
- (b) Applications for existing gaming sites submitted after the expiration date of the previous permit will be considered and processed as a new applicant.

Sec.6.10.008 Grounds for denial or revocation.

- (a) The City Manager shall refuse to approve the issuance or renewal of a permit or shall revoke a permit for one or more of the following reasons:
 - (1) A false statement as to a material matter made in an application for a permit;
 - (2) Revocation of a permit, pursuant to this Article, of the applicant or corporate officer of the applicant within two (2) years preceding the filing of the application;
 - (3) The applicant or a co-owner for such permit has, within the past ten (10) years, been convicted of a crime involving moral turpitude or gambling.
- (b) The City Manager shall not issue or renew a permit under this Article and shall suspend or revoke a permit if it is determined that the applicant or permit holder is indebted to the City for any fee, costs, penalties, or delinquent taxes at the time of application or renewal.
- (c) The City Manager shall have the authority to deny or revoke all permits issued under this provision for any violation of this Article by giving written notice, stating the reason for denial or revocation, and same shall be cancelled ten (10) days from the date of receipt of such notice.

- (d) No permit shall be issued within a period of one (1) year to anyone whose permit has been revoked, except at the discretion of the City Council.

Sec.6.10.009 Appeal from denial or revocation.

If the City Manager denies, refuses to approve the issuance of a permit or the renewal of a permit to an applicant, or revokes a permit issued under this Article, this action is final unless the applicant or permit holder, within ten (10) days after the receipt of written notice of the action, files a written appeal to the City Council by delivering said notice to the City Clerk setting forth specific grounds for the appeal. The City Council shall either hear the appeal or select a hearing officer to preside over the appeal hearing. The City Council or hearing officer shall within fourteen (14) days of the notice of appeal grant a hearing to consider the action. The City Council and hearing officer have the authority to sustain, reverse, or modify the action appealed. The decision of either the City Council or hearing officer is final.

Sec. 6.10.010 Transfer of permit.

A permit issued under the provisions of this Article shall be specific to the site and personal to the holder thereof and shall not be transferable or assignable.

Sec. 6.10.011 Replacement permits or decals.

- (a) A replacement permit shall be issued to the original applicant for one lost, destroyed, or mutilated after a written application is submitted with a fee of fifteen dollars (\$15.00) to the City Manager on a form provided by the City for such purpose.
- (b) A replacement permit shall bear the same expiration date as the one it replaces.
- (c) A new or replacement decal issued to a permit holder shall be fifteen dollars (\$15.00).

Sec. 6.10.012 Occupation tax.

- (a) Every permit holder who controls, possesses, exhibits, or displays, or who permits to be exhibited or displayed in the city for public patronage or operation by the public, any gaming machine shall pay, and is hereby levied on each such gaming machine, except those exempt under this Article, an annual occupation tax in the amount equal to one-fourth (1/4) of the current state occupation tax. All occupation taxes for gaming machines are payable annually in advance. The fee for issuing a replacement occupation tax receipt for one lost, destroyed or mutilated shall be fifteen dollars (\$15.00).
- (b) Since the tax is payable in advance on an annual calendar year basis, the following pro rata tax rate schedule will be applicable to a gaming machine which is first exhibited or displayed for commercial use within the city during any quarter of the calendar year:

- (1) First quarter: January 1 to March 31 - an amount equal to the applicable local annual occupation tax;
- (2) Second quarter: April 1 to June 30 - an amount equal to three-quarters (3/4) of the applicable local annual occupation tax;
- (3) Third quarter: July 1 to September 30 - an amount equal to one-half (1/2) of the applicable local annual occupation tax; and
- (4) Fourth quarter: October 1 to December 31 - an amount equal to one-quarter (1/4) of the applicable local annual occupation tax.

In computing any tax payable under the aforesaid pro rata tax rate schedule, amounts calculated thereunder shall be rounded to the next higher full cent amount as required.

Divisions 3. Inspections

Sec.6.10.013 Inspections; compliance.

- (a) The gaming site shall conform to all zoning ordinances, building codes and fire prevention codes of the City and comply with all federal, state and local ordinances and regulations relevant to the operations of a gaming site or gaming machine.
- (b) The Fire Chief, the Chief Building Official, all law enforcement or code enforcement officials shall have the right to immediate unrestricted access to the gaming site where such machines are located at any time during normal business hours for the purposes of inspecting said gaming site and enforcement of the terms of this Article and state law.
- (c) An owner, operator, employee, or any person who does not allow unrestricted access to the gaming site to officials for the purposes of inspection or enforcement commits an offense.

Sec.6.10.014 Prohibited locations.

- (a) No gaming sites shall be permitted to be placed within three hundred (300) feet of any church, hospital or school.
- (b) The measurement of the distance between the place of business and the church, hospital or school shall be determined by measurements made in a straight line, without regard to intervening structures or objects, from the nearest point on the applicant's property line to the nearest point of the church, hospital or school property line.

Sec.6.10.015 Responsibility of permit holder.

A permit holder hereunder shall not permit any of the following activities within the permitted gaming site:

- (a) The sale, purchase, possession or consumption of any alcoholic beverages as the same is permitted by the Texas Alcoholic Beverage Code, unless the gaming site is licensed under the provisions of said code and the ordinances of the City for the sale, purchase, possession, or consumption of alcoholic beverages.
- (b) The operation of any gaming machine by a person younger than twelve (12) years of age except between the hours of 9:00 a.m. and 10:00 p.m.
- (c) The operation of any gaming machine by any person twelve (12) years of age or older and under seventeen (17) years of age except between the hours of 9:00 a.m. and 11:00pm, Sunday through Thursday, and 9:00 a.m. and 12:00 a.m. (midnight), Friday and Saturday.

Divisions 4. Enforcement

Sec. 6.10.016 Violations of existing laws not authorized.

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or gaming machine, the keeping, exhibition, operation, display or maintenance of which is illegal or in violation of any ordinance of the City, any section of the Penal Code of this state, or the Constitution of this state.

Sec. 6.10.017 Penalties.

- (a) It shall be unlawful for an owner, operator or permit holder to exhibit or display, or permit to be exhibited or displayed for commercial use, any gaming machine which:
 - (1) Does not have properly attached thereto a decal evidencing payment of applicable occupation tax and machine registration;
 - (2) Is located at any address or location other than the location listed for such machine as shown in the records of the City; or
 - (3) Has affixed to it a decal other than the decal issued for such as shown in the records of the City.
- (b) Except as otherwise provided by this section, if it be shown that a person has violated this Article, upon conviction, the defendant shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00).
- (c) Upon second conviction for a violation of this Article, the defendant shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00).
- (d) Any violation charged pursuant to this section shall be independent of and may be in addition to any administrative penalties which may be imposed regarding the suspension, revocation or denial of any permit or license granted under this Article.

Sec. 6.10.018 Sealing machine for nonpayment; hearings.

- (a) The Chief of Police shall seal, in a manner that will prevent further operation, any gaming machine upon which the tax required by this Article has not been paid or upon which the decal is not properly displayed. The owner or operator of any machine subject to this Article shall be required to pay a fee equal to the maximum amount permitted under §2153.453 of the Texas Occupations Code for the release of any machine sealed, as provided herein, for nonpayment of the tax or for failure to properly display the decal evidencing the payment of the tax and proper registration of the machine. The current fee amount shall be five dollars (\$5.00) for each sealed machine. Upon proof of payment of the occupation tax provided for in section 6.10.012 of this Article, and the release fee, the Chief will remove the seal.
- (b) Any owner desiring to contest the tax, fee, or penalty owed to the City to secure the release of a sealed machine may request a hearing by delivering written notice to the City Clerk setting forth the specifics of the challenge. The City Council shall either hear the challenge or select a hearing officer to preside over the hearing. The City Council or hearing officer shall within fourteen (14) days of the notice of challenge grant a hearing to consider the action. The decision of either the City Council or hearing officer is final.

Sec. 6.10.019 Penalty for removal of sealed machine.

It shall be unlawful to remove from the permitted site any machine that has been sealed pursuant to section 6.10.018 of this Article. Whoever removes or causes to be removed a machine that is sealed shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100.00 and no more than \$500.00.

Sec. 6.10.020 Injunctions.

- (a) In addition to the fines and penalties provided in this Article, if it appears that a person has violated or is violating or is threatening to violate any provisions of this Article, the City Attorney may institute a civil suit in a court of competent jurisdiction for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Article, the court shall grant such injunctive relief as the facts may warrant.

Sec. 6.10.021 Strict enforcement; exemptions.

- (a) All law enforcement personnel, inspectors, and other designated personnel shall carry out the provisions of this Article and may issue citations for violations of this Article. All law enforcement officers and representatives shall strictly enforce and prosecute the provisions of this Article, and court officials shall see that this Article receives strict interpretation and adjudication in a court of competent jurisdiction.

(b) A person in possession or control of a gaming machine is exempt from this Article if:

- (1) The gaming machine is maintained for display only and it is not used for public patronage; or
- (2) The gaming machine has been altered in such a way that it no longer functions as a coin-operated machine and is not patronized for the purpose of winning cash or cash value prizes; or
- (3) The gaming machines designed for and utilized exclusively by children are expressly exempt from the tax levied in Division 2 hereof.