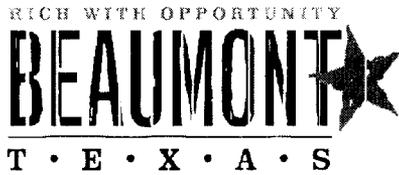




**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS SEPTEMBER 16, 2014 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – September 9, 2014
- * Confirmation of committee appointments
- A) Approve the award of an annual contract for electrical services to Gulf Coast Electric Company, Inc., of Beaumont
- B) Approve a resolution reappointing Craig Lively as Chief Magistrate for the Municipal Court of the City of Beaumont
- C) Approve a resolution authorizing the acceptance of the Cattail Marsh Constructed Wetland Rehabilitation Project for maintenance, approving a change order to the contract with Brystar Contracting, Inc. and authorizing final payment to the contractor
- D) Authorize the City Manager to enter into a contract with Triangle Aids Network for the Continuum of Care Grant from the Department of Housing and Urban Development
- E) Authorize the settlement of the lawsuit styled Robert “Bobby” Lorraine vs. City of Beaumont, Texas; Cause No. 122490



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer *lc*

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution approving the award of an annual contract for electrical services, to Gulf Coast Electric Company, Inc., of Beaumont, in the estimated amount of \$199,150.

BACKGROUND

The contract specifies that the successful bidder will provide assorted electrical services at a fixed hourly rate and materials at a fixed percentage markup to maintain City electrical systems. The contract requires the contractor to have personnel onsite to assist the City with emergency repairs in the event of a disaster.

Five (5) vendors were notified, one (1) responded. Bids were evaluated on a total annual cost based upon estimated labor hours for each skill category and condition.

Gulf Coast Electric Company, Inc., who has held this contract for several years, was the only bidder. The total bid represents an approximate three percent (3%) increase over the current contract.

FUNDING SOURCE

Building Services Operating Budget.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, bids were solicited for an annual contract for electrical services to maintain City electrical systems; and,

WHEREAS, Gulf Coast Electric Company, Inc., of Beaumont, Texas, submitted a bid in the estimated amount of \$199,150 as shown on Exhibit "A," attached hereto; and,

WHEREAS, City Council is of the opinion that the bid submitted by Gulf Coast Electric Company, Inc. 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 Gulf Coast Electric Company, Inc., of Beaumont, Texas, for an annual contract for electrical services to maintain City electrical systems in the estimated amount of \$199,150 as shown on Exhibit "A," attached hereto, 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 Gulf Coast Electric Company, Inc., of Beaumont, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -

RICH WITH OPPORTUNITY



T • E • X • A • S

CITY OF BEAUMONT ~ PURCHASING DIVISION

R. J. Hollar - Buyer II

409-880-3758

rhollar@ci.beaumont.tx.us

BID TABULATION: Annual Contract for Electrical Services

BID No. BF0714-53

OPENING DATE: Thursday, September 04, 2014

Vendor City / State		Gulf Coast Elect Beaumont	
Straight Time /Hour	Est Hrs	Per Hr	Total
Journeyman w/truck	1500	\$ 58.00	\$ 87,000.00
Journeyman no truck	1000	\$ 26.00	\$ 26,000.00
Helper	1000	\$ 15.00	\$ 15,000.00
Overtime Time /Hour			
Journeyman w/truck	250	\$ 72.00	\$ 18,000.00
Journeyman no truck	100	\$ 40.00	\$ 4,000.00
Helper	50	\$ 23.00	\$ 1,150.00
SUNDAY/HOLIDAY/DISASTER Time /Hour			
Journeyman w/truck	300	\$ 80.00	\$ 24,000.00
Journeyman no truck	300	\$ 60.00	\$ 18,000.00
Helper	200	\$ 30.00	\$ 6,000.00
TOTAL BID			\$ 199,150.00

Additional Pricing (Not included in Bid Total)		
Bucket Truck w/Journeyman	\$130.00/Hr	
Backhoe w/operator	\$90.00/Hr	
Parts&Material Markup	10%	\$1,000
Rental Equipment Markup	10%	\$5,500

No Response: Gold Crest, Neches Electric, A&A Electric, Electrical Specialties



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: September 16, 2014

REQUESTED ACTION: Consider a resolution reappointing Craig Lively as Chief Magistrate for the Municipal Court of the City of Beaumont, Texas.

BACKGROUND

In 2008, the City Council appointed Craig Lively as the Chief Magistrate of the City of Beaumont Municipal Court. The City Charter provides that the Magistrates are to be elected by a majority vote of the City Council for a term of two (2) years. His current term expires September 2014. Chief Magistrate Lively has expressed an interest in continuing in his position as Chief Magistrate for the Municipal Court of the City of Beaumont. The base wage of Chief Magistrate Craig Lively will be \$10,039.42 per month and a car allowance will be \$200.00 per month. All other benefits extended to civilian employees will continue to be provided as well.

FUNDING SOURCE

There are sufficient funds in the General Fund to support the compensation of Chief Magistrate.

RECOMMENDATION

Administration recommends approval of a resolution reappointing Craig Lively as the Chief Magistrate of the Municipal Court of the City of Beaumont, Texas.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

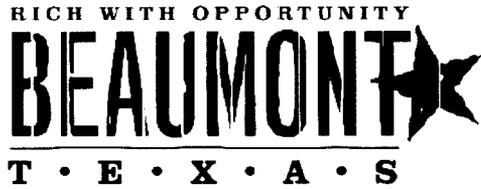
THAT Craig Lively be reappointed as Chief Magistrate of City of Beaumont Municipal Court for a two (2) year term. The base wages of the Chief Magistrate will be \$10,039.42 per month. A car allowance will be \$200.00 per month.

NOTWITHSTANDING the foregoing compensation and benefits, all other compensation, terms and conditions of employment with the City of Beaumont shall be pursuant to City policy and the Charter of the City of Beaumont, as with other civilian employees.

This resolution shall be effective immediately upon passage.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Hani J. Tohme, P.E., City Utilities Director *HT*

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to accept the Cattail Marsh Constructed Wetland Rehabilitation Project for maintenance, approve a change order to the contract with Brystar Contracting, Inc., and authorize final payment.

BACKGROUND

The City Council approved a contract with Brystar Contracting, Inc. on November 6, 2007, in the amount of \$12,894,000.00. Change Order No. 7 in the amount of \$14,537.28 is recommended to adjust the estimated quantities to reflect the actual quantities used during the performance of the project. These adjustments include increasing Bid Item 28 to furnish all necessary labor, materials, and equipment to harvest 27,163 plants from within the wetlands and plant them at the locations specified by the Engineer. This change order also deletes Bid Item 14, the construction of a broad-crested weir (NCC-3); Bid Item 21, the purchase of additional plants; and Bid Item 22, the planting of the additional plants.

The project has been inspected by the City Utilities Department and found to be complete in accordance with the provisions and terms set out in the contract. A final payment will be made to the contractor in the amount of \$10,000.00.

Previous actions include:

Resolution 07-369 in the amount of \$12,894,000.00 was passed by the City Council on November 6, 2007.

Resolution 07-369 in the amount of (\$3,212,387.72) was passed by City Council on November 6, 2007.

Resolution 11-053 in the amount of \$188,137.97 was passed by City Council on February 1, 2011.

Resolution 11-127 in the amount of \$40,353.00 was passed by City Council on April 12, 2011.

Cattail Marsh Constructed Wetlands Rehabilitation
September 16, 2014
Page 2 of 2

Resolution 11-284 in the amount of \$54,128.40 was passed by City Council on September 27, 2011.

Resolution 12-048 in the amount of \$92,160.00 was passed by City Council on March 20, 2012.

Resolution 13-123 in the amount of \$114,942.50 was passed by City Council on June 4, 2013.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of the resolution.

APPROVAL OF CONTRACT CHANGE

CHANGE ORDER No. Seven (7)
DATE: September 16, 2014

PROJECT: City of Beaumont, Texas
Cattail Marsh Constructed Wetland Rehabilitation

OWNER: City of Beaumont, Texas
801 Main Street
Beaumont, Texas 77704

CONTRACTOR: Brystar Contractors, Inc.
8385 Chemical Road
Beaumont, Texas 77705

TO THE OWNER: Approval of the following contract change is requested.

Reason for Change: Final quantity adjustments to furnish all labor, equipment, materials, and supervision as required to harvest additional plants on-site and plant them per Engineer's instruction, and to provide quantity adjustment to three (3) bid items. No correction in contract time (additional work days) is required in conjunction with this change.

ORIGINAL CONTRACT AMOUNT:	<u>\$12,894,000.00</u>
AMOUNT OF CHANGE ORDER No. 1	<u>(\$3,212,387.72)</u>
AMOUNT OF CHANGE ORDER No. 2	<u>\$188,137.97</u>
AMOUNT OF CHANGE ORDER No. 3	<u>\$40,353.00</u>
AMOUNT OF CHANGE ORDER No. 4	<u>\$54,128.40</u>
AMOUNT OF CHANGE ORDER No. 5	<u>\$92,160.00</u>
AMOUNT OF CHANGE ORDER No. 6	<u>\$114,942.50</u>
REVISED CONTRACT AMOUNT PER PREVIOUSLY APPROVED CHANGE ORDERS No. 1, 2, 3, 4, 5, and 6	<u>\$10,171,334.15</u>

THIS CHANGE ORDER

<u>Description:</u>	<u>Net Change</u>
Item 14 - NCC-3 Structure, Decrease 1 LS @ \$35,000/LS	<u>(\$35,000.00)</u>
Item 21 - Additional Plants, Decrease 5000 EA @ \$1.50/EA	<u>(\$7,500.00)</u>
Item 22 - Plant Additional Stock, Decrease 5000 EA @ \$2.50/EA	<u>(\$12,500.00)</u>
Item 28 - Additional Plants (Harvested Onsite), Increase 27,163 EA @ \$2.56/EA	<u>\$69,537.28</u>

TOTAL AMOUNT OF THIS CHANGE ORDER: **\$14,537.28**

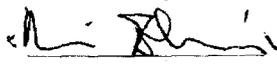
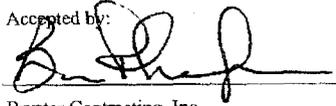
TOTAL REVISED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER: **\$10,185,871.43**

CONTRACT TIME

Additional Time (Days) Requested/Granted: **0 Calendar Days**

CONDITION OF CHANGE:

"Contractor acknowledges and agrees that the adjustments in contract price and contract time stipulated in this Change Order represents full compensation for all increases and decreases in the cost of, and the time required to perform the entire work under the Contract arising directly or indirectly from this Change Order and all previous Change Orders. Acceptance of this waiver constitutes an agreement between Owner and Contractor that the Change Order represents an all inclusive, mutually agreed upon adjustment to the Contract, and that Contractor will waive all rights to file a claim on this Change Order after it is properly executed."

Recommended by: 	Approved by: _____	Accepted by: 
City of Beaumont City Utilities Director	City of Beaumont Owner	Brystar Contracting, Inc. Contractor
Date: <u>9/12/14</u>	Date: _____	Date: _____

RESOLUTION NO.

WHEREAS, on November 6, 2007, the City Council of the City of Beaumont, Texas, passed Resolution No. 07-369 awarding a contract in the amount of \$12,894,000 to Brystar Contracting, of Beaumont, Texas, for the Cattail Marsh Constructed Wetland Rehabilitation Project; and,

WHEREAS, on November 6, 2007, the City Council of the City of Beaumont, Texas passed Resolution No. 07-369 approving Change Order No. 1 in the amount of (\$3,212,387.72), thereby decreasing the contract amount to \$9,681,612.28; and,

WHEREAS, on February 1, 2011, the City Council of the City of Beaumont, Texas passed Resolution No. 11-053 approving Change Order No. 2 in the amount of \$188,137.97, thereby increasing the contract amount to \$9,869,750.25; and,

WHEREAS, on April 12, 2011, the City Council of the City of Beaumont, Texas passed Resolution No. 11-127 approving Change Order No. 3 in the amount of \$40,353.00, thereby increasing the contract amount to \$9,910,103.25; and,

WHEREAS, on September 27, 2011, the City Council of the City of Beaumont, Texas, passed Resolution No. 11-284 approving Change Order No. 4 in the amount of \$54,128.40, thereby increasing the contract amount to \$9,964,231.65; and,

WHEREAS, on March 20, 2012, the City Council of the City of Beaumont, Texas passed Resolution No. 12-048 approving Change Order No. 5 in the amount of \$92,160.00, thereby increasing the contract amount to \$10,056,391.65; and,7

WHEREAS, June 4, 2013, the City Council of the City of Beaumont, Texas passed Resolution No. 13-123 approving Change Order No. 6 in the amount of \$114,942.50, thereby increasing the contract amount to \$10,171,334.15; and,

WHEREAS, Change Order No. 7, in the amount of \$14,537.28, is required to furnish all labor, materials, and equipment to harvest 27,163 plants from within the wetlands and plant them at the locations specified by the Engineer; and, to delete the construction of a broad-crested weir and the purchase and planting of additional plants, thereby increasing the contract amount to \$10,185,871.43;

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,

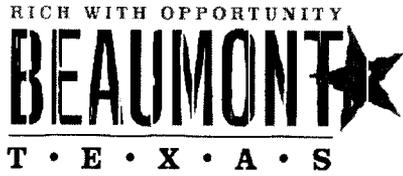
THAT the City Manager be and he is hereby authorized to execute Change Order No. 7 for additional work described above, thereby increasing the contract amount by \$14,537.28 for a total contract amount of \$10,185,871.43; and,

BE IT FURTHER RESOLVED THAT the Cattail Marsh Constructed Wetland Rehabilitation Project be and the same is hereby accepted; and,

BE IT ALSO RESOLVED THAT the City Manager is hereby authorized to make final payment in the amount of \$ to Brystar Contracting.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Director of Planning & Community Development

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to enter into a contract with Triangle Aids Network for the Continuum of Care (CoC) Grant from the Department of Housing and Urban Development.

BACKGROUND

The City of Beaumont, acting as the lead agency, receives an annual grant allocation of Continuum of Care (CoC) funds from the U.S. Department of Housing and Urban Development (HUD).

Formerly known as the Shelter Plus Care Program, CoC has now been consolidated with other HUD competitive homelessness assistance grant programs, including the Supportive Housing Program and the Section 8 Moderate Rehabilitation/Single Room Occupancy Program, to create the new Continuum of Care (CoC) Program.

The Continuum of Care Program assists difficult to serve homeless individuals with disabilities and their families. These individuals primarily include those with serious mental illness, chronic problems with alcohol and/or drugs, and HIV/AIDS or related diseases. The City of Beaumont, in conjunction with Triangle Aids Network, provides Tenant-Based Rental Assistance to local homeless individuals that have been diagnosed with HIV/AIDS.

The grant amount for rental and utility assistance is \$136,344 and \$8,444 for the administrative costs associated with administering the program. The City of Beaumont will reimburse Triangle Aids Network for all eligible costs to operate the program.

FUNDING SOURCE

Continuum of Care Grant, from the Department of Housing and Urban Development.

RECOMMENDATION
Approval of the resolution.

State

CoC Name

Project Name

	<u>PROGRAM</u>	<u>Awarded Amount</u>
The Lotus Project	CoCR	\$598,505
TH-Special Needs and Employment	CoCR	\$107,190
Transitional Housing Program	CoCR	\$126,717
Transitional Housing Two	CoCR	\$207,406
Villa Guadalupe Transitional Housing Program	CoCR	\$183,655
VOA Haltlands	CoCR	\$127,578
Wheeler Avenue 5C's Madge Bush Transitional Housing Program	CoCR	\$162,631
YEAH!	CoCR	\$671,099

TX-700 Total : \$20,602,876

TX-701 - Bryan/College Station/Brazos Valley CoC

Transitions 2013-2014 CoCR \$166,189

TX-701 Total : \$166,189

TX-703 - Beaumont/Port Arthur/South East Texas CoC

Community Based Self-Sufficiency Program CoCR \$35,016

Data Online Network CoCR \$23,468

Family Services' Sunshine Cove Transitional Housing CoCR \$150,977

Homeless to Homes Program CoCR \$166,046

Magdalene Tranistional Housing Project CoCR \$175,037

Shelter Plus Care (S+C) CoCR \$144,788

TX-703 Total : \$695,332

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, substantially in the form attached hereto as Exhibit "A," with Triangle Aids Network to receive up to \$144,788 for the Continuum of Care (CoC) Grant through the U. S. Department of Housing and Urban Development, Shelter Plus Care Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -



**AGREEMENT
BETWEEN THE CITY OF BEAUMONT
AND
TRIANGLE AIDS NETWORK**

This Agreement is made and entered into between the City of Beaumont, Texas, hereinafter referred to as CITY, and Triangle Aids Network, hereinafter referred to as SUBRECIPIENT. This assistance will be funded in whole by the U.S. Department of Housing and Urban Development, Shelter Plus Care Program.

WHEREAS, City has designated the Department of Community Development Block Grants Administration responsible for the administration of this Agreement and all matters pertaining thereto; and;

WHEREAS, the Shelter Plus Care Program (S+C) is authorized by Title IV, subtitle F, of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11403-11407b). S+C is designed to provide rental assistance, in connection with supportive services for hard-to-serve homeless persons with disabilities (primarily those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families;

WHEREAS, the U.S. Department of Housing and Urban Development has awarded CITY a grant in the amount of **\$144,788.00** under the **FY2013** Shelter Plus Care TRA Program, grant #TX0219C6E031306-TRA, to administer and provide tenant-based rental assistance (TRA) of (17) scattered site units for a period of one year, and;

WHEREAS, in the **FY13** grant CITY has engaged SUBRECIPIENT as the agency that would administer the rental assistance subsidies provided under the program;

NOW, THEREFORE, the parties hereto agree, and by the execution hereof are bound to the mutual obligations and the performance and accomplishment of the conditions hereinafter described.

1. TERM

Subject to the provisions of this Grant Agreement, the CITY will make funding assistance available to SUBRECIPIENT upon execution of the Grant Agreement by both parties. The grant period will extend from the 1st day of February, **2014** through the 31st day of January, **2015** unless sooner terminated in accordance with Section 25, Termination.

2. RESPONSIBILITIES

SUBRECIPIENT hereby accepts the responsibility for the performance of all services and activities described as set forth in **Exhibit A**, and incorporated herein by reference, in a satisfactory and efficient manner as determined by CITY, in accordance with the terms herein. CITY will consider SUBRECIPIENT's Executive Officer to be SUBRECIPIENT's representative responsible for the management of all contractual matter pertaining hereto, unless written notification to the contrary is received from SUBRECIPIENT, and approved by CITY.

Pursuant to receiving the equivalent amount of fund from the U.S. Department of Housing and Urban Development, The City has allocated the sum of **\$144,788.00** to be expended under this contract. Unless an amendment to this contract otherwise provides, that amount shall in no event be exceeded and the City shall under no circumstance be required to pay in excess of that amount.

The CITY'S CDBG Manager will be CITY'S representative responsible for the administration of this Agreement.

3. CITY'S OBLIGATION

- A. **Limit of Liability.** CITY will reimburse SUBRECIPIENT for expenses incurred pursuant and in accordance with the **project budget** attached hereto as **Exhibit C** and the **Statement of Work** herein attached as **Exhibit A** and incorporated herein by reference. Notwithstanding any other provision of the Agreement, the total of all payments and other obligations made or incurred by CITY hereunder shall not exceed the sum of **\$144,788.00**.
- B. **Measure of Liability.** In consideration of full and satisfactory services and activities hereunder by SUBRECIPIENT and receipt of a request for payment with appropriate documentation of expenditures, CITY shall make payments to SUBRECIPIENT based on the Project Budget attached hereto and incorporated herein for all purposes as **Exhibit C**, subject to the limitations and provisions set forth in this Section and Section 7 of this Agreement. Payments may be contingent upon certification of the SUBRECIPIENT'S financial management system in accordance with the standards specified in **OMB Circular A-110**, attached hereto as **Exhibit D** and incorporated herein by reference.
1. The parties expressly understand and agree that the CITY'S obligations under this Section are contingent upon the actual receipt of adequate Shelter Plus Care (S+C) funds to meet CITY'S liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, CITY shall notify SUBRECIPIENT in writing within a reasonable time after such fact has been

determined. **CITY** may, at its option, either reduce the amount of its liability, as specified in Subsection A of this Section or terminate the Agreement. If S+C funds eligible for use for purposes of this Agreement are reduced, **CITY** shall not be liable for further payments due to **SUBRECIPIENT** under this Agreement

2. It is expressly understood that this Agreement in no way obligates the General Fund or any other monies or credits of the City of Beaumont.
3. **CITY** shall not be liable for any cost or portion thereof which:
 - (a) has been paid, reimbursed or is subject to payment or reimbursement, from any other source;
 - (b) was incurred prior to the beginning date, or, without prior approval from **CITY**, after the ending date specified in Section 1;
 - (c) is not in strict accordance with the terms of this Agreement, including all exhibits attached hereto;
 - (d) reimbursement from **CITY** has not been requested within 90 calendar days following billing to **SUBRECIPIENT**, or termination of the Agreement, whichever date is earlier; or
 - (e) is not an allowable cost as defined by Section 10 of this Agreement or the project budget.
4. **CITY** shall not be liable for any cost or portion thereof which is incurred with respect to any activity of **SUBRECIPIENT** requiring prior written authorization from **CITY**, or after **CITY** has requested that **SUBRECIPIENT** furnish data concerning such action prior to proceeding further, unless and until **CITY** advises **SUBRECIPIENT** to proceed.
5. **CITY** shall not be obligated or liable under this Agreement to any party other than **SUBRECIPIENT** for payment of any monies or provision of any goods or services.

4. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

- A. **SUBRECIPIENT** understands that funds provided pursuant to this Agreement are funds

which have been made available to **CITY** by the Federal Government (U.S. Department of Housing and Urban Development) under the Title IV, Subtitle F, of the Stewart B. McKinney Homeless Assistance Act, as amended, in accordance with an approved Grant Application and specific assurances. The foregoing is in no way meant to constitute a complete compilation of all duties imposed upon **SUBRECIPIENT** by law or administrative ruling, or to narrow the standards which **SUBRECIPIENT** must follow.

SUBRECIPIENT further assures and certifies that if the regulations and issuances promulgated pursuant to the Act are amended or revised, it shall comply with them, or notify **CITY**, as provided in Section 23 of this Agreement.

SUBRECIPIENT agrees to abide by the conditions of and comply with the requirements of the Office of Management and Budget Circulars Nos. A-110, A-122, A-87 and A-133 as applicable.

- B. **SUBRECIPIENT** shall comply with all applicable federal laws, laws of the State of Texas, ordinances of the City of Beaumont and local program requirements.
- C. **SUBRECIPIENT** is required to comply with the applicable uniform administrative requirements as described in 24 CFR 582 and 24 CFR 582.400 subpart E **Exhibit B**, with the exceptions noted below:
 - 1. **SUBRECIPIENT** does not assume **CITY'S** environmental responsibilities described at CFR 582.230; and
 - 2. **SUBRECIPIENT** does not assume the **CITY'S** responsibility for initiating the review process under the provisions of 24 CFR Part 582.

5. REPRESENTATIONS

- A. **SUBRECIPIENT** assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.
- B. The person or persons signing and executing this Agreement on behalf of **SUBRECIPIENT**, does hereby warrant and guarantee that he, she, or they have been fully authorized by **SUBRECIPIENT** to execute this Agreement on behalf of **SUBRECIPIENT** and to validly and legally bind **SUBRECIPIENT** to all terms, performances and provisions herein set forth.
- C. **CITY** shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either **SUBRECIPIENT** or the person signing the Agreement to enter into this Agreement. **SUBRECIPIENT** is liable to **CITY** for any money it has received from **CITY** for performance of the provisions of this agreement if **CITY** has suspended or terminated this Agreement for the reasons enumerated in this Section.

- D. **SUBRECIPIENT** agrees that the funds and resources provided **SUBRECIPIENT** under the terms of this Agreement will in no way be substituted for funds and resources from other sources, nor in any way serve to reduce the resources, services, or other benefits which would have been available to, or provided through, **SUBRECIPIENT** had this Agreement not been executed.

6. PERFORMANCE BY SUBRECIPIENT

SUBRECIPIENT will provide, oversee, administer, and carry out all of the activities and services set out in the **Statement of Work**, attached hereto and incorporated herein for all purposes as **Exhibit A**, utilizing the funds described in the **Project Budget, Exhibit C**, attached hereto and incorporated herein for all purposes and deemed by both parties to be necessary and sufficient payment for full and satisfactory performance of the program, as determined solely by **CITY** and in accordance with all other terms, provisions and requirements of this Agreement.

No modifications or alterations may be made in the Statement of Work without the prior written approval of the City's Community Development Grants Administrator.

7. PAYMENTS TO SUBRECIPIENT

- A. **Payments to SUBRECIPIENT.** The **CITY** shall pay to the **SUBRECIPIENT** a maximum amount of money totaling **\$144,788.00** for services rendered under this Agreement. **CITY** will pay these funds on a reimbursement basis to the **SUBRECIPIENT** within thirty days after **CITY** has received approved supporting documentation of eligible expenditures. **SUBRECIPIENT'S** failure to request reimbursement on a timely basis may jeopardize present or future funding.

Funds are to be used for the sole purpose of providing services described in the **Statement of Work herein attached as Exhibit A** and based on the **Project Budget herein attached as Exhibit C**.

- B. **Excess Payment.** **SUBRECIPIENT** shall refund to **CITY** within ten working days of **CITY'S** request, any sum of money which has been paid by **CITY** and which **CITY** at any time thereafter determines:

1. has resulted in overpayment to **SUBRECIPIENT**; or
2. has not been spent strictly in accordance with the terms of this Agreement; or
3. is not supported by adequate documentation to fully justify the expenditure.

- C. **Disallowed Costs:** Upon termination of this Agreement, should any expense or change for

which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by **CITY**, the U. S. Department of Housing and Urban Development, or any other Federal agency, **SUBRECIPIENT** will refund such amount to **CITY** within ten working days of a written notice to **SUBRECIPIENT**, which specifies the amount disallowed. Refunds of disallowed costs may not be made from these or any funds received from or through **CITY**.

- D. **Reversion of Assets.** Upon expiration of this Agreement, **SUBRECIPIENT** shall transfer to the **CITY** any **S+C** funds on hand at the time of expiration and any accounts receivable attributable to the use of **S+C** funds. If **CITY** finds that **SUBRECIPIENT** is unwilling and/or unable to comply with any of the terms of this Contract, **CITY** may require a refund of any and all money expended pursuant to this Contract by **SUBRECIPIENT**, as well as any remaining unexpended funds which shall be refunded to **CITY** within ten working days of written notice to **SUBRECIPIENT** to revert these financial assets. The revision of these financial assets shall be in addition to any other remedy available to **CITY** either at law or in equity for breach of this Contract.

8. WARRANTIES

SUBRECIPIENT represents and warrants that:

- A. All information, reports and data heretofore or hereafter requested by **CITY** and furnished to **CITY**, are complete and accurate as of the date shown on the information, data, or report, and, since that date, have not undergone any significant change without written notice to **CITY**.
- B. Any supporting financial statements heretofore requested by **CITY** and furnished to **CITY**, are complete, accurate and fairly reflect the financial condition of **SUBRECIPIENT** on the date shown on said report, and the results of the operation for the period covered by the report, and that since said date, there has been no material change, adverse or otherwise, in the financial condition of **SUBRECIPIENT**.
- C. No litigation or legal proceedings are presently pending or threatened against **SUBRECIPIENT**.
- D. None of the provisions herein contravene or are in conflict with the authority under which **SUBRECIPIENT** is doing business or with the provisions of any existing indenture or agreement of **SUBRECIPIENT**.
- E. **SUBRECIPIENT** has the power to enter into this Agreement and accept payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this Agreement.
- F. None of the assets of **SUBRECIPIENT** are subject to any lien or encumbrance of any

character, except for current taxes not delinquent, except as shown in the financial statements furnished by **SUBRECIPIENT** to **CITY**.

- G. Each of these representations and warranties shall be continuing and shall be deemed to have been repeated by the submission of each request for payment.

9. COVENANTS

- A. During the period of time that payment may be made hereunder and so long as any payments remain unliquidated, **SUBRECIPIENT** shall not, without the prior written consent of the Community Development Administrator or his authorized representative:

1. Mortgage, pledge, or otherwise encumber or suffer to be encumbered, any of the assets of **SUBRECIPIENT** now owned or hereafter acquired by it, or permit any pre-existing mortgages, liens, or other encumbrances to remain on, or attached to any assets of **SUBRECIPIENT** which are allocated to the performance of this Agreement and with respect to which **CITY** has ownership hereunder.
2. Sell, assign, pledge, transfer or otherwise dispose of accounts receivables, notes or claims for money due or to become due.
3. Sell, convey, or lease all or substantial part of its assets.
4. Make any advance or loan to, or incur any liability for any other firm, person, entity or corporation as guarantor, surety, or accommodation endorser.
5. Sell, donate, loan or transfer any equipment or item of personal property purchased with funds paid to **SUBRECIPIENT** by **CITY**, unless **CITY** authorizes such transfer.

- B. **SUBRECIPIENT** agrees, upon written request by **CITY**, to require its employees to attend training sessions sponsored by the Community Development Division.

10. ALLOWABLE COSTS

- A. Costs shall be considered allowable only if incurred directly and specifically in the performance of and in compliance with this Agreement and in conformance with the standards and provisions of **Exhibits A and C**.
- B. Approval of **SUBRECIPIENT'S project budget, Exhibit C**, does not constitute prior written approval, even though certain items may appear herein. **CITY'S** prior written authorization is required in order for the following to be considered allowable costs:

1. **CITY** shall not be obligated to any third parties, including any subrecipients of **SUBRECIPIENT**, and **CITY** funds shall not be used to pay for any contract service extending beyond the expiration of this Agreement.
2. Out of town travel.
3. Any alterations or relocation of the facilities on and in which the activities specified in **Exhibit A** are conducted.
4. Any alterations, deletions or additions to the Personnel Schedule incorporated in **Exhibit C**.
5. Costs or fees for temporary employees or services.
6. Any fees or payments for consultant services.
7. Fees for attending out of town meetings, seminars or conferences.

Written requests for prior approval are **SUBRECIPIENT'S** responsibility and shall be made within sufficient time to permit a thorough review by **CITY**. **SUBRECIPIENT** must obtain written approval by **CITY** prior to the commencement of procedures to solicit or purchase services, equipment, or real or personal property. Any procurement or purchase which may be approved under the terms of this Agreement must be conducted in its entirety in accordance with the provisions of this Agreement.

- C. Equipment purchased by **SUBRECIPIENT** will be affixed with an asset tag by a Community Development representative and will remain in inventory for a period of five (5) years. During inventory period the equipment, belonging to the Department of Housing and Urban Development is to be used to carry out the proposed activities described in the Statement of Work, Attachment A, and as such may not be sold, donated, or destroyed. After the inventory period, ownership of the equipment will revert to the **SUBRECIPIENT** with all rights thereof.

11. PROGRAM INCOME

- A. For purposes of this Agreement, program income means earnings of **SUBRECIPIENT** realized from activities resulting from this Agreement or from **SUBRECIPIENT'S** management of funding provided or received hereunder. Such earnings include, but are not limited to, income from interest, usage of rental or lease fees, income produced from contract-supported services of individuals or employees or from the use or sale of equipment or facilities of **SUBRECIPIENT** provided as a result of this Agreement, and

payments from clients or third parties for services rendered by **SUBRECIPIENT** under this Agreement.

- B. **SUBRECIPIENT** shall maintain records of the receipt and disposition of program income in the same manner as required for other contract funds, and reported to **CITY** in the format prescribed by **CITY**. **CITY** and **SUBRECIPIENT** agree, that any fees collected for services performed by **SUBRECIPIENT** shall be used for payment of costs associated with service provision. Revenue remaining after payment of all program expenses for service provision shall be considered Program Income and shall be subject to all the requirements of this Agreement and the regulations found at CFR 24, Section 570.504.
- C. **SUBRECIPIENT** shall include this Section in its entirety in all of its sub-contracts which involve other income producing services or activities.
- D. It is **SUBRECIPIENT'S** responsibility to obtain from **CITY** a prior determination as to whether or not income arising directly or indirectly from this Agreement, or the performance thereof, constitutes program income. **SUBRECIPIENT** is responsible to **CITY** for the repayment of any and all amounts determined by **CITY** to be program income, unless otherwise approved in writing by **CITY**.

12. MAINTENANCE OF RECORDS

- A. **SUBRECIPIENT** agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of funds received under this Agreement, in compliance with the provisions of **Exhibit B**, attached hereto, and with any other applicable Federal and State regulations establishing standards for financial management including OMB circulars A-87, A-110, A-122 and A-133 as applicable; Title 24 CFR Section 582 as it pertains to costs incurred, audits, program income, administration and other activities and functions. **SUBRECIPIENT'S** record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure. Nothing in this Section shall be construed to relieve **SUBRECIPIENT** of fiscal accountability and liability under any other provision of this Agreement or any applicable law. **SUBRECIPIENT** shall include the substance of this provision in all subcontracts.
- B. **SUBRECIPIENT** agrees to retain all books, records, documents, reports and written accounting procedures pertaining to the operation of programs and expenditures of funds under this Agreement for five years after all funds have been expended.
- C. Nothing in the above subsections shall be construed to relieve **SUBRECIPIENT** of responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this Agreement.

- D. At any reasonable time and as often as **CITY** may deem necessary the **SUBRECIPIENT** shall make available to **CITY**, the U. S. Department of Housing and Urban Development, or any of their authorized representatives, all of its records and shall permit **CITY**, the U. S. Department of Housing and Urban Development, or any of their authorized representatives to audit, examine, make excerpts and copies of such records, and to conduct audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and all other data requested by said representatives.

13. REPORTS AND INFORMATION

At such times and in such form as **CITY** may require **SUBRECIPIENT** shall furnish such statements, records, data and information as **CITY** may request and deem pertinent to matters covered by this Agreement.

SUBRECIPIENT shall submit beneficiary and financial reports to the **CITY**, as requested, at least once and not to exceed quarterly during the program year. The beneficiary report shall detail client information, including race, income, female head of household and other statistics required by the **CITY**. The financial report shall include information and data relative to all programmatic and financial reporting as of the beginning date specified in Section 1 of this Agreement. Beneficiary and financial reports shall be due to **CITY** within 15 working days after request by **CITY**.

Unless the **CITY** has granted a written exemption, **SUBRECIPIENT** shall submit a copy of any audit conducted by independent examiners in accordance with Generally Accepted Accounting Principles. If the **SUBRECIPIENT** receives more than \$500,000 in federal funding, the audit must be conducted in accordance with OMB Circular A-133 as applicable.

14. MONITORING AND EVALUATION

- A. **CITY** shall perform on-site monitoring of **SUBRECIPIENT'S** performance under this Agreement.
- B. **SUBRECIPIENT** agrees that the **CITY** may carry out monitoring and evaluation activities to ensure adherence by **SUBRECIPIENT** to the **Statement of Work attached hereto as Exhibit A, as well as other provisions of this Agreement.**
- C. **SUBRECIPIENT** agrees to cooperate fully with the **CITY** in the development, implementation and maintenance of record-keeping systems and to provide data determined by the **CITY** to be necessary for the **CITY** to effectively fulfill its monitoring and evaluation responsibilities.
- D. **SUBRECIPIENT** agrees to cooperate in such a way so as not to obstruct or delay the

CITY in such monitoring and to designate one of its staff to coordinate the monitoring process as requested by **CITY** staff.

- E. After each official monitoring visit, the **CITY** shall provide the **SUBRECIPIENT** with a written report of monitoring findings documenting findings and concerns that will require a written response to the **CITY**. An acceptable response must be received by the **CITY** within sixty (60) days from the **SUBRECIPIENT'S** receipt of the monitoring report or audit review letter. Future contract payments can be withheld for the **SUBRECIPIENT'S** failure to submit a response within sixty (60) days.
- F. The **SUBRECIPIENT** shall submit copies of any fiscal, management, or audit reports by any of the **SUBRECIPIENT'S** funding or regulatory bodies to the **CITY** within five working days of receipt by the **SUBRECIPIENT**.

15. DIRECTOR'S MEETINGS

During the terms of this Agreement, at the request of the **CITY**, **SUBRECIPIENT** shall cause to be delivered to the **CITY** copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notices, if so requested, shall be delivered to the **CITY** in a timely manner to give adequate notice, and shall include an agenda and a brief description of the matters to be discussed. **SUBRECIPIENT** understands and agrees that **CITY** representatives shall be afforded access to all of the Board of Directors meetings.

Minutes of all meetings of the **SUBRECIPIENT'S** governing body shall be available, and upon request, be provided to the **CITY** within ten days after Board approval.

16. INSURANCE

- A. **SUBRECIPIENT** shall observe sound business practices with respect to providing such bonding and insurance as would provide adequate coverage for services offered under this Agreement.
- B. The **premises on and in which the activities described in Exhibit A** are conducted, and the employees conducting these activities, shall be covered by liability insurance, commonly referred to as Owner/Tenant coverage with the **CITY named as additional insured**. Upon request of the **SUBRECIPIENT**, the **CITY** may, at its sole discretion, approve alternate insurance coverage arrangements.
- C. **SUBRECIPIENT** will comply with applicable workers compensation statutes and will obtain employers liability coverage where available and other appropriate liability coverage for program participants, if applicable.

- D. **SUBRECIPIENT** will maintain adequate and continuous liability insurance on all vehicles owned, leased or operated by **SUBRECIPIENT**. All employees of **SUBRECIPIENT** who are required to drive a vehicle in the normal scope and course of their employment must possess a valid Texas driver's license and automobile liability insurance. Evidence of the employee's valid Texas driver's license and automobile liability insurance. Evidence of the employee's current possession of a valid license and insurance must be maintained on a current basis in **SUBRECIPIENT'S** files.
- E. Actual losses not covered by insurance as required by this Section are not allowable under this Agreement, and remain the sole responsibility of the **SUBRECIPIENT**.
- F. The policy or policies of insurance shall contain a clause which requires that the **CITY** and the **SUBRECIPIENT** be notified in writing of any cancellation or change in policy at least thirty (30) days prior to such change or cancellation.

17. CIVIL RIGHTS/EQUAL OPPORTUNITY

- A. **SUBRECIPIENT** shall comply with all applicable equal opportunity and affirmative action laws or regulations. The **SUBRECIPIENT** shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, gender, age or disability. The **SUBRECIPIENT** will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The **SUBRECIPIENT** agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 and Executive Order 11246 as amended by Executive Orders 11375 and 12086.
- C. **SUBRECIPIENT** will furnish all information and reports requested by the **CITY**, and will permit access to its books, records, and accounts for purposes of investigation to ascertain compliance with local, state and Federal rules and regulations.
- D. In the event of **SUBRECIPIENT'S** non-compliance with the non-discrimination requirements, the **CITY** may cancel or terminate this Agreement in whole or in part, and **SUBRECIPIENT** may be barred from further contracts with the **CITY**.

18. PERSONNEL POLICIES

Personnel policies shall be established by the **SUBRECIPIENT** and shall be available for examination. Such personnel policies shall:

- A. Be in writing and shall be approved by the governing body of the **SUBRECIPIENT** and the **CITY**.

19. CONFLICT OF INTEREST

- A. **SUBRECIPIENT** covenants that neither it nor any member of its governing body presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. **SUBRECIPIENT** further covenants that in the performance of this Agreement, no person having such interest shall be employed or appointed as a member of its governing body.
- B. **SUBRECIPIENT** further covenants that no member of its governing body or its staff, sub-recipients or employees shall possess any interest in or use his position for a purpose that is or gives the appearance of being motivated by desire for private gain for himself or others particularly those with which he has family, business, or other ties.
- C. No officer, member, or employee of the **CITY** and no member of its governing body who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest in any corporations, partnership, or association in which he or she has a direct or indirect interest.

20. NEPOTISM

SUBRECIPIENT shall not employ in any paid capacity any person who is a member of the immediate family of any person who is currently employed by **SUBRECIPIENT**, or is a member of **SUBRECIPIENT'S** governing board. The term member of immediate family includes wife, husband, son, daughter, mother, father, brother, sister, in-laws, aunt, uncle, nephew, niece, step parent, step-child, half-brother and half-sister.

21. POLITICAL OR SECTARIAN ACTIVITY

- A. Neither the funds advanced pursuant to this Agreement, nor any personnel which may be employed by the **SUBRECIPIENT** with funds advanced pursuant to this Agreement shall be in any way or to any extent engaged in any conduct or political activity in contravention of Chapter 15 of Title 5 of the United States Code.
- B. The **SUBRECIPIENT** agrees that none of the funds or services provided directly or

indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat pending legislation. Employees of the **SUBRECIPIENT** connected with any activity that is funded in whole or in part by funds provided to **SUBRECIPIENT** under this Agreement may not under the term of this Agreement:

1. Use their official position or influence to affect the outcome of an election or nomination.
2. Solicit contributions for political purposes; or
3. Take an active part in political management or in political campaigns.

SUBRECIPIENT hereby agrees to sign a **Certification Regarding Lobbying included herein as Exhibit E** and if necessary, the Disclosure of Lobbying Activities provided by the **CITY**.

22. PUBLICITY

- A. Where such action is appropriate, **SUBRECIPIENT** shall publicize the activities conducted by **SUBRECIPIENT** under this Agreement. In any news release, sign, brochure, or other advertising medium, disseminating information prepared or distributed by or for **SUBRECIPIENT**, the advertising medium shall state that the U. S. Department of Housing and Urban Development's Community Development Block Grant Program funding through the City of Beaumont has made the project possible.
- B. All published material and written reports submitted under this project must be originally developed material unless otherwise specifically provided in this Agreement. When material not originally developed is included in a report, the report shall identify the source in the body of the report or by footnote. This provision is applicable when the material is in a verbatim or extensive paraphrase format.

All published material submitted under this project shall include the following reference on the front cover or title page:

This document is prepared in accordance with the City of Beaumont's Community Development Block Grant Program, with funding received from the United States Department of Housing and Urban Development.

- C. All reports, documents, studies, charts, schedules or other appended documentation to

any proposal, content of basic proposal, or contracts and any responses, inquires, correspondence and related material submitted by **SUBRECIPIENT**.

23. CHANGES AND AMENDMENTS

- A. Any alterations, additions or deletions to the terms of this Agreement shall be by written amendment executed by both parties, except when the terms of this Agreement expressly provide that another method shall be used.

- B. **SUBRECIPIENT** may not make transfers between or among approved line items within **project budget categories** set forth in **Exhibit C** without prior written approval of **CITY**. **SUBRECIPIENT** shall request, in writing, the budget revision in a form prescribed by **CITY**, and such request for revision shall not increase the total monetary obligation of **CITY** under this Agreement. In addition, budget revisions cannot significantly change the nature, intent or scope of the program funded under this Agreement.

- C. **SUBRECIPIENT** will submit revised budget and program information, whenever the level of funding for **SUBRECIPIENT** or the program(s) described herein is altered according to the total levels contained in any portion of **Exhibit C**.

- D. It is understood and agreed by the parties hereto that changes in the State, Federal or local laws or regulations pursuant hereto may occur during the term of this Agreement. Any such modifications are to be automatically incorporated into this Agreement without written amendment hereto, and shall become a part of the Agreement on the effective date specified by the law or regulation.

- E. **CITY** may, from time to time during the term of the Agreement, request changes in **Exhibit A**, which may include an increase or decrease in the amount of **SUBRECIPIENT'S** compensation. Such changes shall be incorporated in a written amendment hereto, as provided in Subsection A of this Section.

- F. Any alterations, deletion, or additions to the **Contact Budget Detail** incorporated in **Exhibit C** shall require the prior written approval of **CITY**.

- G. **SUBRECIPIENT** agrees to notify **CITY** of any proposed change in physical location for work performed under this Agreement at least thirty (30) calendar days in advance of the change.

- H. **SUBRECIPIENT** shall notify **CITY** of any changes in personnel or governing board composition.

24. SUSPENSION OF FUNDING

Upon determination by **CITY** of **SUBRECIPIENT'S** failure to timely and properly perform each of the requirements, time conditions and duties provided herein, the **CITY**, without limiting any rights it may otherwise have, may, at its discretion, and upon ten working days written notice to **SUBRECIPIENT**, withhold further payments to **SUBRECIPIENT**. Such notice may be given by mail to the Executive Officer and the Board of Directors of **SUBRECIPIENT**. The notice shall set forth the default or failure alleged, and the action required for cure.

The period of such suspension shall be of such duration as is appropriate to accomplish corrective action, but in no event shall it exceed thirty (30) calendar days. At the end of the suspension period, if **CITY** determines the default or deficiency has been satisfied, **SUBRECIPIENT** may be restored to full compliance status and paid all eligible funds withheld or impounded during the suspension period. If however, **CITY** determines that **SUBRECIPIENT** has not come into compliance, the provisions of Section 25 may be effectuated.

25. TERMINATION

- A. **CITY** may terminate this Agreement for cause under any of the following reasons or for other reasons not specifically enumerated in this paragraph.
1. **SUBRECIPIENT'S** failure to attain compliance during any prescribed period of suspension as provided in Section 24.
 2. **SUBRECIPIENT'S** failure to materially comply with any of the terms of this Agreement.
 3. **SUBRECIPIENT'S** violation of covenants, agreements or guarantees of this Agreement.
 4. Termination or reduction of funding by the United States Department of Housing and Urban Development.
 5. Finding by the **CITY** that **SUBRECIPIENT**
 - a. Is in such unsatisfactory financial condition as to endanger performance under this Agreement.
 - b. has allocated inventory to this Agreement substantially exceeding

reasonable requirements;

- c. is delinquent in payment of taxes, or of costs of performance of this Agreement in the ordinary course of business.
 6. Appointment of a trustee, receiver or liquidator for all or substantial part of **SUBRECIPIENT'S** property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against **SUBRECIPIENT**.
 7. **SUBRECIPIENT'S** inability to conform to changes required by Federal, State and local laws or regulations as provided in Section 4, and Section 23 (D), of this Agreement.
 8. The commission of an act of bankruptcy.
 9. **SUBRECIPIENT'S** violation of any law or regulation to which **SUBRECIPIENT** is bound or shall be bound under the terms of the Agreement.
- A. **CITY** shall promptly notify **SUBRECIPIENT** in writing of the decision to terminate and the effective date of termination. Simultaneous notice of pending termination may be made to other funding sources specified in **Exhibit C**.
 - B. **CITY** may terminate this Agreement for convenience at any time. If **CITY** terminates the Agreement for convenience, **SUBRECIPIENT** will be paid an amount not to exceed the total of accrued expenditures as of the effective date of termination. In no event will this compensation exceed an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of **SUBRECIPIENT** covered by the Agreement, less payments previously made.
 - C. **SUBRECIPIENT** may terminate this Agreement in whole or in part by written notice to **CITY**, if a termination of outside funding occurs upon which **SUBRECIPIENT** depends for performance hereunder. **SUBRECIPIENT** may opt, within the limitations of this Agreement, to seek an alternative funding source, with the approval of **CITY**, provided the termination by the outside funding source was not occasioned by a breach of contract as defined herein or as defined in a contract between **SUBRECIPIENT** and the funding source in question.
- SUBRECIPIENT** may terminate this Agreement upon the dissolution of **SUBRECIPIENT'S** organization not occasioned by a breach of this Agreement.
- D. Upon receipt of notice to terminate, **SUBRECIPIENT** shall cancel, withdraw or otherwise terminate any outstanding orders or subcontracts, which relate to the performance of this Agreement. **CITY** shall not be liable to **SUBRECIPIENT** or

SUBRECIPIENT'S creditors for any expenses, encumbrances or obligations whatsoever incurred after the termination date listed on the notice to terminate referred to in this paragraph.

- E. Notwithstanding any exercise by **CITY** of its right of suspension or termination, **SUBRECIPIENT** shall not be relieved of liability to **CITY** for damages sustained by **CITY** by virtue of any breach of the Agreement by **SUBRECIPIENT**, and **CITY** may withhold any reimbursement to **SUBRECIPIENT** until such time as the exact amount of damages due to **CITY** from **SUBRECIPIENT** is agreed upon or otherwise determined.

26. NOTIFICATION OF ACTION BROUGHT

In the event that any claim, demand, suit or other action is made or brought by any person(s), firm, corporation or other entity against **SUBRECIPIENT**, **SUBRECIPIENT** shall give written notice thereof to **CITY** within two working days after being notified of such claim, demand, suit or other action. Such notice shall state the date and hour of notification of any such claim, demand, suit or other action, the names and addresses of the person(s), firm, corporation or other entity making such claim, or that instituted or threatened to institute any type of action or proceeding, the basis of such claim, action or proceeding, and the name of any person(s) against whom such claim is being made or threatened. Such written notice shall be delivered either personally or by mail.

27. INDEMNIFICATION

- A. It is expressly understood and agreed by both parties hereto that the **CITY** is contracting with the **SUBRECIPIENT** as an independent **SUBRECIPIENT** and that as such, **SUBRECIPIENT** shall save and hold **CITY**, its officers, agents and employees harmless from all liability of any nature or kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting in whole or in part from the performance or omission of any employee, agent or representative of **SUBRECIPIENT**.
- B. **SUBRECIPIENT** agrees to provide the defense for, and to indemnify and hold harmless **CITY**, its agents, employees, or **SUBRECIPIENTS** from any and all claims, suits, causes of action, demands, damages, losses, attorney fees, expenses, and liability arising out of the use of these contracted funds and program administration and implementation except to the extent caused by the willful act or omission of **CITY**, its agents, employees, or **SUBRECIPIENTS**.

28. NON-RELIGIOUS ACTIVITIES

The **SUBRECIPIENT** will provide all services under this Agreement in a manner that is exclusively non-religious in nature and scope. There shall be no religious services, proselytizing, instruction or any other religious preference, influence or discrimination in connection with providing the services hereunder.

29. MISCELLANEOUS

- A. **SUBRECIPIENT** shall not transfer, pledge or otherwise assign this Agreement or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company or other financial institution without the prior written approval of **CITY**.
- B. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect and continue to conform to the original intent of both parties hereto.
- C. In no event shall any payment to **SUBRECIPIENT** hereunder, or any other act or failure of **CITY** to insist in any one or more instances upon the terms and conditions of this Agreement constitute or be construed in any way to be a waiver by **CITY** of any breach of covenant or default which may then or subsequently be committed by **SUBRECIPIENT**. Neither shall such payment, act, or omission in any manner impair or prejudice any right, power, privilege, or remedy available to **CITY** to enforce its rights hereunder, which rights, powers, privileges, or remedies are always specifically preserved. No representative or agent of **CITY** may waive the effect of this provision.
- D. This Agreement, together with referenced exhibits and attachments, constitutes the entire agreement between the parties hereto, and any prior agreement, assertion, statement, understanding or other commitment antecedent to this Agreement, whether written or oral, shall have no force or effect whatsoever; nor shall an agreement, assertion, statement, understanding, or other commitment occurring during the term of this Agreement, or subsequent thereto, have any legal force or effect whatsoever, unless properly executed in writing, and if appropriate, recorded as an amendment of this Agreement.
- E. In the event any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, codes, laws, ordinances or regulations, **CITY** as the party ultimately responsible to the U. S. Department of Housing and Urban Development for matters of compliance, will have the final authority to render or to secure an interpretation.
- F. For the purpose of this Agreement, all official communications and notices among the parties shall be deemed made if sent postage paid to the parties and addresses set forth below:

TO CITY:

Mr. Kyle Hayes
City Manager
City of Beaumont
P. O. Box 3827
Beaumont, TX 77704

TO SUBRECIPIENT:

Ms. Peg Gibson
Executive Director
Triangle Aids Network
P. O. Box 12279
Beaumont, TX 77726

G. This Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any litigation concerning this Agreement shall be in a court competent jurisdiction sitting in Jefferson County Texas.

IN WITNESS OF WHICH this Agreement has been executed on this the _____ day of _____, 2014.

CITY OF BEAUMONT:

ATTEST:

BY: _____

Kyle Hayes, City Manager

BY: _____

Tina Broussard, City Clerk

Triangle Aids Network (TAN):

ATTEST:

BY: 

BY: 

Date



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: September 16, 2014

REQUESTED ACTION: Consider a resolution authorizing the settlement of the lawsuit styled Robert “Bobby” Lorraine vs. City of Beaumont, Texas; Cause No. 122490.

RECOMMENDATION

Administration recommends approval of a resolution authorizing the settlement of a lawsuit styled Robert “Bobby” Lorraine vs. City of Beaumont, Texas in the amount of \$32,000.

BACKGROUND

This matter was most recently presented and discussed in Executive Session held on August 26, 2014. The City Attorney is requesting authority to settle this suit.

BUDGETARY IMPACT

There are sufficient funds in the General Liability Fund to pay the settlement amount.

RESOLUTION NO.

WHEREAS, the lawsuit styled Robert "Bobby" Lorraine vs. City of Beaumont, Texas, Cause No. 122490 discussed in Executive Session properly called and held Tuesday, August 26, 2014; and,

WHEREAS, the City Attorney is requesting authority to settle this lawsuit;

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 City Attorney be, and he is hereby, authorized to settle the lawsuit styled Robert "Bobby" Lorraine vs. City of Beaumont, Texas; Cause No. 122490, for the receipt of the sum of Thirty-Two Thousand and XX/100 Dollars (\$32,000.00); and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute all documents related to settlement of the lawsuit.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS SEPTEMBER 16, 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 1-4/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider a resolution authorizing the City Manager to enter into a contract with the Texas Water Development Board to receive funding for the Flood Mitigation Assistance Project Grant
2. Consider a resolution authorizing the annulment of the award to G & G Enterprises of Beaumont for the construction of the Hike & Bike Trail – Phase II Project
3. Consider a resolution authorizing the conditional award of a bid pending TxDOT concurrence to Bruce’s General Construction, Inc. of Beaumont for the construction of the Hike & Bike Trail – Phase II project
4. Consider a resolution approving the award of a contract to Rural Pipe and Supply, Inc. of Jasper for the purchase of brass fittings and gate valves to be used by the Water Utilities Department

PUBLIC HEARING

- * Receive comments on the 2014 (FY 2015) Proposed Tax Rate

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.

September 16, 2014

Consider a resolution authorizing the City Manager to enter into a contract with the Texas Water Development Board to receive funding for the Flood Mitigation Assistance Project Grant



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Director of Planning & Community Development

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider authorizing the City Manager to enter into a contract with the Texas Water Development Board (TWDB) to receive \$965,626 in funding for the Flood Mitigation Assistance Project Grant.

BACKGROUND

In the past, the City has utilized grant funding to provide relief to victims of flooding by offering to purchase their homes. Following Hurricane Ike, twelve (12) families benefited from the buyout program and in 2010, six (6) homes benefited from the program. In this current round of Flood Mitigation Assistance funding, the City has applied for and been granted funds in order to offer the owner of the apartment complex at 2505 Sweetgum a buyout opportunity. This property was selected as it is identified as a priority property on the Severe Repetitive Loss list. As with any flood buyout program, participation is strictly voluntary. This grant is part of the Federal Emergency Management Agency (FEMA) work program but is administered in Texas by the TWDB.

FUNDING SOURCE

Funds for the program, including application, acquisition, relocation and demolition would be available through this grant from the Texas Water Development Board, with no required local match by the City.

RECOMMENDATION

Approval of the resolution.

Texas Water Development Board

P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.texas.gov
Phone (512) 463-7847, Fax (512) 475-2053

September 12, 2014

Adina Ward
Planner II / Floodplain Administrator
City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704-3827

RE: Flood Mitigation Assistance Project Grant Contract between the Texas Water Development Board (TWDB) and the City of Beaumont, Texas (City), TWDB Contract No. 1300011734

Dear Ms. Ward:

Enclosed are two originals of the Flood Mitigation Assistance Project Grant Contract between the TWDB and the City. The deadline for execution of this contract is September 25, 2014.

The Total Study Cost of this project is \$965,626.00. TWDB funding will not exceed the lesser of \$965,626.00 or 100% of the project cost. After executing both originals, please return both original copies to the attention of Contract Administration, at the address shown above. The TWDB will execute and sign the contracts upon their return and deliver one copy to you for your records.

Please complete and return the Vendor/Payee Direct Deposit Authorization Form (Form 74-176) and the Payment Destination Confirmation Form (74-227) located at: https://fm.x.cpa.state.tx.us/mt/fmx/forms/payment_services/index.php. The State of Texas encourages all grant recipients to use Direct Deposit. In addition, if you have never received payment from the State of Texas, you will need to complete the Application for Texas Identification Number (AP-152) which is available at the same web address.

Please note: Copies of all subcontract agreements between the City and the subcontractor must be submitted for TWDB approval. Subcontractor expenses cannot be reimbursed until the subcontractor agreement is accepted in writing by the TWDB. For your information and use, please obtain a copy of our Subcontracting Guidelines and generic Payment Request Checklist at: http://www.twdb.texas.gov/about/contract_admin/index.asp.

If you have any questions concerning the contract, please contact Ms. Kathy Hopkins, the TWDB's designated Contract Manager for this contract, at (512) 463-6198.

Sincerely,



Kevin Patteson
Executive Administrator

Enclosures

c: Kathy Hopkins, TWDB

Our Mission	:	Board Members
To provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas	:	Carlos Rubinstein, Chairman Bech Bruun, Member Kathleen Jackson, Member
	:	Kevin Patteson, Executive Administrator

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, substantially in the form attached hereto as Exhibit "A," with the Texas Water Development Board to receive up to \$965,626 for the Federal Emergency Management Agency (FEMA) Flood Mitigation Assistance Project Grant.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -

STATE OF TEXAS

TWDB Contract No. 1300011734

COUNTY OF TRAVIS

Flood Mitigation Assistance
Project Grant
CITY OF BEAUMONT, TEXAS

This Contract (hereinafter CONTRACT) is entered into by and between the TEXAS WATER DEVELOPMENT BOARD, the Grantee serving as the administrator of the Federal Emergency Management Agency's Flood Mitigation Assistance Program, and the City of Beaumont, Texas, the Subgrantee.

SECTION I. SPECIFIC CONDITIONS AND EXCEPTIONS
TO STANDARD AGREEMENT

ARTICLE I. DEFINITIONS: For the purposes of this CONTRACT, the following terms or phrases shall have the meaning ascribed therewith:

1. TWDB - The Texas Water Development Board, or its designated representative
2. FEMA - Federal Emergency Management Agency
3. FMA – Flood Mitigation Assistance Program
4. CONTRACTOR – City of Beaumont, Texas
5. EXECUTIVE ADMINISTRATOR - The Executive Administrator for the TWDB or a designated representative
6. PARTICIPANTS – N/A
7. REQUIRED INTERLOCAL AGREEMENT(S) – N/A
8. FEMA APPROVAL AWARD DATE – May 28, 2014
9. TWDB APPROVAL DATE – March 17, 2014
10. PROJECT AREA – The project area is more specifically defined in Exhibit B (the original grant application).
11. DEADLINE FOR CONTRACT EXECUTION – September 25, 2014
12. CONTRACT EFFECTIVE DATE – July 19, 2013
13. PROJECT COMPLETION DATE – January 9, 2017

14. TOTAL PROJECT COSTS - \$965,626.00
15. FEDERAL SHARE OF THE TOTAL PROJECT COSTS - Not to exceed \$965,626.00 or 100% of eligible expenses.
16. LOCAL SHARE OF THE TOTAL PROJECT COSTS – \$0.00 or 0% of eligible expenses.
17. PAYMENT REQUEST SUBMISSION SCHEDULE – Quarterly
18. OTHER SPECIAL CONDITIONS AND EXCEPTIONS TO STANDARD AGREEMENT OF THIS CONTRACT – All costs must be incurred during the period of performance unless pre-award costs are approved. A total of \$5,000.00 in pre-award expenses is an allowable expense and shall be considered for reimbursement under this CONTRACT.

SECTION II. STANDARD AGREEMENT

ARTICLE I. RECITALS

WHEREAS, the CONTRACTOR applied through the TWDB for a FEMA project grant under the FMA program to mitigate specific flood problems as identified in Exhibit B, the original grant application which is incorporated herein and made a permanent part of this CONTRACT;

WHEREAS, the CONTRACTOR and PARTICIPANTS will commit cash and/or in-kind services to pay for the LOCAL SHARE OF THE TOTAL PROJECT COSTS;

WHEREAS, the CONTRACTOR is the entity that will receive grant funds and will be responsible for the execution of this CONTRACT and compliance with FMA requirements;

WHEREAS, on the FEMA APPROVAL AWARD DATE, FEMA approved the CONTRACTOR's application for financial assistance;

NOW, THEREFORE, the TWDB and the CONTRACTOR agree as follows:

ARTICLE II. AGREEMENTS

1. The United States of America, through the Director of FEMA, has agreed to fund to the CONTRACTOR, through the TWDB, the FEDERAL SHARE OF THE TOTAL PROJECT COSTS. By acceptance of the funds awarded, the CONTRACTOR agrees to abide by the terms and conditions of this CONTRACT as set forth in this document and the documents identified therein and made a part hereof by reference.
2. Services and activities provided under this CONTRACT shall be in strict compliance with the requirements of the Texas Government Code, Chapter 742, as well as Exhibit A, FEMA Award Package, which provides for state coordination of local applications for Federal funds.
3. The CONTRACTOR will provide flood mitigation assistance to the PROJECT AREA, as delineated and described in the original application (Exhibit B), according to the scope of work contained in Exhibit C.
4. The CONTRACTOR has until the DEADLINE FOR CONTRACT EXECUTION to execute this CONTRACT and provide acceptable evidence of any REQUIRED INTERLOCAL AGREEMENTS, if applicable, to the EXECUTIVE ADMINISTRATOR for approval or the FEDERAL SHARE OF THE TOTAL PROJECT COSTS will be rescinded.

ARTICLE III. PERIOD OF PERFORMANCE

The period of performance of this CONTRACT shall be from the CONTRACT EFFECTIVE DATE to the PROJECT COMPLETION DATE, unless otherwise amended.

ARTICLE IV. FEDERAL LAWS AND RULES THAT APPLY

FEMA requires all grant recipients to comply with Federal laws and rules. These Federal laws and rules are listed in Article VIII of the FEMA award package (Exhibit A) which is incorporated herein and made a permanent part of this CONTRACT. CONTRACTOR will comply with all Federal laws and rules listed in Exhibit A. Copies of those Federal laws and rules are available upon request.

ARTICLE V. GENERAL TERMS AND CONDITIONS

The specific terms and conditions of this CONTRACT are as follows:

1. The TWDB shall reimburse the CONTRACTOR for costs determined by FEMA to be allowable, allocable, and reasonable in accordance with OMB Circular A-87; Cost Principles for State and Local Governments.
2. The CONTRACTOR shall follow matching or cost sharing requirements found in 44 CFR Part 13.24, of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. The project will be administered by the CONTRACTOR as per the Hazard Mitigation Assistance (HMA) Unified Guidance in effect when the application (Exhibit B) was submitted to FEMA which is available at www.fema.gov.
4. The CONTRACTOR shall transfer to the TWDB, for return to FEMA, the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other accounts arising from the performance of this CONTRACT, along with accrued interest, if any. The CONTRACTOR shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with the TWDB and FEMA in any claim or suit in connection with the amounts due.
5. Prior to the start of any construction activity, the CONTRACTOR shall ensure that all applicable Federal, State, and local permits and clearances are obtained.

6. Copyright. The TWDB and FEMA reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes. Any publication resulting from work performed under this CONTRACT shall include an acknowledgement of FEMA financial support and a statement that the publication does not necessarily reflect the views of FEMA or the TWDB.
7. No subsequent grant/cooperative agreements, monetary increase amendments or time extension amendments will be approved unless all overdue financial or performance reports have been submitted by the CONTRACTOR to the TWDB. Exceptions to this policy can be approved only by FEMA.
8. The CONTRACTOR agrees by accepting funds under this CONTRACT to comply with all provisions of 44 CFR 13.32, Equipment. FEMA Form 20-18, Government Property form, is to be used to report Government Property. Instructions on which property items are to be reported should be provided in writing by FEMA.
9. No Debt Against the State. This CONTRACT does not create any debt by or on behalf of the State of Texas and the TWDB. The TWDB's obligations under this CONTRACT are contingent upon the availability of appropriated funds and the continued legal authority of the TWDB to enter into this CONTRACT.
10. Independent Contractor and Insurance. For the purposes of this CONTRACT, the CONTRACTOR will be considered an independent contractor and, therefore, solely responsible for liability resulting from negligent acts or omissions and shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. The CONTRACTOR shall obtain all necessary insurance, in the judgment of the CONTRACTOR, to protect itself, from liability arising out of this CONTRACT.
11. Procurement Laws. The CONTRACTOR shall comply with applicable State of Texas procurement laws, rules and policies, including but not limited to competitive bidding and the Professional Services Procurement Act, Government Code, Chapter 2254, relating to contracting with persons whose services are within the scope of practice of: accountants, architects, landscape architects, land surveyors, medical doctors, optometrists, professional engineers, real estate appraisers, professional nurses, and certified public accountants.

12. Right to Audit. The CONTRACTOR and its subcontractors shall maintain all financial accounting documents and records, including copies of all invoices and receipts for expenditures, relating to the work under this CONTRACT. CONTRACTOR shall make such documents and records available for examination and audit by the Executive Administrator or any other authorized entity of the State of Texas. CONTRACTOR's financial accounting documents and records shall be kept and maintained in accordance with generally accepted accounting principles for a minimum of three years following the completion of the CONTRACT. By executing this CONTRACT, the CONTRACTOR accepts the authority of the Texas State Auditor's Office to conduct audits and investigations in connection with all state funds received pursuant to this CONTRACT. The CONTRACTOR shall comply with directives from the Texas State Auditor and shall cooperate in any such investigation or audit. The CONTRACTOR agrees to provide the Texas State Auditor with access to any information the Texas State Auditor considers relevant to the investigation or audit. The CONTRACTOR also agrees to include a provision in any subcontract related to this CONTRACT that requires the subcontractor to submit to audits and investigation by the State Auditor's Office in connection with all state funds received pursuant to the subcontract.
13. Force Majeure. Unless otherwise provided, neither CONTRACTOR nor the TWDB nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this CONTRACT caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within five (5) business days of the existence of such force majeure or otherwise waive this right as a defense.
14. Severance Provision. Should any one or more provisions of this CONTRACT be held to be null, void, voidable, or, for any reason whatsoever, of no force and effect, such provision(s) shall be construed as severable from the remainder of this CONTRACT and shall not affect the validity of all other provisions of this CONTRACT which shall remain in full force and effect.
15. Registration Requirement. Pursuant to the FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006, Pub. L. 109-282, the CONTRACTOR will be required to obtain a Data Universal Numbering System (DUNS) Number and register with Central Contractor Registration (CCR), and maintain current registration at all times through the System for Award Management (www.sam.gov) during which this Agreement is in effect.

16. Indemnification. The CONTRACTOR shall indemnify and hold the TWDB and the State of Texas harmless, to the extent the CONTRACTOR may do so in accordance with state law, from any and all losses, damages, liability, or claims therefore, on account of personal injury, death, or property damage of any nature whatsoever caused by the CONTRACTOR, arising out of the activities and work conducted pursuant to this CONTRACT. The CONTRACTOR is solely responsible for liability arising out of its negligent acts or omissions during the performance of this CONTRACT. This agreement does not create any third party cause of action and the CONTRACTOR does not waive any immunity available under state law.

ARTICLE VI. STANDARDS OF PERFORMANCE.

1. Personnel. CONTRACTOR shall assign only qualified personnel to perform the services required under this CONTRACT. CONTRACTOR shall be responsible for ensuring that any subcontractor utilized shall also assign only qualified personnel. Qualified personnel are persons who are properly licensed to perform the work and who have sufficient knowledge, skills and ability to perform the tasks and services required herein according to the standards of performance and care for their trade or profession.
2. Professional Standards. CONTRACTOR shall provide the services and deliverables in accordance with applicable professional standards. CONTRACTOR represents and warrants that he is authorized to acquire subcontractors with the requisite qualifications, experience, personnel and other resources to perform in the manner required by this CONTRACT.
3. Antitrust. CONTRACTOR represents and warrants that neither CONTRACTOR nor any firm, corporation, partnership, or institution represented by CONTRACTOR, or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under the Texas Business & Commerce Code, Chapter 15, of the Federal antitrust laws; or (2) communicated directly or indirectly the proposal resulting in this CONTRACT to any competitor or other person engaged in such line of business during the procurement process for this CONTRACT.
4. Conflict of Interest. CONTRACTOR represents and warrants that CONTRACTOR has no actual or potential conflicts of interest in providing the deliverables required by this CONTRACT to the State of Texas and the TWDB. CONTRACTOR represents that the provision of services under this CONTRACT will not create an appearance of impropriety. CONTRACTOR also represents and warrants that, during the term of this CONTRACT, CONTRACTOR will immediately notify the TWDB, in writing, of any potential conflict of interest that could adversely affect the TWDB by creating the appearance of a conflict of interest.

5. CONTRACTOR represents and warrants that neither CONTRACTOR nor any person or entity that will participate financially in this CONTRACT has received compensation from the TWDB or any agency of the State of Texas for participation in the preparation of specifications for this CONTRACT. CONTRACTOR represents and warrants that he has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant in connection with this CONTRACT.
6. Proprietary and Confidential Information. CONTRACTOR warrants and represents that any information that is proprietary or confidential, and is received by CONTRACTOR from the TWDB or any governmental entity, shall not be disclosed to third parties without the written consent of the TWDB or applicable governmental entity, whose consent shall not be unreasonably withheld.
7. Public Information Act. CONTRACTOR acknowledges and agrees that all documents, in any media, generated in the performance of work conducted under this CONTRACT are subject to public disclosure under the Public Information Act, Government Code, Chapter 552. CONTRACTOR shall produce all documents upon request of the TWDB within two (2) business days when the documents are required to comply with a request for information under the Public Information Act.
8. Accurate and Timely Record Keeping. CONTRACTOR warrants and represents that he will keep timely, accurate and honest books and records relating to the work performed and the payments received under this CONTRACT according to generally accepted accounting standards. Further, CONTRACTOR agrees that he will create such books and records at or about the time the transaction reflected in the books and records occurs.
9. Dispute Resolution. The CONTRACTOR and the TWDB agree to make a good faith effort to resolve any dispute relating to the work required under this CONTRACT through negotiation and mediation as provided by Government Code, Chapter 2260 relating to resolution of certain contract claims against the state. The CONTRACTOR and the TWDB further agree that they shall attempt to use any method of alternative dispute resolution mutually agreed upon to resolve any dispute arising under this CONTRACT if this CONTRACT is not subject to Chapter 2260.
10. Contract Administration. The TWDB shall designate a contract manager for this CONTRACT. The contract manager will serve as the point of contact between the TWDB and CONTRACTOR. The TWDB's contract manager shall supervise the TWDB's review of CONTRACTOR's technical work, deliverables, draft reports, the final report, payment requests, schedules, financial and budget administration, and similar matters. The contract manager does not have any express or implied authority to vary the terms of the CONTRACT, amend the CONTRACT in any way or waive strict performance of the terms or conditions of the CONTRACT.

ARTICLE VII. DISTRIBUTING GRANT FUNDS

1. The TWDB agrees to compensate and reimburse the CONTRACTOR in a total amount not to exceed the FEDERAL SHARE OF THE TOTAL PROJECT COSTS for costs incurred and paid by the CONTRACTOR pursuant to performance of this CONTRACT. The CONTRACTOR will contribute local matching funds in sources and amounts defined as the LOCAL SHARE OF THE TOTAL PROJECT COSTS. The TWDB shall reimburse the CONTRACTOR for one hundred percent (100%) of FEDERAL SHARE OF THE TOTAL PROJECT COSTS of each invoice up to ninety percent (90%) of the total FEDERAL SHARE pending the CONTRACTOR's performance and TWDB's review and approval of project completion according to the specific close-out requirements for FMA, at which time the TWDB shall pay the remaining ten percent (10%) to the CONTRACTOR.

Notwithstanding the above referenced paragraph, the TWDB may provide advance funds to the CONTRACTOR in order to minimize the time elapsing between the transfer of funds and their disbursement by the CONTRACTOR. Such advance shall be in compliance with FEMA regulations, including but not limited to 44 CFR §13.21(c). The CONTRACTOR understands and agrees that it has no right to such advances, but that TWDB, in its sole discretion, may from time to time agree to advance payments.

2. Requests for advance or reimbursement of subcontractor expenses will only be considered where such subcontracts or agreements have been approved by the EXECUTIVE ADMINISTRATOR as described herein. The EXECUTIVE ADMINISTRATOR must provide written review and approval of contracts or agreements between the CONTRACTOR and subcontractor(s) and between such subcontractors and any other subcontractors prior to CONTRACTOR finalizing such subcontracts or agreements. The purpose of this review is solely to ensure that the subcontracts and agreements are consistent with this CONTRACT and that the rights of the TWDB are protected. CONTRACTOR understands that CONTRACTOR should obtain its own legal review of subcontracts and agreements that CONTRACTOR enters into. CONTRACTOR agrees that the TWDB assumes no legal obligations under its subcontracts or agreements and is merely a third-party beneficiary of the same. Each subcontract or agreement shall include a detailed budget estimate with specific cost details for each task or specific item of work to be performed by the subcontractor and for each category of reimbursable expenses. The subcontracts shall conform to the terms of the CONTRACT and include provisions which require subcontractor compliance with TWDB rules. The CONTRACTOR must adhere to all requirements in state law and TWDB rules pertaining to the procurement of professional services. Subcontracts for surveying activities will not be required.

3. The CONTRACTOR shall submit advance or payment requests and the required documentation for reimbursement according to the PAYMENT REQUEST SUBMISSION SCHEDULE and in accordance with the approved task and expense budgets contained in Exhibit D to this CONTRACT.
4. The CONTRACTOR has budget flexibility within task and expense budget categories to the extent that the resulting change in amount, in any one task or expense category, does not exceed 10% of the total authorized amount by this CONTRACT. Larger deviations shall require approval by EXECUTIVE ADMINISTRATOR or designee and FEMA (as per 44 CFR Part 13.30 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) which will be documented through an Approved Budget Memorandum to the TWDB contract file. The CONTRACTOR will be required to provide written explanation for the overage and reallocation of the task and expense amount.

For all reimbursement requests, including any subcontractor's expenses, the EXECUTIVE ADMINISTRATOR must have determined that the REQUIRED INTERLOCAL AGREEMENT(S) and contracts or agreements between the CONTRACTOR and the subcontractors are consistent with the terms of this CONTRACT. The CONTRACTOR is fully responsible for paying all charges by subcontractors prior to reimbursement by the TWDB.

5. The CONTRACTOR and its subcontractors shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the EXECUTIVE ADMINISTRATOR. Accounting by the CONTRACTOR and its subcontractors shall be in a manner consistent with Generally Accepted Accounting Principles (GAAP).
6. Once the CONTRACTOR chooses the advance method for distribution of grant funds and submits a Request for Advance Checklist to the EXECUTIVE ADMINISTRATOR, TWDB will advance to the CONTRACTOR the amount shown in Section I, Item 18, if applicable, but not to exceed the percent of the FEDERAL SHARE OF THE TOTAL PROJECT COSTS.
7. When CONTRACTOR has incurred expenses sufficient to reconcile the advance received, the CONTRACTOR will submit a Request for Advance Checklist to the EXECUTIVE ADMINISTRATOR for another advance of the FEDERAL SHARE OF THE TOTAL PROJECT COSTS. The CONTRACTOR will attach to the Request for Advance Checklist, the most recent written performance report described in Article IX, Item 1 of this Section and the documentation listed in Item 8 below. Any expenses incurred by the CONTRACTOR above the amount of the previous advance will be reimbursed to the CONTRACTOR based on the percentage of the FEDERAL SHARE OF THE TOTAL PROJECT COSTS of this CONTRACT.

8. For reimbursement, the CONTRACTOR will submit a Payment Request Checklist and the documentation listed below, according to the PAYMENT SUBMISSION SCHEDULE. The Payment Request package will include the following:
- a. The most recent written performance report required by Article IX, Item 1 of this Section,
 - b. Summary of total expenses incurred and amounts paid, including the following information:
 1. CONTRACTOR's Vendor Identification Number;
 2. TWDB Contract Number;
 3. The reimbursement period: beginning (date) through ending (date);
 4. TOTAL PROJECT COSTS for the reimbursement period broken down by budget categories contained in Exhibit D;
 5. Total In-kind services, if applicable;
 6. Less LOCAL SHARE OF THE TOTAL PROJECT COSTS for the billing period, if applicable;
 7. Total FEDERAL SHARE OF THE TOTAL PROJECT COSTS for the billing period;
 8. Total costs to be reimbursed by the TWDB for the billing period; and
 9. Certification, signed by the CONTRACTOR's authorized representative, that the expenses submitted for the reimbursement period are a true and correct representation of amounts paid for work performed directly related to this CONTRACT;
 - c. For direct expenses incurred by the CONTRACTOR for subcontracted work:
 - Copies of invoices from the subcontractor to the CONTRACTOR and proof of payment;
 - A spreadsheet showing the tasks that were performed; the percent and cost of each task completed; a total cost figure for each direct expense category contained in Exhibit D; and the total dollar amount paid to and due to the subcontractors. Any payments of expenses which the CONTRACTOR withholds from a subcontractor for the purposes of retainage, shall be considered to have been paid by the CONTRACTOR for purposes of determining expenses paid under the previous sentence; and
 - Copies of detailed, itemized invoices/receipts for other expenses (credit card summary receipts or statements are not acceptable)
 - d. For direct expenses incurred by the CONTRACTOR other than subcontracted work:
 - A spreadsheet showing the tasks that were performed, the percent and cost of each task completed, and a total cost figure for each direct expense category contained in Exhibit D; and
 - Copies of detailed, itemized invoices/receipts for other expenses (credit card summary receipts or statements are not acceptable)
 - e. For travel expenses for the CONTRACTOR and/or subcontractors –
 - Names, dates, work locations, time periods at work locations, itemization of and receipts for subsistence expenses of each employee, limited, however, to travel

expenses authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2013, Article IX, Part 5, as amended or superseded.

Receipts required for lodging;

- Copies of invoices or receipts for transportation costs or, if mileage costs, names, dates, and points of travel of individuals; and
- All other reimbursable travel expenses -- invoices or purchase vouchers showing reason for expense with receipts to evidence the amount incurred.

9. No later than forty-five (45) days after the PROJECT COMPLETION DATE, the CONTRACTOR will provide a final reconciliation of expended amounts under the CONTRACT.
10. Within thirty (30) days of the EXECUTIVE ADMINISTRATOR's final accounting of the amounts expended by the CONTRACTOR and the amounts advanced by the TWDB to the CONTRACTOR, the CONTRACTOR will refund to the TWDB any advances not used for expenses approved by the EXECUTIVE ADMINISTRATOR. If the amounts expended by the CONTRACTOR exceed the amounts advanced by the TWDB, the EXECUTIVE ADMINISTRATOR will provide such differences to the CONTRACTOR, if not in excess of the FEDERAL SHARE OF THE TOTAL PROJECT COSTS.
11. Reimbursement Requests that lack required documentation will be denied or short paid if deficiencies are not resolved within ten (10) business days. Denied Reimbursement Requests or eligible expenses that were short paid must be resubmitted by the CONTRACTOR with the required documentation to be reconsidered for reimbursement.
12. If for some reason the reimbursement request cannot be processed due to the need for an amendment to the CONTRACT, the CONTRACTOR will be required to resubmit the Payment Request Checklist dated after the execution of the amendment.
13. The CONTRACTOR is responsible for any food or entertainment expenses incurred by its own organization or that of its subcontractors, outside that of the travel expenses authorized and approved by the State of Texas under this CONTRACT.
14. The CONTRACTOR is responsible for submitting any final payment request and documentation for reimbursement, along with a request to release any retained funds, no later than 45 days following the PROJECT COMPLETION DATE. Failure to submit a timely final payment request may result in the release of the retained funds to the CONTRACTOR and a lapse and closure of any other remaining funding under this CONTRACT.

ARTICLE VIII. FINANCIAL REPORTS

1. The CONTRACTOR shall submit one copy of the TWDB Quarterly Financial Report (TWDB QFR) either through the mail to Contracting and Purchasing or by email to contracts@twdb.texas.gov within fifteen (15) days following the end of each quarter of the project with the exception of the final Financial Status Report, which shall be due forty-five (45) days after PROJECT COMPLETION DATE.
2. If applicable, the CONTRACTOR shall submit all other reporting requirements as stated in Exhibit A of this CONTRACT.

ARTICLE IX. PERFORMANCE REPORTING

1. Quarterly. The CONTRACTOR shall submit an original quarterly Performance Report (FEMA Form 20-22, Narrative Statement Report form) and any supporting documentation to the TWDB's contract manager within fifteen (15) days following the end of each quarter in accordance with Article V, Item 3
2. Final Report. The CONTRACTOR shall submit an original final Performance Report (FEMA Form 20-22, Narrative Statement Report form) and any supporting documentation which details all the work performed under the CONTRACT according to the specific close-out requirements according to Article V, Item 3. The report shall be submitted to the TWDB's contract manager within forty-five (45) days following PROJECT COMPLETION DATE.

ARTICLE X. AMENDMENT, TERMINATION, AND STOP ORDERS

1. **Notice**. Notwithstanding any other provision herein, the EXECUTIVE ADMINISTRATOR may terminate this CONTRACT without cause in whole or in part by providing written notice to CONTRACTOR.
2. **Discontinuation of Work**. Upon receiving notice of termination, CONTRACTOR will discontinue work in accordance with the EXECUTIVE ADMINISTRATOR's termination instructions.

Further, CONTRACTOR will delay or terminate all applicable orders and subcontracts.
3. **Unpaid Balances**. In the event that this CONTRACT is terminated, the TWDB's only liability will be to pay CONTRACTOR the unpaid balance due CONTRACTOR for work actually performed.

4. The EXECUTIVE ADMINISTRATOR may issue a Stop Work Order to the CONTRACTOR at any time. Upon receipt of such order, the CONTRACTOR shall discontinue all work under this CONTRACT and cancel all orders pursuant to this CONTRACT, unless the order directs otherwise. If the EXECUTIVE ADMINISTRATOR does not issue a Restart Order within sixty (60) days after receipt by the CONTRACTOR of the Stop Work Order, the TWDB retains the rights to terminate in accordance with the foregoing provisions.
5. The EXECUTIVE ADMINISTRATOR can extend the PROJECT COMPLETION DATE upon written approval from FEMA. The CONTRACTOR should notify the EXECUTIVE ADMINISTRATOR in writing within ninety (90) days prior to the PROJECT COMPLETION DATE if an extension is required.
6. If termination of the CONTRACT occurs, the procedures described in 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments will be followed.

ARTICLE XI. CORRESPONDENCE, REPORTS, AND REIMBURSEMENTS

All correspondence, reports, and reimbursements related to this CONTRACT shall be made to the following addresses:

For the TWDB:

Contract Issues:

Texas Water Development Board
 Attention: Contract Administration
 P.O. Box 13231
 Austin, Texas 78711-3231
 Email: contracts@twdb.texas.gov

Payment Request Submission:

Texas Water Development Board
 Attention: Accounts Payable
 P.O. Box 13231
 Austin, Texas 78711-3231
 Email: invoice@twdb.texas.gov

Physical Address:

Stephen F. Austin State Office Building
 1700 N. Congress Avenue
 Austin, Texas 78701

For the CONTRACTOR:

Contract Issues:

Adina Ward
 Planner II / Floodplain Administrator
 P.O. Box 3827
 Beaumont, Texas 77704-3827
 Email: award@ci.beaumont.tx.us
 Phone: 409-880-3764; Fax: 409-880-3133

Payment Request Submission:

Janice Ridley
 Grants Manager
 P.O. Box 3827
 Beaumont, Texas 77704-3827
 Email: jridley@ci.beaumont.tx.us

Physical Address:

City of Beaumont
 801 Main St.
 Beaumont, Texas 77701

IN WITNESS WHEREOF, the parties have caused this CONTRACT to be duly executed in duplicate originals.

**TEXAS WATER DEVELOPMENT
BOARD**

CITY OF BEAUMONT, TEXAS

Kevin Patteson
Executive Administrator

Kyle Hayes
City Manager

Date: _____

Date: _____

Exhibit A
FEMA AWARD PACKAGE

U.S. Department of Homeland Security

FEMA Region VI
Federal Regional Center
800 N. Loop 288
Denton, TX 76209



June 30, 2014

Kathy Hopkins
SRL Lead- Mitigation Specialist, Texas Water Development Board
1700 North Congress Avenue
P.O. Box 13231
Austin, TX 78711-3231

Dear **Kathy Hopkins**:

Enclosed is an executed copy of FEMA Form 76-10A reflecting Amendment 1 to your award number EMT-2014-FM-E001. The purpose of this amendment is to correct the period of performance on the official agreement articles. Your PARS Grant Payment Account will be adjusted accordingly. By accepting this award you assume certain administrative and financial responsibilities including the timely submission of all financial and programmatic reports, resolution of all interim audit findings and the maintenance of a minimum level of cash on hand. Should you not adhere to these responsibilities, you will be in violation of the terms of this award. If you have any questions regarding this matter, please call **Marty Chester** at **940-898-5216**.

Sincerely,
// signed //

Michael J Brown
Assistance Officer

Subgrant Number	Description	Condition
FMA-PJ-06-TX-2013-001 (0)	Executive Order 11988 - Floodplains Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Executive Order 11988 - Floodplains	Applicant must prepare and provide Public Notice in line with 44 CFR Part 9.12(e) issued 15 days prior to the start of construction of any final decision where proposed floodplain or wetland project is the only practicable alternative. Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies. Applicant must comply with the appropriate local floodplain management ordinance or best available data as defined by Preliminary Flood Insurance Rate Map (FIRM) panel 48201C1090M, dated 3/29/2013,

		<p>whichever is more restrictive. Applicant must coordinate with the local floodplain administrator and obtain any required permits prior to initiating work, including any necessary certifications that encroachments within the adopted regulatory floodway would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.</p>
	National Historic Preservation Act (NHPA)	<p>In the event that archeological deposits (soils, features, artifacts, other remnants of human activity) are uncovered during the project the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The applicant will inform the Texas Division of Emergency Management (TDEM) immediately and will secure all archeological findings and restrict access to the area. TDEM shall notify FEMA and FEMA will consult with SHPO, THPO, or Tribal representatives. Work in sensitive areas cannot resume until consultations are completed or until an archeologist who meets Secretary of the Interior (SOI) Professional Qualifications determines the extent of the discovery. Work may not resume at or around the delineated archeological deposit until the applicant is notified by TDEM.</p>
	Clean Air Act (CAA)	<p>If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).</p>
FMA-PJ-06-TX-2013-005 (0)	Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) OTHER (enter specifics in comments)	<p>Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies..</p> <p>If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).</p>
	National Historic Preservation Act (NHPA)	<p>In the event that archeological deposits (soils, features, artifacts, other remnants of human activity) are uncovered during the project the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The applicant will inform the Texas Division of Emergency Management (TDEM) immediately and will secure all archeological findings and restrict access to the area. TDEM shall notify FEMA and FEMA will consult with SHPO, THPO, or Tribal representatives. Work in sensitive areas cannot resume until consultations are completed or until an archeologist who meets Secretary of the Interior (SOI) Professional Qualifications determines the extent of the discovery. Work may not resume at or around the delineated archeological deposit until the applicant is notified by TDEM.</p>
FMA-PJ-06-TX-2013-006 (0)	Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Executive Order 11988 - Floodplains	<p>Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.</p> <p>Applicant must comply with the appropriate local floodplain management ordinance or best available data as defined by Preliminary Flood Insurance Rate Map (FIRM) panel 48361C0160D, dated 08/30/2012, whichever is more restrictive. Applicant must coordinate with the local floodplain administrator and obtain any required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.</p>
FMA-PJ-06-TX-2013-007	National Historic Preservation Act (NHPA)	<p>In the event that archeological deposits (soils, features, artifacts, other remnants of human activity) are uncovered during the project the applicant shall stop all work immediately in the vicinity of the discovery</p>

- (0) and take reasonable measures to avoid or minimize harm to the finds. The applicant will inform the Texas Division of Emergency Management (TDEM) immediately and will secure all archeological findings and restrict access to the area. TDEM shall notify FEMA and FEMA will consult with SHPO, THPO, or Tribal representatives. Work in sensitive areas cannot resume until consultations are completed or until an archeologist who meets Secretary of the Interior (SOI) Professional Qualifications determines the extent of the discovery. Work may not resume at or around the delineated archeological deposit until the applicant is notified by TDEM.
- Clean Water Act (CWA) Applicant must coordinate with Texas Commission on Environmental Quality (TCEQ) before the start of construction to obtain any stormwater permits and must comply with all permit conditions.
- Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.
- FMA-PJ-06-TX-2013-011 (0) Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.
- Executive Order 11990 - Wetlands The applicant shall ensure that best management practices are implemented to prevent erosion and sedimentation to surrounding, nearby or adjacent wetlands. This includes equipment storage and staging of construction to prevent erosion and sedimentation to ensure that wetlands are not adversely impacted per the Clean Water Act and Executive Order 11990.
- OTHER (enter specifics in comments) If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).
- Executive Order 11988 - Floodplains Applicant must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.
- FMA-PJ-06-TX-2013-011 (0) Executive Order 11988 - Floodplains Applicant must prepare and provide Public Notice in line with 44 CFR Part 9.12(e) issued 15 days prior to the start of construction of any final decision where proposed floodplain or wetland project is the only practicable alternative.
- OTHER (enter specifics in comments) If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).
- Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.
- Executive Order 11988 - Floodplains Applicant must comply with the appropriate local floodplain management ordinance or best available data as defined by Preliminary Flood Insurance Rate Map (FIRM) panels 48167C0038G; 48167C0039G; 48167C0041G; 48167C0207G; 48167C0228G; and 48167C0230G dated 9/27/2012 and 48201C1070M, dated 3/29/2013, whichever is more restrictive. Applicant must coordinate with the local floodplain administrator and obtain any required permits prior to initiating work, including any necessary certifications that encroachments within the adopted regulatory floodway would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project

Executive Order 11990 - Wetlands files.
The applicant shall ensure that best management practices are implemented to prevent erosion and sedimentation to surrounding, nearby or adjacent wetlands. This includes equipment storage and staging of construction to prevent erosion and sedimentation to ensure that wetlands are not adversely impacted per the Clean Water Act and Executive Order 11990.

www.fema.gov



FEMA

July 21, 2014

Ms. Kathy C. Hopkins
SRL Lead-Mitigation Specialist
Texas Water Development Board
1700 North Congress Avenue
P.O. Box 13231
Austin, TX 78711-3231

Dear Ms. Hopkins,

The Federal Emergency Management Agency (FEMA) sent an executed copy of FEMA Form 76-10A reflecting Amendment 1 to award number EMT-2014-FM-E001 which includes projects FMA-PJ-06-TX-2013-001 City of Nassau Bay Elevation; FMA-PJ-06-TX-2013-005 City of Beaumont Acquisition Demolition; and FMA-PJ-06-TX-2013-007 Jefferson County Drainage District No. 6 Cherokee Drainage Project. That award letter outlined grant requirements including project implementation conditions that resulted from FEMA's environmental and historic preservation review.

The Texas Water Development Board (TWDB) brought it to FEMA's attention that the language in some of the project conditions was inaccurate in that it referenced the Texas Division of Emergency Management (TDEM) as the grantee rather than TWDB. This is a mistake on FEMA's part. For these three grants, the language in the condition under the National Historic Preservation Act should read:

"In the event that archeological deposits (soils, features, artifacts, other remnants of human activity) are uncovered during the project the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The applicant will inform the **Texas Water Development Board (TWDB)** immediately and will secure all archeological findings and restrict access to the area. **TWDB** shall notify FEMA and FEMA will consult with SHPO, THPO, or Tribal representatives. Work in sensitive areas cannot resume until consultations are completed or until an archeologist who meets Secretary of the Interior (SOI) Professional Qualifications determines the extent of the discovery. Work may not resume at or around the delineated archeological deposit until the applicant is notified by **TWDB.**"

Ms. Hopkins
July 21, 2014
Page 2

FEMA apologizes for this error in the award documents and please accept this letter as an official correction of this error and any misunderstanding of the responsible parties outlined in the grant requirements.

Sincerely,



Kevin Jaynes,
Regional Environmental Officer
FEMA Region 6

cc: Marty Chester, Hazard Mitigation Specialist, FEMA Region 6
Michael Brown, Assistance Officer, Grants Management Division, FEMA Region 6

O.M.B. NO. 3067-0206
Expires February 29, 2004

FEDERAL EMERGENCY MANAGEMENT AGENCY
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT

1. AGREEMENT NO. EMT-2014-FM-E001
 2. AMENDMENT NO. 0
 3. RECIPIENT NO. 74-2378168
 4. TYPE OF ACTION GRANT CA AWARD AMENDMENT
 5. CONTROL NO. T372132N
 6. RECIPIENT NAME AND ADDRESS
 Texas Water Development Board
 1700 North Congress Avenue
 P.O. Box 13231
 Austin, TX 78711-3231
 7. ISSUING FEMA OFFICE AND ADDRESS
 FEMA Region VI
 Federal Regional Center
 800 N. Loop 288
 Denton, TX 76209
 8. PAYMENT OFFICE AND ADDRESS

9. NAME OF RECIPIENT PROJECT OFFICER Kathy Hopkins
 PHONE NO. 512-463-6198
 10. NAME OF FEMA PROJECT OFFICER MARTY CHESTER
 PHONE NO. 940-898-5216

11. EFFECTIVE DATE OF THIS ACTION 05/22/2014
 12. METHOD OF PAYMENT HHS, SMARTLINK SF 270 OTHER
 13. ASSISTANCE ARRANGEMENT COST REIMBURSEMENT COST SHARING OTHER
 14. PERFORMANCE PERIOD
 From: 01/09/2014 To: 01/08/2017
 BUDGET PERIOD
 From: 01/09/2014 To: 01/08/2017

15. DESCRIPTION OF ACTION
 a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE)	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + or (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
FMA PJ	97.029	2014-05-J117-R062-4101-D	\$0.00	\$11,069,828.55	\$11,069,828.55	\$1,102,105.45
TOTALS			\$0.00	\$11,069,828.55	\$11,069,828.55	\$1,102,105.45

b. To describe changes other than funding data or financial changes, attach schedule and check here

16a. FOR NON-DISASTER PROGRAMS: RECEIPT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO YES NO
 FEMA (See Block 7 for address)
 16b. FOR DISASTER PROGRAMS: RECEIPT IS NOT REQUIRED TO SIGN
 This assistance is subject to the terms and conditions attached to this award notice or incorporated by reference in program legislation or regulation cited above.
 17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) kevin patteson - GRANTEE DATE 05/28/2014
 18. FEMA SIGNATORY OFFICIAL (Name and Title) MICHAEL BROWN - Regional Director DATE 05/28/2014
 FEMA Form 76-10A, MAR 01

**FEDERAL EMERGENCY MANAGEMENT AGENCY
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT**

O.M.B. NO. 3067-0206
Expires February 29, 2004

1. AGREEMENT NO. EMT-2014-FM-E001	2. AMENDMENT NO. 1	3. RECIPIENT NO. 74-2378168	4. TYPE OF ACTION <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> CA	5. CONTROL NO. T372132N
6. RECIPIENT NAME AND ADDRESS Texas Water Development Board 1700 North Congress Avenue P.O. Box 13231 Austin, TX 78711-3231		7. ISSUING FEMA OFFICE AND ADDRESS FEMA Region VI Federal Regional Center 800 N. Loop 288 Denton, TX 76209		8. PAYMENT OFFICE AND ADDRESS
9. NAME OF RECIPIENT PROJECT OFFICER Kathy Hopkins		PHONE NO. 512-463-6198	10. NAME OF FEMA PROJECT OFFICER MARTY CHESTER	
PHONE NO. 940-898-5216				

11. EFFECTIVE DATE OF THIS ACTION 06/03/2014	12. METHOD OF PAYMENT <input type="checkbox"/> HHS. SMARTLINK <input type="checkbox"/> SF 270 <input checked="" type="checkbox"/> OTHER	13. ASSISTANCE ARRANGEMENT <input type="checkbox"/> COST REIMBURSEMENT <input checked="" type="checkbox"/> COST SHARING <input type="checkbox"/> OTHER	14. PERFORMANCE PERIOD From: 07/19/2013 To: 01/09/2017 BUDGET PERIOD From: To:
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15. DESCRIPTION OF ACTION
a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE)	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + or (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
FMA PJ	97.029	2014-05-J117-R062-4101-D	\$11,069,828.55	\$0.00	\$11,069,828.55	\$1,102,105.45
TOTALS			\$11,069,828.55	\$0.00	\$11,069,828.55	\$1,102,105.45

b. To describe changes other than funding data or financial changes, attach schedule and check here

16a. FOR NON-DISASTER PROGRAMS: RECEIPT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO YES NO
FEMA (See Block 7 for address)

16b. FOR DISASTER PROGRAMS: RECEIPT IS NOT REQUIRED TO SIGN
This assistance is subject to the terms and conditions attached to this award notice or incorporated by reference in program legislation or regulation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) kevin patteson - GRANTEE	DATE 07/08/2014
18. FEMA SIGNATORY OFFICIAL (Name and Title) MICHAEL BROWN - Assistance Officer	DATE 07/08/2014

FEMA Form 76-10A, MAR 01

U.S. DEPARTMENT OF HOMELAND SECURITY
 FEDERAL EMERGENCY MANAGEMENT AGENCY
 ATTACHMENT to FEMA Form 76-10A, Obligor Document for Award/Amendment

Obligation Number: EMT-2014-FM-E001 (1)
 Recipient: Texas Water Development Board (TWDB)
 Program: Flood Mitigation Assistance

Block 15b. Description of Action Changes

This amendment is generated to correct the Period of Performance in accordance with HMA guidance. No other changes are authorized.

Award of funds is based on the application for Federal Assistance submitted by recipient with the following contingencies:

Terms and conditions of this grant are specified in the attached Agreement Articles.

Execution of the FF76-10a is agreement that the program will be performed in accordance with the applicable program guidance, the approved SF424 Application for Federal Assistance, and the associated statement of work.

The funds awarded by this FEMA Form 76-10a are available for obligation by the recipient only during the period **07/19/2013 through 1/9/2017**. The recipient is not authorized to incur new obligations after the expiration date shown unless a new expiration date is established by FEMA in a letter signed by the FEMA Assistance Officer or through issuance of a new FEMA Form 76-10a.

Sub-grants included in this award:

- FMA-PJ-06-TX-2013-001 Flood Mitigation Projects Nassau Bay
- FMA-PJ-06-TX-2013-005 City of Beaumont Acquisition
- FMA-PJ-06-TX-2013-006 City of Pinehurst Acquisition
- FMA-PJ-06-TX-2013-007 Cherokee Drainage Project
- FMA-PJ-06-TX-2013-010 City of Orange Acquisition
- FMA-PJ-06-TX-2013-011 League City Elevation

	Federal	Non-federal	Total	Amendment
	88.70%	11.30%	748,943.95	6,628,686.00
	100.00%	0.00%	0.00	0, 1
	90.00%	10.00%	17,946.50	179,465.00
	75.00%	25.00%	335,215.00	1,340,860.00
	100.00%	0.00%	0.00	227,000.00
	100.00%	0.00%	0.00	2,830,297.00

TOTALS 11,069,828.55 1,102,105.45 12,171,934.00

FY 2013
FLOOD MITIGATION ASSISTANCE PROGRAM
GRANT AGREEMENT ARTICLES

FLOOD MITIGATION ASSISTANCE GRANT AGREEMENT ARTICLES
CFDA# 97.029

GRANTEE: Texas Water Development Board

AGREEMENT NUMBER: EMT-2014-FM-E001

AMENDMENT NUMBER: 1

DESIGNATED AGENCY: Texas Water Development Board

PERFORMANCE PERIOD: July 19, 2013 through January 9, 2017

GENERAL INFORMATION:

The **FLOOD MITIGATION ASSISTANCE** (FMA) grant program provides funding to States, Territories, Indian Tribal governments and communities to assist in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the National Flood Insurance Program (NFIP).

ARTICLE I. FEMA AUTHORITY

The United States of America through the Department of Homeland Security's Federal Emergency Management Agency (FEMA), hereinafter referred to as "the Grantor," agrees to grant to the State/Indian Tribal or Territory government, through its designated agency named above, hereinafter referred to as "the Grantee," funds in the amount specified on the obligating document, to support the **FLOOD MITIGATION ASSISTANCE** Grant Program, authorized under Sections 1361(A) (42 U.S.C. 4104c), of the National Flood Insurance Act of 1968 (42 U.S.C. 4001, *et seq.* – the "NFIA" or "the Act"), as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264.

The Grantee agrees to abide by the Grant terms and conditions as set forth in this document.

ARTICLE II. PROJECT DESCRIPTION

The Grantee shall perform the work described in the application package and made a part of these Grant Agreement Articles.

ARTICLE III. PERIOD OF PERFORMANCE

The initial performance period for the Grantee shall be equal to the longest performance period of the subgrantee awards. The period of performance shall be **July 19, 2013** through **January 9, 2017**. All costs must be incurred during the period of performance unless pre-award costs are approved.

ARTICLE IV. AMOUNT AWARDED

This Grant Award is for the administration and completion of an approved **FLOOD MITIGATION ASSISTANCE project**. Funds approved under this Grant may not be used for other purposes. If costs exceed the amount of FEMA funding approved, then the Grantee shall pay the costs that are in excess of the approved budget.

The approved budget for this Grant Award by category is available in the cost estimate section of each subgrant application.

The Grantee shall follow regulations found in Title 44 Code of Federal Regulations (CFR) Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Office of Management and Budget Circulars A-102 and A-87, and program guidance to implement this Grant Award.

ARTICLE V. COST-SHARE

The cost-share requirement for this award is noted on each subgrant cost estimate. No more than half of the non-Federal share can be provided as in-kind contributions from third parties. The FMA program offers up to 90% Federal cost-share funding for properties that are designated as Severe Repetitive Loss where the Grantee also maintains a FEMA-approved Standard or Enhanced Mitigation Plans or Tribal plan that includes a strategy for mitigating existing and future SRL properties. The cost-share for FMA is governed by 44 CFR Part 79.4(c).

ARTICLE VI. FEMA OFFICIALS

FEMA officials are as follows:

The Project Officer shall be an official at the FEMA Regional Office who will be responsible for the monitoring of the activities as described in the application.

The Project Officer is: Marty Chester

The Assistance Officer is the FEMA official who has full authority to negotiate, administer and execute all business matters of the Grant.

The Assistance Officer is: Michael J. Brown

ARTICLE VII. TERMS AND CONDITIONS

The specific terms and conditions of this agreement are as follows:

ASSURANCE COMPLIANCE:

The certifications signed by the Grantee in the application relating to maintenance of a Drug-Free Workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this grant agreement and are incorporated by reference.

Prohibition on Using Federal Funds.

The recipient understands and agrees that it cannot use any Federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.

Compliance with Program Guidance.

The recipient agrees that all use of funds under this Grant will be in accordance with the Unified Hazard Mitigation Assistance Guidance at the time of the application.

BUDGET REVISIONS:

The Grantee shall follow prior approval requirements for budget revisions found in 44 CFR 13.30. Transfer of funds between total direct cost categories in the approved budget shall receive the prior approval of FEMA when such cumulative transfers among those direct cost categories exceed ten percent of the total budget.

If a Grantee estimates that it will have obligated funds remaining after the end of the performance period, the Grantee must report this to the FEMA Regional Office at the earliest possible time and ask for disposition instructions.

Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an

award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent drawdown of additional funds will indicate recipient acceptance of the changes to the award.

CLOSEOUT:

Reports Submission: Per 44 CFR 13.50, when the appropriate grant award performance period expires, the Grantee shall submit the following documents within 90 days: (1) a final Financial Report (2;) final program performance report; (3) an inventory of equipment purchased under each grant's funds; (4) an inventory of Federally-owned property; and (5) other required documents specified by program regulation.

Report Acceptance: FEMA shall review the Grantee reports, perform the necessary financial reconciliation, negotiate necessary adjustments between the Grantee and FEMA's records, and closeout the grant in writing.

Record Retention: Records shall be retained for 3 years (except in certain rare circumstances described in 44 CFR 13.42) from the date the final financial status report closing out the grant is submitted to FEMA in compliance with 44 CFR 13.42.

CONSTRUCTION PROJECT REQUIREMENTS:

1. Acceptance of Federal funding requires FEMA, the Grantee and any Subgrantees to comply with all Federal, state and local laws prior to the start of any construction activity. Failure to obtain all appropriate Federal, state and local environmental permits and clearances may jeopardize Federal funding.
2. Any change to the approved scope of work will require re-evaluation by FEMA for Grantee and Subgrantee compliance with the National Environmental Policy Act and other laws and Executive Orders.
3. If ground disturbing activities occur during construction, the Grantee and any Subgrantees must ensure monitoring of ground disturbance and, if any potential archeological resources are discovered, the Subgrantee will immediately cease construction in that area and notify the Grantee and FEMA.

COPYRIGHT:

The Grantee is free to copyright any original work developed in the course of or under this Grant. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA views.

COST-SHARE:

The Grantee shall follow cost-sharing requirements mandated by program guidance, statute or regulation and in compliance with 44 CFR 13.24. Cost-share funding shall be available with

the approval of each grant. Period of Performance extensions shall not be approved for delays caused by lack of cost-share funding.

ENFORCEMENT:

FEMA enforcement remedies shall be processed as specified in 44 CFR 13.43, which provides for enforcement when the Terms and Conditions of this Grant are not met.

EQUIPMENT/SUPPLIES:

The Grantee must comply with the regulations listed in 44 CFR 13.32, Equipment, 44 CFR 13.33 Supplies, and 44 CFR 13.36 Procurement, and must be in compliance with state laws and procedures.

FUNDS TRANSFER:

No transfer of funds to agencies other than those identified in the approved Grant shall be made without prior approval of FEMA.

INSURANCE:

In compliance with Public Law 103-325, Title V National Flood Insurance Reform Act of 1973, section 582 requires that any person receiving Federal assistance for the repair, replacement, or restoration for damage to any personal or residential property at any time must maintain flood insurance if the property is located in a Special Flood Hazard Area.

PAYMENT:

Grantee shall be paid using the FEMA Payment and Reporting System (PARS), provided Grantee maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the Grantee and sub grantees. The Grantee commits itself to: 1) initiating cash draw downs only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements, using the SF-425 or equivalent report; and 3) imposing the same standards of timing and amount upon any secondary Grantee.

Subgrantees must comply with the same payment requirement as the Grantee and must comply with the requirements specified in the Grantee's subgrant Agreement.

DUPLICATION OF PROGRAMS:

FEMA will not provide assistance under its programs for activities that FEMA determines another Federal program has a more specific or primary authority to provide. FEMA also will not provide assistance for the applicant or subapplicant's legal obligations. FEMA may disallow or recoup amounts that duplicate other authorities.

DUPLICATION OF BENEFITS:

Hazard Mitigation Assistance (HMA) funds cannot duplicate or be duplicated by funds received by or available to Applicants, subapplicants, or project or planning participants from other sources for the same purpose, such as benefits received from insurance claims, other assistance programs (including previous project or planning grants and subgrants from HMA programs), legal awards, or other benefits associated with properties or damage that are or

could be subject of litigation.

Because the availability of other sources of mitigation grant or loan assistance is subject to available information and the means of each individual applicant, HMA does not require proof that other assistance (not including insurance) has been sought. However, it is the responsibility of the property owner to report other benefits received, any applications for other assistance, the availability of insurance proceeds, or the potential for other compensation, such as from pending legal claims for damages, relating to the property. Amounts of other grants, loans or other assistance designated for the same purpose as HMA funds, if received, may be used to reduce the non-Federal cost-share.

Where the property owner has an insurance policy covering any loss to the property which relates to the proposed HMA project, the means are available for receiving compensation for a loss or, in the case of increased cost of compliance (ICC), assistance toward a mitigation project. FEMA will generally require that the property owner file a claim prior to the receipt of HMA funds.

NON DISCRIMINATION:

The program must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The program complies with Title VI of the 1964 Civil Rights Act and other applicable laws. All applicants/Grantees must comply with Title VI, including State and local governments distributing Federal assistance.

Applicants/Grantees and subapplicants/subgrantees will ensure that no discrimination is practiced. Applicants must consider fairness, equity, and equal access when prioritizing and selecting project subapplications to submit with their application. Subapplicants and subgrantees must ensure fairness, equity and equal access when consulting and making offers of mitigation to property owners that benefit from mitigation activities.

CHANGES IN SCOPE OF WORK:

Requests for changes to the scope of work (SOW) after award are permissible as long as they do not change the nature or total project cost of the activity, properties identified in the subapplication, the feasibility and effectiveness of the project, or the benefit cost ratio. Requests must be supported by adequate justification from the applicant in order to be processed. The justification is a description of the proposed change, a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a full description of the work necessary to complete the activity. All approvals will be at FEMA's discretion, and there is no guarantee that SOW changes will be approved.

PERFORMANCE PERIODS:

Program/Project/subgrant Approval and/or Awards:

All grant award activities, including all projects and/or activities approved under each subgrant award, shall be completed within the time period prescribed and authorized on the obligating documents. All costs must be incurred within the approved performance period or be approved pre-award costs.

EXTENSIONS:

Requests for time extensions to the Period of Performance will be considered but will not be granted automatically and must be supported by adequate justification submitted to the Regional Office in order to be processed. This justification is a written explanation of the reason or reasons for the delay; an outline of remaining funds available to support the extended Period of Performance; and a description of performance measures necessary to complete the activity. Without justification, extensions requests will not be processed. Financial and progress reports must be current in order for a time extension to be considered.

RECOUPMENT OF FUNDS:

FEMA will recoup mitigation planning grant funds for grants that do not meet the deliverable criteria of an adopted, FEMA-approved mitigation plan by the end of the performance period.

RECOVERY OF FUNDS:

The Grantee will process the recovery of assistance paid to subgrantees processed through error, misrepresentation, or fraud or if funds are spent inappropriately. Recovered funds shall be submitted to FEMA as soon as the funds are collected, but no later than 90 days from the expiration date of the appropriate grant award agreement.

All fraud identifications will be reported to the FEMA Inspector General's office. The Grantee agrees to cooperate with investigation conducted by the FEMA Inspector General's office.

REFUND, REBATE, CREDITS:

The Grantee shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other amounts arising from the performance of this agreement, along with accrued interest, if any. The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

REPORTS:

Federal Financial Reports (SF-425) – Required Quarterly.

The recipient shall submit the Federal Financial Report (FFR, SF-425) within 30 days of the end of the first Federal quarter following the initial Grant Award. The recipient shall submit quarterly FFRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity

occurs. Future awards and fund draw downs may be withheld if these reports are delinquent. The final FFR is due 90 days after the end date of the performance period.

Performance Report:

The Grantee shall submit performance reports to the FEMA Regional Office within 30 days after end of each quarter. The report shall consist of a comparison of actual accomplishment to the approved activity objectives. The Regional Administrator may waive the initial report. The Grantee shall submit quarterly performance reports thereafter until the grant ends. Reports are due January 30, April 30, July 30, and October 30. Quarterly performance report shall report the name, completion status, expenditure, and payment-to-date of each approved activity/sub-grant award under the Grant Award.

Final Reports:

The Grantee shall submit a final FFR and Performance Report 90 days after the end date of the performance period.

TERMINATION:

The Grantee, subgrantee, or FEMA may terminate grant award agreements by giving written notice to the other party at least seven (7) calendar days prior to the effective date of the termination. All notices are to be transmitted via registered or certified mail, return receipt requested. The Grantee's authority to incur new costs will be terminated upon the date of receipt of the notice or the date set forth in the notice. Any costs incurred up to the earlier of the date of the receipt of the notice or the date of termination set forth in the notice will be negotiated for final payment. Closeout of the Grant will be commenced and processed as prescribed under Article VII. 3.

ARTICLE VIII. GOVERNING PROVISIONS

The Grantee and any sub-grantees shall comply with all applicable laws and regulations. A non-exclusive list of laws and regulations commonly applicable to FEMA grants is attached hereto for reference only.

The Grantee and any subgrantees shall also be bound by the Program Guidance document. The following Office of Management and Budget circulars and Code of Federal Regulations are also applicable to this Grant Award:

2 CFR 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

2 CFR 225 Cost Principles for State and Local Governments (formerly OMB Circular A-87)

2 CFR 220 Cost Principles for Educational Institutions

OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations

Commonly Applicable Statutes and Regulations

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities

Sections 1361(A) (42 USC 4104c), of the National Flood Insurance Act of 1968 (42 U.S.C. §4001, *et seq.* – the “NFIA” or “the Act”), as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264

Title 44 of the Code of Federal Regulations (CFR)

44 CFR Part 79-Flood Mitigation Grants

44 CFR Part 80-Property Acquisition and Relocation for Open Space

44 CFR Part 9-Floodplain Management and Protection of Wetlands

44 CFR Part 10-Environmental Considerations

44 CFR Part 13-Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

31 CFR Part 205-Rules and Procedures for Efficient Federal-State Funds Transfers

2 CFR 225- (OMB Circular A-87)-COST PRINCIPLES FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

2 CFR Part 230 (OMB Circular A-122)- COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS

48 CFR Part 31.2 (FAR)

Cost Review (Grants)

FMA-PJ-06-TX-2013-005 (0): City of Beaumont FMA Acquisition [EMT-2014-FM-E001 (0)]

Revision History

Acquisition of Private Real Property (Structures and Land) - Riverine							
Cost Type	Item Name	Office	Eligible	Unit Quantity	Unit of Measure	Unit Cost	Total Cost
Administrative Expense	Appraisals	Applicant	N/A	3	EA	\$500.00	\$1,500.00
		Program	<input checked="" type="checkbox"/>	3	EA	\$500.00	\$1,500.00
		Grants	<input checked="" type="checkbox"/>	3 i	EA	\$500.00 i	\$1500.00
Administrative Expense	Buyout Rep Fee	Applicant	N/A	3	EA	\$1,200.00	\$3,600.00
		Program	<input checked="" type="checkbox"/>	3	EA	\$1,200.00	\$3,600.00
		Grants	<input checked="" type="checkbox"/>	3 i	EA	\$1200.00 i	\$3600.00
Administrative Expense	Settlement Expenses	Applicant	N/A	3	EA	\$2,000.00	\$6,000.00
		Program	<input checked="" type="checkbox"/>	3	EA	\$2,000.00	\$6,000.00
		Grants	<input checked="" type="checkbox"/>	3 i	EA	\$2000.00 i	\$6000.00
Administrative Expense	Subapplicant Management Fee	Applicant	N/A	1	EA	\$12,000.00	\$12,000.00
		Program	<input checked="" type="checkbox"/>	1	EA	\$12,000.00	\$12,000.00
		Grants	<input checked="" type="checkbox"/>	1 i	EA	\$12000.00 i	\$12000.00
Administrative Expense	Tenant Relocation Buyout Rep Fee	Applicant	N/A	32	EA	\$1,200.00	\$38,400.00
		Program	<input checked="" type="checkbox"/>	32	EA	\$1,200.00	\$38,400.00
		Grants	<input checked="" type="checkbox"/>	32 i	EA	\$1200.00 i	\$38400.00
Demolition And Removal	Demolition of 2505 Sweetgum - Bldg A	Applicant	N/A	4680	SF	\$2.60	\$12,168.00
		Program	<input checked="" type="checkbox"/>	4680	SF	\$2.60	\$12,168.00
		Grants	<input checked="" type="checkbox"/>	4680 i	SF	\$2.60 i	\$12168.00
Demolition And Removal	Demolition of 2505 Sweetgum - Bldg B	Applicant	N/A	9900	SF	\$2.60	\$25,740.00
		Program	<input checked="" type="checkbox"/>	9900	SF	\$2.60	\$25,740.00
		Grants	<input checked="" type="checkbox"/>	9900 i	SF	\$2.60 i	\$25740.00
Demolition And Removal	Demolition of 2505 Sweetgum - Bldg C	Applicant	N/A	4680	SF	\$2.60	\$12,168.00
		Program	<input checked="" type="checkbox"/>	4680	SF	\$2.60	\$12,168.00

		Grants	<input checked="" type="checkbox"/>	4680 f	SF	\$ 2.60 f	\$ 12168.00
Demolition And Removal	Environmental Inspections (Asbestos)	Applicant	N/A	3	EA	\$350.00	\$1,050.00
		Program	<input checked="" type="checkbox"/>	3	EA	\$350.00	\$1,050.00
		Grants	<input checked="" type="checkbox"/>	3 f	EA	\$ 350.00 f	\$ 1050.00
Land, Structures, Right-of-way	Mitigation offer amount for 2505 Sweetgum - Bldg A	Applicant	N/A	1	EA	\$170,000.00	\$170,000.00
		Program	<input checked="" type="checkbox"/>	1	EA	\$170,000.00	\$170,000.00
		Grants	<input checked="" type="checkbox"/>	1 f	EA	\$ 170000.00 f	\$ 170000.00
Land, Structures, Right-of-way	Mitigation offer amount for 2505 Sweetgum - Bldg B	Applicant	N/A	1	EA	\$340,000.00	\$340,000.00
		Program	<input checked="" type="checkbox"/>	1	EA	\$340,000.00	\$340,000.00
		Grants	<input checked="" type="checkbox"/>	1 f	EA	\$ 340000.00 f	\$ 340000.00
Land, Structures, Right-of-way	Mitigation offer amount for 2505 Sweetgum - Bldg C	Applicant	N/A	1	EA	\$170,000.00	\$170,000.00
		Program	<input checked="" type="checkbox"/>	1	EA	\$170,000.00	\$170,000.00
		Grants	<input checked="" type="checkbox"/>	1 f	EA	\$ 170000.00 f	\$ 170000.00
Land, Structures, Right-of-way	Tenant Relocation Assistance	Applicant	N/A	32	EA	\$5,250.00	\$168,000.00
		Program	<input checked="" type="checkbox"/>	32	EA	\$5,250.00	\$168,000.00
		Grants	<input checked="" type="checkbox"/>	32 f	EA	\$ 5250.00 f	\$ 168000
Preliminary Expense	Application Development	Applicant	N/A	1	EA	\$5,000.00	\$5,000.00
		Program	<input checked="" type="checkbox"/>	1	EA	\$5,000.00	\$5,000.00
		Grants	<input checked="" type="checkbox"/>	1 f	EA	\$ 5000.00 f	\$ 5000.00

Proposed Total Cost (A):	\$965,626.00	* Total Eligible Cost (D):	\$965,626.00
Proposed Federal Share % (B):	100.00000000%	* Total Ineligible Cost (E = A - D):	\$0.00
Proposed Federal Share (C = A * B):	\$965,626.00	* Eligible Federal Share (F = D * B):	\$965,626.00
Proposed Non Federal Share (A - C):	\$0.00	* Eligible Non-Federal Share (G = D - F):	\$0.00

* Calculated based on the Eligible Cost (Grants) numbers.

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: FMA-PJ-06-TX-2013-005 (0)

Title: City of Beaumont FMA Acquisition

NEPA DETERMINATION

Non Compliant Flag: No
 EA Draft Date: EA Final Date:
 EA Public Notice Date: EA Fonsi Date: Level: CATEX
 EIS Notice of Intent Date: EIS ROD Date:

Comments: Under this FEMA FMA grant, the City of Beaumont proposes to acquire and demolish three apartment buildings within a single complex. The properties will remain as open space in perpetuity. 2505 Sweetgum, Beaumont, Jefferson County, Texas, Building A: (Latitude: 30.09777; Longitude: - 94.12615); Building B: (Latitude: 30.09777; Longitude: - 94.12615); and Building C: (Latitude: 30.09777; Longitude: - 94.12615).

This project has been determined to be Categorical Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with 44 CFR Part 10.8(d)(2)(vii). Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance including funding.

- dweir - 05/05/2014 14:07:56 GMT

CATEX CATEGORIES

Catex Category Code	Description	Selected
vii	(vii) The acquisition of properties and the associated demolition/removal or relocation of structures under any applicable authority when the acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.	Yes

EXTRAORDINARY CIRCUMSTANCES

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	

ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comments
Clean Air Act (CAA)	Completed	Project will not result in permanent air emissions - Review concluded	
Coastal Barrier Resources Act (CBRA)	Completed	Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded	
Clean Water Act (CWA)	Completed	Project would not affect any water of the U.S. - Review concluded	

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: FMA-PJ-06-TX-2013-005 (0)

Title: City of Beaumont FMA Acquisition

Environmental Law/ Executive Order	Status	Description	Comments
Coastal Zone Management Act (CZMA)	Completed	Project is located in a coastal zone area and/or affects the coastal zone	Based on consultation with Texas General Land Office (GLO) and review of Coastal Coordination Council (CCC) General Concurrence #5, FEMA has determined that this project is deemed consistent with the goals and policies of the Texas Coastal Management Program (CMP) and consistency review procedures as implemented by the GLO. - dweir - 05/05/2014 14:10:57 GMT
	Completed	State administering agency does not require consistency review - Review concluded	
Executive Order 11988 - Floodplains	Completed	No effect on floodplain/flood levels and project outside floodplain - Review concluded	Per Flood Insurance Rate Map (FIRM) panel 4854570035C, dated 08/06/2002, the project is located outside the 100 year flood zone and the activity does not adversely affect floodplain values. - dweir - 05/05/2014 14:12:57 GMT
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	A review of the National Wetland Inventory (NWI) online mapper, accessed on May 5, 2014, for the site indicates that the area is not located within nor does it affect a designated wetland. - dweir - 05/05/2014 14:13:09 GMT
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
Endangered Species Act (ESA)	Completed	Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action	
	Completed	No effect to species or designated critical habitat (See comments for justification) - Review concluded	
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	
Fish and Wildlife Coordination Act (FWCA)	Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: FMA-PJ-06-TX-2013-005 (0)

Title: City of Beaumont FMA Acquisition

Environmental Law/ Executive Order	Status	Description	Comments
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Standard Section 106 review	FEMA has determined that there will be no effect to historic properties. SHPO concurrence with this determination was received, dated 9/16/2013. Letters sent to Kiowa Tribe of Oklahoma and Tonkawa Tribe of Oklahoma on 4/4/2014. No responses received by the date of this REC. - dweir - 05/05/2014 14:08:37 GMT
	Completed	Building or structure 50 years or older or listed on the National Register in the project area and activity not exempt from review	
	Completed	Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded	
	Completed	Project affects only previously disturbed ground - Review concluded	
OTHER (enter specifics in comments)	Completed	Review concluded	National Emissions Standards for Hazardous Air Pollutants (NESHAP). - dweir - 05/05/2014 14:11:59 GMT
Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)	Completed	Review concluded	
Wild and Scenic Rivers Act (WSR)	Completed	Project is not along and does not affect Wild and Scenic River - Review concluded	

CONDITIONS

Special Conditions required on implementation of Projects:

In the event that archeological deposits (soils, features, artifacts, other remnants of human activity) are uncovered during the project the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The applicant will inform the Texas Division of Emergency Management (TDEM) immediately and will secure all archeological findings and restrict access to the area. TDEM shall notify FEMA and FEMA will consult with SHPO, THPO, or Tribal representatives. Work in sensitive areas cannot resume until consultations are completed or until an archeologist who meets Secretary of the Interior (SOI) Professional Qualifications determines the extent of the discovery.

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: FMA-PJ-06-TX-2013-005 (0)

Title: City of Beaumont FMA Acquisition

Work may not resume at or around the delineated archeological deposit until the applicant is notified by TDEM.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: No

If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).

Source of condition: OTHER (enter specifics in comments)

Monitoring Required: No

Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)

Monitoring Required: No

Standard Conditions:

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws: Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

Exhibit B
ORIGINAL GRANT APPLICATION

Subgrant Project Application

Application Title: City of Beaumont FMA Acquisition
Subgrant Applicant: City of Beaumont
Application Number: TX-2013-002
Application Year: 2013
Grant Type: Project Application
Address: 801 Main Street, Beaumont, TX 77701-0000

Contact
Authorized Subgrant Agent

title	Mr.
first Name	Chris
Middle Initial	
Last Name	Boone
title	Community Development Director
Agency/Organization	City of Beaumont
Address 1	801 Main Street
Address 2	
City	Beaumont
State	TX
ZIP	77701
Phone	409-880-3100 Ext.
Fax	409-880-3133
email	cboone@ci.beaumont.tx.us

Point of Contact

title	Mr.
first Name	Kyle
Middle Initial	
Last Name	Hayes
title	City Manager
Agency/Organization	City of Beaumont
Address 1	801 Main Street
Address 2	
City	Beaumont
State	TX
ZIP	77701 - 3548
Phone	409-880-3708 Ext.
Fax	409-880-3112
email	khayes@ci.beaumont.tx.us

Community Information

Please provide the name of each community that will benefit from this mitigation activity by clicking on the Find Community button. You shall modify Congressional District for each community by directly editing the textbox(es) provided. You should also notify your state NFIP coordinator so that it can be updated in the Community Information System database. When you are finished, click the Save and Continue button below.

State	County Code	Community Name	CID Number	CRS Community	CRS Rating	State Legislative District	US Congressional District
X	485457_QBMOZ0ED5	BEAUMONT, CITY OF	485457	Y	8	485457	9

Comments

Attachments

State	TX	
Community Name	BEAUMONT, CITY OF	
County Name	TEXAS	
County Code	JEFFERSON COUNTY	
City Code	485457	
<u>IPS Code</u>	245	Help
<u>ID Number</u>	485457	Help
<u>RS Community</u>	Y	
<u>RS Rating</u>	8	
State Legislative District	485457	
US Congressional District	9	
<u>IRM or FFBM available?</u>	Yes	
<u>Community Status</u>	PARTICIPATING	Help
Community participates in <u>NFIP?</u>	Yes	
Date entered in NFIP	08-19-1970	
Date of most recent <u>Community Assistance Visit (CAV)?</u>	09-25-2006	Help

Mitigation Plan

Does the entity that will benefit from the proposed activity covered by a current FEMA-approved multi-hazard mitigation plan in compliance with 44 CFR Part 201? **Yes**

Yes, please answer the following:

What is the name of the plan? **Jefferson County, TX Multi-Jurisdictional Hazard Mitigation Plan**
 What is the type of plan? **Local MultiJurisdictional Multihazard Mitigation Plan**
 When was the current multihazard mitigation plan approved by FEMA? **07-02-2012**
 Describe how the proposed activity relates to or is consistent with the FEMA-approved mitigation plan. **The type of mitigation activity proposed is the State of Texas top priority for the use of mitigation funds.**

No or Not Known, please answer the following:

Does the entity have any other mitigation plans adopted? **No**
 If Yes, please provide the following information.

Plan Name	Plan Type	Date Adopted	Attachment
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Does the State/Tribe in which the entity is located have a current FEMA-approved mitigation plan in compliance with 44 CFR Part 201? **Yes**

Yes, please answer the following:

What is the name of the plan? **Texas Mitigation Plan - Standard 2010**
 What is the type of plan? **Standard State Multi-hazard Mitigation Plan**
 When was the current multihazard mitigation plan approved by FEMA? **10-18-2010**
 Describe how the proposed activity relates to or is consistent with the State/Tribe's FEMA-approved mitigation plan. **The activity is consistent with State and FEMA priorities to acquire and demolish homes on FEMA Severe Repetitive Loss list**

If you would like to make any comments, please enter them below.

The City of Beaumont has land use, building code, and permit authority over the land within its corporate boundaries - including that area of and affected by this proposed project. To attach documents, click the *Attachments* button below.

Scope of Work (Page 1 of 3)

Title of your proposed activity (should include the type of activity and location):

City of Beaumont FMA Acquisition
Hazard(s) Identified to be mitigated:
Flood
Proposed types of Mitigation Activity(ies):

Activity Code	Activity Name
200.1	Acquisition of Private Real Property (Structures and Land) - Riverine

Other or Miscellaneous selected above, please specify:

Provide a clear and detailed description of your proposed activity:

The City proposes to acquire and demolish three properties on FEMA's validated SRL list. Is there construction in this project?

Provide a detailed description of the proposed project's location (e.g. municipality, street address, major intersecting streets and other important landmarks). Supporting documentation such as maps that clearly identify the location and critical features to the project such as topography, waterways, adjacent community boundaries, etc., should be attached:

All properties on this application are on FEMA's severe repetitive loss list. This action will eliminate the flooding (and flood claims) for these SRL properties. Beaumont is on Texas' coastal plain, about 30 miles (48 km) inland from the Gulf of Mexico, and just south of the dense pine forests of East Texas. The city is bordered on the east by the Neches River and to the north by Pine Island Bayou. Before being settled, the area was crisscrossed by numerous small streams. Most of these streams have since been filled in or converted for drainage purposes. The city of Beaumont, Texas is within the humid subtropical climate regime. This city is within the Piney Woods, which cover the eastern region of Texas, as well as adjacent Louisiana. This region of Texas receives the most rainfall in the state, with more than 48 inches (1,200 mm) annually. This is due to the warm gulf waters that carry humid air to the region, where it condenses and precipitates. Hurricanes also strike the region, the most disastrous of which was the Galveston Hurricane of 1900 as well as Hurricane Ike in 2008. Hurricane Rita was the largest and most damaging hurricane to hit Beaumont to date, striking September 24, 2005. Causing \$11.3 billion in damage, it is the sixth most costly hurricane in United States history. The humidity of the region greatly amplifies the feeling of heat during the summer. As of the census of 2000, there were 113,866 people, 44,361 households, and 29,100 families residing in the city. The population density was 1,339.4 people per square mile (517.2/km²). There were 48,815 housing units at an average density of 574.2/sq mi (221.7/km²). The racial makeup of the city was 6.39% Caucasian, 45.85% African American, 0.24% Native American, 2.48% Asian, 0.04% Pacific Islander, 3.55% from other races, and 1.45% from two or more races. Hispanic or Latino of any race were 7.93% of the population.

Scope of Work (Page 2 of 3)

Latitude:

0.045705

Longitude:

4.054201

Describe the need for this activity. Why should this mitigation activity be completed?

These 3 buildings on this application have experienced over \$1.1M in paid claims. The overall avoided damages for these properties is \$998,063 making this a very effective use of FMA program funding. These buildings are all part of a small apartment complex with 32 total units. In addition to the building payments, there are also costs to each tenant each time a flood occurs.

Who will the mitigation activity benefit and/or impact?

These 3 buildings are all SRL properties that have experienced 39 paid claims totally over \$1.1M

How will the mitigation activity be implemented?

To permanently remove Severe Repetitive Loss properties and all tenants from harm's way and from receiving future flood losses

Describe how the project is technically feasible and will be effective in reducing the risk by reducing or eliminating damage to property and/or loss of life in the project area. Please include engineering design parameters and references to the following: preliminary schematic or engineering drawings/design; applicable building codes; engineering practices and/or best practices; level of protection (e.g., life safety, 100-yr floor protection with sea board, 100-yr wind design, etc.):

The mitigation offer will be established based upon the HMA guidance and an offer will be extended to each owner. Once the properties are acquired all improvements and underground utilities will be removed and the properties will be deeded as open space in perpetuity. All tenants will be afforded tenant relocation assistance, consistent with HMA guidance. The City has hired an acquisition and relocation firm that has assisted Cities and Counties in the acquisition/demolition of over 5,000 flood prone and/or flood damaged properties. Most of these acquisitions have been with FEMA mitigations, and have followed HMA guidance. Where tenants were involved, this consultant facilitated tenant relocation assistance. Please see attached word documents titled Buyout Implementation Process for a detailed, task by task overview of how the program will be implemented when/if awarded.

Who will manage and complete the mitigation activity?

The City of Beaumont has the ability to provide staff and resources to implement this mitigation activity. The activity will be closely monitored by a full-time inspector and supervised by an engineering staff of 8, who work under the public works director. In addition, the City will utilize the services of an Acquisition Consultant to execute the program. Please see attached word documents titled Buyout Implementation Process for a detailed, task by task overview of how the program will be implemented when/if awarded.

Scope of Work (Page 3 of 3)

Will the project address the hazards identified and what risks will remain from all hazards after project implementation (residual risk)?

This project will address the flood hazard and once the project is complete, there will be no residual risk.

When will the mitigation activity take place?

Once the grant is funded and the award accepted by the City, the appraisal process will begin. Based on tenant's ability to vacate the homes, the entire process will take approximately 12 months. All tenants will receive relocation assistance.

Why is this project the best alternative. What alternatives were considered to address the risk and why was the proposed activity considered the best alternative?

The other alternatives considered were to elevate the properties or to do nothing. If the properties were elevated, the risk is not eliminated because the properties are still in the path of future floods. Doing nothing is also an option, however these properties have severe repetitive losses and leaving them as they are today will keep the homes at risk. The only way to ensure the

homes and people are out of harm's way is to acquire and demolish these properties.

Please identify the entity that will perform any long-term maintenance and provide a maintenance schedule and cost information. The subapplicant or owner of the area to be mitigated is responsible for maintenance (including costs of long-term care) after the project is completed:

The resultant vacant lots will be included in the mowing schedule with the City's other publicly owned vacant parcels.

If you would like to make any comments, please enter them below:

See attached letter from the City relative to maintenance for this project. Also attached is a word document with the details of how the buyout process will be implemented.

Attachments:

[Buyout Implementation Process.docx](#)

[Signed Maint Letter.pdf](#)

Properties

amaged Property Address:

ddress line 1 2505 Sweetgum - Bldg A Land
 ddress line 2 Bldg A
 ity Beaumont
 ounty Jefferson
 tate TX
 IP 77703

wner Information:

irst Name MONTERREY
 iddle Name
 ast Name RENTALS LLC
 Home Office
 Ext.
 Cell

wner's Mailing Address:

ddress line 1
 ddress line 2
 ther (PO Box, Route, etc) PO BOX 2851
 ity Beaumont
 tate TX
 IP 77704 - 2851

oes this property
 ave other co-owners
 r holders of recorded interest? N

roperty Information:

altitude 30.055197
ongitude -94.073414
 ear Built 1961
 tructure Type Multi-Family Dwelling - 5 or More Units
 roperty Tax Identification Number
 egal Description L D16 TRS 210 AND 211 OUT T 93 A WILLIAMS MON
 oes this property have an NFIP Policy Number Yes
 Policy Number RL00004866
 azards to be mitigated: Flood
 Property Action ACQDEMO

roperty Information II:

ubstantially Damaged? No
urchase Offer Amount 170,000.00
ase Flood Elevation feet
irst Floor Elevation feet
 umber of feet the lowest floor elevation of the structure is being raised above Base Flood
 levation feet
 oundation type SOG
Flood Zone Designation Area of minimal flood hazards (C, unshaded X)

omments

tached is the FIRM map, the CAD record, and the Notice of Voluntary Interest.

ttachments

Name	Date Attached
2505 Sweetgum NVI.pdf	08-20-2013
2505 Sweetgum Pics.pdf	08-20-2013
2505 Sweetgum FIRMette.pdf	08-20-2013

Properties

Damaged Property Address:

Address line 1 2505 Sweetgum - Bldg C Land
 Address line 2 C
 City Beaumont
 County Jefferson
 State TX
 ZIP 77703

Owner Information:

First Name MONTERREY
 Middle Name
 Last Name RENTALS LLC
 Home Office
 Cell Ext.

Owner's Mailing Address:

Address line 1
 Address line 2
 Other (PO Box, Route, etc) PO BOX 2851
 City Beaumont
 State TX
 ZIP 77704

Does this property have other co-owners or holders of recorded interest? N

Property Information:

Latitude 30.055197
 Longitude -94.073414
 Year Built 1961
 Structure Type Multi-Family Dwelling - 5 or More Units
 Property Tax Identification Number
 Legal Description
 Does this property have an NFIP Policy Number Yes
 Policy Number RL00004865
 Hazards to be mitigated: Flood
 Property Action ACQDEMO

Property Information II:

Substantially Damaged? No
 Purchase Offer Amount 170,000.00
 Base Flood Elevation feet
 First Floor Elevation feet
 Number of feet the lowest floor elevation of the structure is being raised above Base Flood Elevation feet
 Foundation type
 Flood Zone Designation Area of minimal flood hazards (C, unshaded X)

Comments

Attached is the FIRM map, the CAD record, and the Notice of Voluntary Interest. See Bid A for these documents.
 Attachments

Properties

Damaged Property Address:

Address line 1 2505 Sweetgum - Bldg B Land
 Address line 2 B
 City Beaumont
 County Jefferson
 State TX
 ZIP 77703

Owner Information:

First Name MONTERREY
 Middle Name
 Last Name RENTALS LLC
 Home Office
 Cell Ext.

Owner's Mailing Address:

Address line 1
 Address line 2
 Other (PO Box, Route, etc) PO BOX 2851
 City Beaumont
 State TX
 ZIP 77704

Does this property have other co-owners or holders of recorded interest? N

Property Information:

Latitude 30.055197
 Longitude -94.073414
 Year Built 1991
 Structure Type Multi-Family Dwelling - 5 or More Units
 Property Tax Identification Number
 Legal Description
 Does this property have an NFIP Policy Number? Yes
 Policy Number RL00004867
 Hazards to be mitigated: Flood
 Property Action ACQDEMO

Property Information II:

Substantially Damaged? No
 Purchase Offer Amount 340,000.00
 Base Flood Elevation feet
 First Floor Elevation feet
 Number of feet the lowest floor elevation of the structure is being raised above Base Flood Elevation feet
 Foundation type
 Flood Zone Designation Area of minimal flood hazards (C, unshaded X)

Comments
 Attached is the FIRM map, the CAD record, and the Notice of Voluntary Interest. See bldg. A for these documents.
 Attachments

Description Of Task	Starting Point	Schedule			Unit Of Time	Work Complete By
		Unit Of Time	Duration	Unit Of Time		
Contract for title company and appraisal firm	1	DAYS	1	MONTHS	City's buyout consultant	
Notify owners of award	1	DAYS	1	MONTHS	City's buyout consultant	
Conduct appraisals	1	MONTHS	2	MONTHS	Appraiser	
Determine Mitigation offer and prepare necessary paperwork	3	MONTHS	1	MONTHS	City's buyout consultant	
Present offers to owners	4	MONTHS	2	MONTHS	City's buyout consultant	
Conduct Settlements	8	MONTHS	4	MONTHS	Title Company	
Demolish Properties	7	MONTHS	3	MONTHS	Demolition Contractor	
Project Closeout	10	MONTHS	2	MONTHS	City of Beaumont and City's buyout consultant	
Plant Relocation	4	MONTHS	12	MONTHS	Relocation Consultant	
Estimate the total duration of the proposed activity:			24	MONTHS		

00.1 - Acquisition of Private Real Property (Structures and Land) - Riverine

Federal Share: \$ 965,626.00

Item Name	Cost Classification	Unit Quantity	Unit of Measure	Unit Cost (\$)	Cost Estimate (\$)
litigation offer amount for 2505 Sweetgum - Bldg A	Land, Structures, Right-of-way	1.00	Each	\$ 170,000.00	\$ 170,000.00
ppraisals	Administrative Expense	3.00	Each	\$ 500.00	\$ 1,500.00
enant Relocation Buyout Rep Fee	Administrative Expense	32.00	Each	\$ 1,200.00	\$ 38,400.00
ettlement Expenses	Administrative Expense	3.00	Each	\$ 2,000.00	\$ 6,000.00
nvironmental Inspections (Asbestos)	Demolition And Removal	3.00	Each	\$ 350.00	\$ 1,050.00
emolition of 2505 Sweetgum - Bldg A	Demolition And Removal	4,680.00	Square Foot	\$ 2.60	\$ 12,168.00
enant Relocation Assistance	Land, Structures, Right-of-way	32.00	Each	\$ 5,250.00	\$ 168,000.00
uyout Rep Fee	Administrative Expense	3.00	Each	\$ 1,200.00	\$ 3,600.00
litigation offer amount for 2505 Sweetgum - Bldg B	Land, Structures, Right-of-way	1.00	Each	\$ 340,000.00	\$ 340,000.00
litigation offer amount for 2505 Sweetgum - Bldg C	Land, Structures, Right-of-way	1.00	Each	\$ 170,000.00	\$ 170,000.00
emolition of 2505 Sweetgum - Bldg B	Demolition And Removal	9,900.00	Square Foot	\$ 2.60	\$ 25,740.00
emolition of 2505 Sweetgum - Bldg C	Demolition And Removal	4,680.00	Square Foot	\$ 2.60	\$ 12,168.00
pplication Development	Preliminary Expense	1.00	Each	\$ 5,000.00	\$ 5,000.00
ubapplicant Management Fee	Administrative Expensio	1.00	Each	\$ 12,000.00	\$ 12,000.00
				Total Cost	\$ 965,626.00

otal Project Cost Estimate: \$ 965,626.00

	Cost Share		
Activity Cost Estimate	\$ 965,628.00		
Federal Share Percentage	100%		
Non-Federal Share Percentage	0%		
	Dollars		Percentage
Proposed Federal Share	\$ 965,628.00		100%
Proposed Non-Federal Share	\$ 0.00		0%

Non-Federal Funds				
Source Agency	Name of Source Agency	Funding Type	Amount (\$)	Action
			Grand Total	\$ 0.00

If you would like to make any comments, please enter them below.

As these are SRL properties funded at 100% there is no local cost share, therefore no match source letter provided

Attachments

Cost Effectiveness

Attach the Benefit Cost Analysis (BCA), if completed for this project

Net Present Value of Project Benefits (A)	\$ 1142368.5
Total Project Cost Estimate (B)	\$ 948628.0
What is the Benefit Cost Ratio for the entire project (A/B)?	1.2

If you would like to make any comments, please enter them below.

See attached spreadsheets for details of the project costs and the FEMA calculated Environmental Benefits Calculator used in the B/C calculations. Central Appraisal District (CAD) Tax record CA report, BCA export also attached. Attached the CAD report are the Marshall and Swift tables used for determining value of property at risk.

Attachments:

- [505 Sweetgum Ln BCA Report.pdf](#)
- [Environmental Benefits Calculator v2 - City of Beaumont.xls](#)
- [505 Sweetgum Ln - BCA Export files.zip](#)
- [CA calc for app.xlsx](#)
- [505 Sweetgum CAD Data.pdf](#)

I. National Historic Preservation Act - Historic Buildings and Structures

1. Does your project affect or is it in close proximity to any buildings or structures 50 years or more in age? Yes

If Yes, you must confirm that you have provided the following:

- The property address and original date of construction for each property affected (unless this information is already noted in the Properties section).
- A minimum of two color photographs showing at least three sides of each structure (Please label the photos accordingly).
- A diagram or USGS 1:24,000 scale quadrangle map displaying the relationship of the property (s) to the project area.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Information gathered about potential historic properties in the project area, including any evidence indicating the age of the building or structure and presence of buildings or structures that are listed or eligible for listing on the National Register of Historic Places or within or near a National Register listed or eligible historic district. Sources for this information may include the State Historic Preservation Officer, and/or the Tribal Historic Preservation Officer (SHPO/THPO), your local planning office, historic preservation organization, or historical society.
- Consideration of how the project design will minimize adverse effects on known or potential historic buildings or structures, and any alternatives considered or implemented to avoid or minimize effects on historic buildings or structures. Please address and note associated costs in your project budget.
- For acquisition/demolition projects affecting historic buildings or structures, any data regarding the consideration and feasibility of elevation, relocation, or flood proofing as alternatives to demolition.
- Attached materials or additional comments.

Comments:

See attached letter to SHPO and SHPO concurrence attached.

Attachments:

- [HPO Letter.pdf](#)
- [505 Sweetgum Pics.docx](#)
- [HPO Release.pdf](#)

J. National Historic Preservation Act - Archeological Resources

1. Does your project involve disturbance of ground? No

If Yes, you must confirm that you have provided the following:

- A description of the ground disturbance by giving the dimensions (area, volume, depth, etc.) and location
- The past use of the area to be disturbed, noting the extent of previously disturbed ground.
- A USGS 1:24,000 scale or other site map showing the location and extent of ground disturbance.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Any information about potential historic properties, including archeological sites, in the project area. Sources of this information may include SHPO/THPO, and/or the Tribe's cultural resources contact if no THPO is designated. Include, if possible, a map showing the relation of any identified historic properties to the project area.
- Attached materials or additional comments.

Comments:

Attachments:

K. Endangered Species Act and Fish and Wildlife Coordination Act

1. Are Federally listed threatened or endangered species or their critical habitat present in the area affected by the project? No

If Yes, you must confirm that you have provided the following:

- Information you obtained to identify species in or near the project area. Provide the source and date of the information cited.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Any request for information and associated response from the USFWS, the National Marine Fisheries Service (NMFS) (for affected ocean-going fish), or your State Wildlife Agency, regarding potential listed species present and potential of the project to impact those species.
- Attached materials or additional comments.

Comments:

2. Does your project remove or affect vegetation? No

If Yes, you must confirm that you have provided the following:

- Description of the amount (area) and type of vegetation to be removed or affected.
- A site map showing the project area and the extent of vegetation affected.
- Photographs or digital images that show both the vegetation affected and the vegetation in context of its surroundings.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Attached materials or additional comments.

Comments:

3. Is your project in, near (within 200 feet), or likely to affect any type of waterway or body of water? No

If Yes, and project is not within an existing building, you must confirm that you have provided the following:

- A USGS 1:24,000 scale quadrangle map showing the project activities in relation to all nearby water bodies (within 200 feet).
- Any information about the type of water body nearby including: its dimensions, the proximity of the project activity to the water body, and the expected and possible changes to the water body, if any. Identify all water bodies regardless whether you think there may be an effect
- A photograph or digital image of the site showing both the body of water and the project area.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Evidence of any discussions with the US Fish and Wildlife Service (USFWS), and/or your State Wildlife Agency concerning any potential impacts if there is the potential for the project to affect any water body.
- Attached materials or additional comments.

Comments:

Attachments:

4. Clean Water Act, Rivers and Harbors Act, and Executive Order 11990 (Protection of Wetlands)

* 1. Will the project involve dredging or disposal of dredged material, excavation, adding fill material or result in any modification to water bodies or wetlands designated as "waters of the U.S." as identified by the US Army Corps of Engineers or on the National Wetland Inventory? No

If Yes, you must confirm that you have provided the following:

- Documentation of the project location on a USGS 1:24,000 scale topographic map or image and a copy of a National Wetlands Inventory map or other available wetlands mapping information.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Request for information and response letter from the US Army Corps of Engineers and/or State resource agencies regarding the potential for wetlands, and applicability of permitting requirements.
- Evidence of alternatives considered to eliminate or minimize impacts to wetlands.
- Attached materials or additional comments.

Comments:

Attachments:

5. Executive Order 11988 (Floodplain Management)

* 1. Does a Flood Insurance Rate Map (FIRM), Flood Hazard Boundary Map (FHBM), hydrologic study, or some other source indicate that the project is located in or will affect a 100 year floodplain, a 500 year floodplain if a critical facility, an identified regulatory floodway, or an area prone to flooding? Yes

If Yes, please indicate in the text box below any documentation to identify the means or the alternatives considered to eliminate or minimize impacts to floodplains (See the 8 step process found in 44 CFR Part 9.6.) to help FEMA evaluate the impact of the project.

See FIRM attached here and to the Properties section of this application.

* 2. Does the project alter a watercourse, water flow patterns, or a drainage way, regardless of its floodplain designation? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Hydrologic/hydraulic information from a qualified engineer to demonstrate how drainage and flood flow patterns will be changed and to identify down and upstream effects.

- Evidence of any consultation with US Army Corps of Engineers (may be included under Part D of the Environmental Information).
- Request for information and response letter from the State water resource agency, if applicable, with jurisdiction over modification of waterways.
- Attached materials or additional comments.

Comments:

Attachments:

[505 Sweetgum FIRMette.pdf](#)

2. Coastal Zone Management Act

* 1. Is the project located in the State's designated coastal zone? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Information resulting from contact with the appropriate State agency that implements the coastal zone management program regarding the likelihood of the project's consistency with the State's coastal zone plan and any potential requirements affecting the cost or design of the proposed activity.
- Attached materials or additional comments.

Comments:

Attachments:

3. Farmland Protection Policy Act

* 1. Will the project convert more than 5 acres of "prime or unique" farmland outside city limits to a non-agricultural use? No

Comments:

Attachments:

4. RCRA and CERCLA (Hazardous and Toxic Materials)

* 1. Is there a reason to suspect there are contaminants from a current or past use on the property associated with the proposed project? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Comments and any relevant documentation.
- Results of any consultations with State or local agency to obtain permit with requirements for handling, disposing of or addressing the effects of hazardous or toxic materials related to project implementation.
- Attached materials or additional comments.

Comments:

* 2. Are there any studies, investigations, or enforcement actions related to the property associated with the proposed project? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Comments and any relevant documentation.
- Results of any consultations with State or local agency to obtain permit with requirements for handling, disposing of or addressing the effects of hazardous or toxic materials related to project implementation.
- Attached materials or additional comments.

Comments:

* 3. Does any project construction or operation activities involve the use of hazardous or toxic materials? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Comments and any relevant documentation.
- Results of any consultations with State or local agency to obtain permit with requirements for handling, disposing of or addressing the effects of hazardous or toxic materials related to project implementation.
- Attached materials or additional comments.

Comments:

4. Do you know if any of the current or past land-uses of the property affected by the proposed project or of the adjacent properties are associated with hazardous or toxic materials? No

If Yes, please indicate below any other information you are providing to help FEMA evaluate the impact of the project:

- Comments and any relevant documentation.
Results of any consultations with State or local agency to obtain permit with requirements for handling, disposing of or addressing the effects of hazardous or toxic materials related to project implementation.
Attached materials or additional comments.

Comments:

Attachments:

Executive Order 12898, Environmental Justice for Low Income and Minority Populations

1. Are there low income or minority populations in the project's area of effect or adjacent to the project area? No

If Yes, you must confirm that you have provided the following:

- Description of any disproportionate and adverse effects to these populations.

To help FEMA evaluate the impact of the project, please indicate below any other information you are providing:

- Description of the population affected and the portion of the population that would be disproportionately and adversely affected. Please include specific efforts to address the adverse impacts in your proposal narrative and budget.
Attached materials or additional comments.

Comments:

Attachments:

I. Other Environmental/Historic Preservation Laws or Issues

1. Are there other environmental/historic preservation requirements associated with this project that you are aware of? No

If Yes, please indicate in the text box below a description of the requirements, issues or public involvement effort.

2. Are there controversial issues associated with this project? No

If Yes, please indicate in the text box below a description of the requirements, issues or public involvement effort.

3. Have you conducted any public meeting or solicited public input or comments on your specific proposed mitigation project? Yes

If Yes, please indicate in the text box below a description of the requirements, issues or public involvement effort.

The City of Beaumont has discussed the submission of an SRL application at multiple City Council meetings and and has held a consultation meeting with each SRL participant on this application.

Attachments:

C. Summary and Cost of Potential Impacts

1. Having answered the questions in parts A. through J., have you identified any aspects of your proposed project that have the potential to impact environmental resources or historic properties? No

If Yes, you must confirm that you have:

- Evaluated these potential effects and provided the materials required in Parts A through J that identify the nature and extent of potential impacts to environmental resources and/or historic properties.
Consulted with appropriate parties to identify any measures needed to avoid or minimize these impacts.
Considered alternatives that could minimize both the impacts and the cost of the project.
Made certain that the costs of any measures to treat adverse effects are realistically reflected in the project budget estimate.

Comments:

Evaluation

By checking the *Not Applicable* box and not providing the information in this section, I understand that this application may not be selected for the Pre-Disaster Mitigation - Competitive Grant Program (PDMC) nor Legislative Pre-Disaster Mitigation Program (LPDM).

Complete

Not applicable

Assurances and Certifications

Please click the link in the status column to view forms.

Part II: FEMA Form 20-16B, Assurances Construction Programs.

Status

Complete

Part II: FEMA Form 20-16C, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibilities Matters; and Drug-Free Workplace requirements.

Complete

Part III: SF-LLL, Disclosure of Lobbying Activities (Complete only if applying for a grant of more than \$100,000 and have lobbying activities using Non-Federal funds. See Form 20-16C for lobbying activities definition.)

Not Applicable

FEMA Form 20-16B, 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. END 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 nonfederal 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 nondiscrimination 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 USC Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 USC Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
10. 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 (PL 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 USC Sections 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 USC Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 USC Sections 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (PL 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 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 USC Sections 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 USC Section 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.
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 (PL 91-648) 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.
12. Will comply with the provisions of the Hatch Act (5 USC Sections 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.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 USC Sections 276a to 276a-7), the Copeland Act (40 USC Section 276c and 18 USC Section 874), and the Contract Work Hours and Safety Standards Act (40 USC Sections 327-333) regarding labor standards for federally assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 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.
15. 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 (PL 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 USC Section 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 USC Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (PL 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (PL 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 USC Section 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 108 of the National Historic Preservation Act of 1966, as amended (16 USC Section 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Section 469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
19. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program.
20. It will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 USC Section 201), as they apply to employees of institutions of higher education, hospitals, and other nonprofit organizations.
21. It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval changes that alter the cost of the project, use of space, or function or layout, that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.
22. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.
23. It will require the facility to be designed to comply with the "American Standard Specification for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117. - 1981, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
24. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transfer, for the period during which the real property, or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
25. In making subgrants with nonprofit institutions under this Comprehensive Cooperative Agreement, it agrees that such grants will be subject to OMB Circular A-122, "Cost Principles for Nonprofit Organizations" included in Vol. 49, Federal Register, pages 18280 through 18277 (April 27, 1984).

Kyle Hayes, hereby sign this form as of 08-28-2013.

You must read and sign these assurances by providing your password and checking the box at the bottom of this page.

Note: Fields marked with an * are required.

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements.

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 44 CFR Part 18, "New Restrictions on Lobbying; and 28 CFR part 17, "Government-wide Debarment and suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

LOBBYING

As required by the section 1352, Title 31 of the US Code, and implemented at 44 CFR Part 18 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:

- (a) 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, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement and extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any other funds 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities", in accordance with its instructions;

Standard Form LLL Disclosure of Lobbying Activities Not Attached

- (c) The undersigned shall require that the language of this certification be included in the award documents for all the sub awards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontract(s)) and that all subrecipients shall certify and disclose accordingly.

DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 67, for prospective participants in primary covered transactions, as defined at 44 CFR part 17, Section 17.510-A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or locally) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

Explanation:

DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR part 17, Sections 17.615 and 17.623:

(A) The applicant certifies that it will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an on-going drug free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- (e) Notifying the agency, in writing within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the applicable FEMA awarding office, i.e. regional office or FEMA office.
- (f) Taking one of the following actions against such an employee, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement or other appropriate agency.
- (g) Making a good effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

FWDB Contract No. 1300011734

Exhibit B, Page 23 of 27

Place of Performance

Street

City

State

ZIP

11 Main Street

Beaumont

TX

77701

Section 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a Statewide certification.

Kyle Hayes, hereby sign this form as of 08-28-2013.

Print Application

APPLICATION FOR FEDERAL ASSISTANCE (SF 424)

TYPE OF SUBMISSION
Construction

2. DATE SUBMITTED
09-30-2013

3. DATE RECEIVED BY STATE
09-30-2013

4. DATE RECEIVED BY FEDERAL AGENCY

Applicant Identifier

State Application Identifier

Federal Identifier

APPLICANT INFORMATION

Legal Name
City of Beaumont

Address
31 Main Street,
Beaumont, TX 77701

EMPLOYER IDENTIFICATION NUMBER (EIN)
1-8000278

6.a. DUNS NUMBER
073901118

TYPE OF APPLICATION
Project Application

1. CATALOG OF FEDERAL DOMESTIC ASSISTANCE

2. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)
EFFERSON COUNTY

3. PROPOSED PROJECT:

Start Date:
End Date:

5. ESTIMATED FUNDING

Federal	\$ 965,626.00
Applicant	\$ 0.00
State	\$ 0.00
Local	\$ 0.00
Other	\$ 0.00
Program Income	\$ 0.00
TOTAL	\$ 965,626.00

Organizational Unit
City of Beaumont

Name and telephone number of the person to be contacted on matters involving this application
Chris Boone, 409-880-3100

7. TYPE OF APPLICANT
Local Government

9. NAME OF FEDERAL AGENCY
Federal Emergency Management Agency

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT
City of Beaumont FMA Acquisition

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant TX
b. Project TX

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
YES. 18-AUG-2013

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
No

8. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

Name of Authorized Representative
Joe Hayes

b. Title

c. Telephone Number
4098803708

Signature of Authorized Representative
Joe Hayes

e. Date Signed
09-30-2013

Comments for FEMA

Application is approved by TWDB.

Exhibit C IMPLEMENTATION PLAN

Appraisal and Appraisal Review

City/Contractor will hire an independent State certified appraisal firm. The basis of valuation (pre-event or current fair market value) will be determined at the time of award. Since this is FMA, if no event occurs between application submittal and implementation, the basis of compensation will be current fair market value as there has not been a recent flood event affecting these homes.

Once appraisals are complete, each appraisal will be reviewed for compliance with the Uniform Standards for Professional Appraisal Practices (USPAP) and Grant agency requirements. The appraiser's estimate of value should be well documented and supported by the best comparable sale data available. Errors, omissions and unsupported conclusions will be brought to the attention of the appraiser and the report will be revised as needed to meet the reviewer's requirements. An approved estimate of value will be prepared. Should a property owner later challenge the Determination of Compensation and obtain their own appraisal, the City/Contractor will review owner's appraisal and a revised Offer to Sell will be prepared as appropriate. The review of owner appraisals and the preparation of revised offers will be billed for each parcel as appropriate.

Develop Data for Determining Compensation

Information provided by the community will be reviewed and an amount of compensation for each parcel will be recommended. The City/Contractor will analyze the appraisal and/or community information to extract the needed information for the preparation of the Statement of Determination of Compensation and Offer to Sell Real Property. Duplication of Benefits information will be reviewed and proper deductions from value will be made if pre-event value is used as the basis for valuation.

Prepare Determination of Compensation and Offer to Sell Real Property

Utilizing the data developed or obtained in above Tasks, the City/Contractor will prepare the following documents for the City's review: (1) Letter to each parcel owner explaining the acquisition process and their rights and options, to be signed by the Community official, (2) a Statement of Determination of Compensation for each parcel to be signed by the Community official, and; (3) an Offer to Sell Real Property agreement for each parcel.

Meet with Owners

Each parcel owner will be scheduled for a personal meeting at which time the letter from the City explaining the acquisition process and the owner's rights and options will be reviewed. The Statement of Determination of Compensation and Offer to Sell Real Property will also be explained to each parcel owner. If duplication of benefits deductions are made and the owner has documentation to support a revision to the deductions or to support a reimbursement, appropriate adjustments will be made. The meetings will be conducted in facilities provided by the client. Following this meeting, the offer to sell will be presented to the owner.

Review and Oversight of Title Company Activities

The City/Contractor will ensure that the Title Company activities are performed in a timely manner and in accordance with the terms of the contract. The City/Contractor will review Title Search and Title Insurance Commitments to ensure that they meet the requirements of the contract. If problems are encountered, the City/Contractor will seek resolution from the Title Company.

Deeds

The City/Contractor will provide the Title Company a sample Deed for each parcel in a form that meets the requirements of the FEMA Section 404 program and/or the appropriate Grant agency. The Deed will be suitable for recording with the Recorder of Deeds in the appropriate City. This Deed will recite the true consideration to be paid, will identify the interest in the land to be acquired and will include appropriate deed restrictions as directed by FEMA and/or the Grant agency.

Oversee and Coordinate Settlements

The title company will be responsible for scheduling closing with each parcel owner and for the preparation of all documents necessary for closing. These activities will be monitored to ensure that they are performed in a timely manner and that all matters are properly coordinated. A listing will be prepared and provided to the Client prior to each closing which identifies the amount needed for disbursement by the title company at the closing. The listing will identify each parcel by parcel number, owner name, address of property and amount of compensation. The client will be advised to deposit the needed funds in the Title Company escrow prior to closing.

Demolition

City/Contractor will competitively procure a demolition contract to demolish, within 90 days of settlement each property.

Determine Relocation Benefits for Eligible Tenants. Specifically:

The City/Contractor will review eligibility for relocation benefits. The City/Contractor will obtain information from each tenant and calculate benefit amounts to be paid. The City/Contractor will prepare an Agreement for each eligible tenant and will oversee the payment of benefits. Work with the City and local real estate agent(s) to identify comparable units in the community and adjacent communities if none are available in the community. Assist tenants with facilitating the move and determine any additional moving allowance.

Note: As FEMA funded programs must be voluntary in nature, providing relocation benefits is only required if the structure being required is tenant occupied.

Exhibit D

TASK BUDGET

TASK	DESCRIPTION	AMOUNT
Task 1	Pre-Award Application Development	\$5,000.00
Task 2	Appraisals	1,500.00
Task 3	Settlement Expenses	6,000.00
Task 4	Buyout Rep Fee	3,600.00
Task 5	Mitigation Offer – 2505 Sweetgum Bldg. A	170,000.00
Task 6	Mitigation Offer – 2505 Sweetgum Bldg. B	340,000.00
Task 7	Mitigation Offer – 2505 Sweetgum Bldg. C	170,000.00
Task 8	Tenant Relocation Assistance	168,000.00
Task 9	Tenant Relocation Buyout Rep Fee	38,400.00
Task 10	Environmental Inspections (Asbestos)	1,050.00
Task 11	Demolition – 2505 Sweetgum Bldg. A	12,168.00
Task 12	Demolition – 2505 Sweetgum Bldg. B	25,740.00
Task 13	Demolition – 2505 Sweetgum Bldg. C	12,168.00
Task 14	Subapplicant Management Fee	12,000.00
Total		\$965,626.00

EXPENSE BUDGET

EXPENSE CATEGORY	AMOUNT
Demolition	\$51,126.00
Subcontractor	17,000.00
Property Buyout ¹	897,500.00
Total	\$965,626.00

¹ Property Buyout is defined as the cost of Site Acquisitions, Appraisal, Settlement Expenses, Property Owner Counseling, Title Search and Closing, and Tenant or Inhabitant Relocation Assistance

September 16, 2014

Consider a resolution authorizing the annulment of the award to G & G Enterprises of Beaumont for the construction of the Hike & Bike Trail – Phase II Project



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director JM

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution authorizing the annulment of the award to G & G Enterprises of Beaumont in the amount of \$724,200.01 for the construction of the Hike & Bike Trail – Phase II project.

BACKGROUND

On July 22, 2014, City Council approved Resolution No.14-159, which conditionally awarding a contract to G & G Enterprises for the construction of the Hike & Bike Trail - Phase II in the amount of \$724,200.01. On August 18, 2014, as part of the contract requirements, G & G Enterprises submitted three (3) executed Disadvantaged Enterprise Program (DBE) Commitment Agreement forms to the City. The City verified with the listed DBE's that they had not signed the DBE forms that were submitted by G & G Enterprises and had not been contacted by G & G Enterprises related to this project. When questioned about these discrepancies the owner of G & G Enterprises had no explanation for how this occurred. He represented that he had bids from these DBE's for this project. The owner of G & G Enterprises was asked to provide the bids in question. However, the owner did not provide those documents, instead he did provide three (3) completed DBE forms that were executed after the City employees met with the owner of G & G Enterprises.

In accordance with the Specifications and Contract Documents, Section 0100, Instructions to Bidders, page 8 paragraph 18 states, *Failure or refusal to enter into an Agreement as herin provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award and forfeiture of the Bid Security.* In this case the contractor failed to provide the required documentation after being awarded the contract therefore is just cause for an annulment of the award.

FUNDING SOURCE

Not Applicable.

RECOMMENDATION

Approval of resolution.

to and including 20 percent of any Bid Item, without a change in the unit price, and shall include the right to delete any Bid Item in its entirety, or to add additional Bid Items up to and including an aggregate total amount not to exceed 20 percent of the Contract Price, without formal, authorized Change Order to the Contract.

13. **WITHDRAWAL OF BID** - The Bid may be withdrawn by the Bidder by means of a written request, signed by the Bidder or its properly authorized representative. Such written request must be delivered to the place stipulated in the Notice Inviting Bids prior to the scheduled closing time for receipt of Bids.
14. **MODIFICATIONS AND UNAUTHORIZED ALTERNATIVE BIDS** - Unauthorized conditions, limitations, or provisions attached to the Bid will render it informal and may cause its rejection as being non-responsive. The completed Bid forms shall be without interlineations, alterations, or erasures. Alternative Bids will not be considered unless expressly called for and if supplied, without request, will be considered as additional bids and will be judged non-responsive and therefore rejected. Oral, telegraphic, facsimile or telephone Bids or modifications will not be considered.
15. **LIQUIDATED DAMAGES** - Provisions for liquidated damages, if any, are set forth in the Agreement.
16. **SUBSTITUTE OR "OR-EQUAL" ITEMS** - The Work, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Technical Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Technical Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor if acceptable to the Engineer, application for such acceptance will not be considered by the Engineer until after the Effective Date of the Agreement. The procedure for submittal of any such application by the Contractor and consideration by the Engineer is set forth in Section entitled: "Contractor Submittals" of the Technical Specifications.
17. **AWARD OF CONTRACT** - Award of Contract, if awarded, will be based primarily on the lowest overall cost to the Owner, and will be made to a responsive, responsible Bidder whose Bid complies with all the requirements prescribed. Unless otherwise specified, any such award will be made within the period that the Bids remain open, however, such period shall not exceed 90 calendar days. Unless otherwise indicated, a single award will not be made for less than all the Bid Items of an individual Bid Schedule. In the event the Work is identified in more than one Bid Schedule, the Owner may award schedules individually or in combination. In the case of 2 or more Bid Schedules which are alternative to each other, only one of such alternative schedules will be awarded.
18. **EXECUTION OF AGREEMENT** - The Bidder to whom award is made shall execute a written Agreement with the Owner on the form provided, shall secure all insurance documents specified, and shall furnish all certificates and bonds required by the Contract Documents within fourteen (14) calendar days after receipt of the Agreement forms from the Owner. Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award and forfeiture of the Bid Security. If the lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the Owner may award the Contract to the second lowest responsive, responsible Bidder. If the second lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the Owner may award the Contract to the third lowest responsive, responsible Bidder. On the failure or refusal of such second or third lowest Bidder to execute the Agreement, each such Bidder's Bid Securities shall be likewise forfeited to the Owner. Upon failure

RESOLUTION NO.

WHEREAS, on June 19, 2014 bids were solicited for furnishing all labor, materials, equipment and supplies for the construction of the Hike & Bike Trail - Phase II Project; and,

WHEREAS, on July 22, 2014, the City Council of the City of Beaumont passed Resolution No. 14-159 approving the conditional award of a contract to G & G Enterprises, of Beaumont, Texas, in the amount of \$724,200.01 for furnishing al labor, materials, equipment and supplies for the construction of the Hike & Bike Trail - Phase II Project pending TxDOT's concurrence of the award of the contract to G & G Enterprises; and,

WHEREAS, G & G Enterprises was deemed unresponsive as all required documentation was not provided; and,

WHEREAS, the Council would like to annul the conditional award of a contract to G & G Enterprises, of Beaumont, Texas, by rescinding Resolution No. 14-159;

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 award to G & G Enterprises, of Beaumont, Texas, in the amount of \$724,200.01 for the construction of the Hike & Bike Trail - Phase II Project is annulled; and,

BE IT FURTHER RESOLVED THAT Resolution No. 14-159 is hereby and forevermore rescinded.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -

September 16, 2014

Consider a resolution authorizing the conditional award of a bid pending TxDOT concurrence to Bruce's General Construction, Inc. of Beaumont for the construction of the Hike & Bike Trail – Phase II project



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution authorizing the conditional award of a bid pending TxDOT concurrence to Bruce's General Construction, Inc. of Beaumont in the amount of \$727,898.92 for the construction of the Hike & Bike Trail – Phase II project.

BACKGROUND

On July 26, 2011, City Council approved a resolution authorizing the City Manager to execute a Local Transportation Project Advanced Funding Agreement with the Texas Department of Transportation (TxDOT) for the Hike & Bike Trail – Phase II project. The Federal Highway Administration (FHWA) awarded \$661,134.00 to the City of Beaumont for 80% match of the estimated project cost and on September 1, 2011 a contract was executed. The City agreed to provide 20% match funds in the amount of \$165,284.00 and 100% of any additional project expenditures.

On Thursday, June 19, 2014 bids were solicited for furnishing all labor, materials, equipment and supplies for the construction of the Hike & Bike Trail – Phase II project.

Five (5) bids were received as follows:

Contractor	Bid Amount	Location
G & G Enterprises	\$724,200.01	Beaumont, TX
Bruce's General Construction, Inc.	\$727,898.92	Beaumont, TX
Allco, Inc.	\$732,560.00	Beaumont, TX
McInnis Construction, Inc.	\$752,230.49	Silsbee, TX
L & L General Contractors	\$845,602.30	Beaumont, TX

G&G Enterprises failed to submit the necessary documentation to enter into an agreement with the City. In accordance with the Specifications and Contract Documents, Section 0100, Instructions to Bidders, page 8 paragraph 18 it states, *If the lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the Owner may award the Contract to the second lowest responsive, responsible Bidder.* The second lowest bidder in this case is Bruce's General Construction, Inc., of Beaumont, TX.

To satisfy federal funding requirements, TxDOT will provide a letter of concurrence before final award is granted.

FUNDING SOURCE

The Federal Highway Administration (FHWA) awarded \$661,134.00 for the project. Funds are available in the Capital Program for the difference.

RECOMMENDATION

Approval of resolution.

BID TABULATION : HIKE AND BIKE TRAIL - PHASE II
JUNE 19, 2014

ADDENDUM No. 1

ITEM NO.	ITEM CODE	SPEC. PROJ. NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	G&G Enterprises		Bruce's General Construction		Alico		Medina's Construction, Inc.		L&L General Contractors											
						UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL										
100	2002	002	PREPARING RIGHT OF WAY	7582	STA	\$	1,590.00	\$	900.00	\$	6,823.80	\$	520.00	\$	39,626.40	\$	754.88	\$	5,725.76	\$	1,867.20	\$	141,571.10		
104	2021		REMOVE CONCRETE CURB	54.00	LF	\$	33.94	\$	1,800.36	\$	20.00	\$	1,080.00	\$	15.60	\$	842.40	\$	30.88	\$	1,667.52	\$	40.01	\$	2,160.54
110	2003		EXCAVATION (SPECIAL)	1443.00	CY	\$	18.00	\$	25,974.00	\$	45.00	\$	64,895.00	\$	23.00	\$	33,189.00	\$	45.28	\$	63,939.04	\$	21.60	\$	31,168.80
132	C-1		EMBANKMENT (FINAL) (C&D COMP) (TYPE C-1)	232.00	CY	\$	20.70	\$	4,802.40	\$	45.00	\$	10,440.00	\$	45.00	\$	10,440.00	\$	74.50	\$	17,284.00	\$	24.84	\$	5,769.88
132	C-2		EMBANKMENT (FINAL) (C&D COMP) (TYPE C-2)	246.00	CY	\$	20.70	\$	5,071.50	\$	45.00	\$	11,025.00	\$	46.00	\$	11,270.00	\$	71.46	\$	17,507.20	\$	24.84	\$	6,086.80
132	D		EMBANKMENT (FINAL) (C&D COMP) (TYPE D)	527.00	CY	\$	20.70	\$	10,794.70	\$	45.00	\$	23,445.00	\$	27.00	\$	14,067.00	\$	56.43	\$	29,400.03	\$	24.84	\$	12,941.64
162	2002		BLOCK SOODING	2442.69	SY	\$	4.09	\$	9,990.60	\$	4.00	\$	9,770.76	\$	7.00	\$	17,098.83	\$	4.37	\$	10,674.56	\$	4.44	\$	10,865.54
164	2008	002	BROADCAST SEEDING (PERM/URBAN/CLAY)	3.30	AC	\$	2,613.60	\$	8,624.88	\$	200.00	\$	660.00	\$	3,200.00	\$	10,560.00	\$	575.00	\$	1,897.50	\$	240.00	\$	795.00
360	2024	003	CONC PAV (JOINT REIN) (7')	1158.10	SY	\$	45.00	\$	52,024.50	\$	50.00	\$	57,905.00	\$	56.50	\$	65,319.65	\$	51.88	\$	59,978.47	\$	54.50	\$	63,007.46
432	2085		PREPARE CONC (CL BL) (6')	20.30	CY	\$	487.69	\$	9,900.11	\$	200.00	\$	4,060.00	\$	473.00	\$	9,601.90	\$	960.51	\$	19,488.35	\$	985.17	\$	11,878.95
490	B-1		BALING (INSTALL)	80.00	LF	\$	106.00	\$	8,480.00	\$	25.00	\$	2,000.00	\$	37.00	\$	2,980.00	\$	132.25	\$	10,580.00	\$	66.00	\$	5,280.00
496	2007		RENOV STR (PIPE)	30.22	LF	\$	39.71	\$	1,200.04	\$	10.00	\$	302.20	\$	35.00	\$	1,067.70	\$	19.07	\$	575.09	\$	47.65	\$	1,439.98
496	2018		RENOV STR (CONC REPAIR)	2.00	EA	\$	400.00	\$	800.00	\$	1,200.00	\$	2,400.00	\$	1,150.00	\$	2,300.00	\$	63.90	\$	1,347.80	\$	480.00	\$	960.00
496	2046		RENOV STR (SMALL FENCE)	26.00	LF	\$	16.00	\$	260.00	\$	20.00	\$	520.00	\$	25.00	\$	650.00	\$	10.17	\$	264.42	\$	36.00	\$	936.00
500	2001	011	MOBILIZATION	1.00	LS	\$	50,970.07	\$	50,970.07	\$	30,000.00	\$	30,000.00	\$	26,776.07	\$	26,776.07	\$	32,759.80	\$	32,759.80	\$	46,200.00	\$	46,200.00
530	2010	006	PREPARE CONC (6')	143.37	SY	\$	38.37	\$	5,501.11	\$	50.00	\$	7,168.50	\$	63.00	\$	9,032.31	\$	46.61	\$	6,682.48	\$	46.04	\$	6,600.75
531	2005		CLUB RAMP (TY 1)	1.00	EA	\$	900.00	\$	900.00	\$	2,000.00	\$	2,000.00	\$	2,500.00	\$	2,500.00	\$	2,994.60	\$	2,994.60	\$	5,400.00	\$	5,400.00
531	2024		CONC SIDEWALK (10'X5')	8128.74	SY	\$	41.83	\$	340,004.28	\$	54.00	\$	438,924.96	\$	52.75	\$	428,794.66	\$	43.73	\$	353,447.94	\$	50.20	\$	408,037.65
531	2024		CONC SIDEWALK (10'X7')	174.46	SY	\$	45.00	\$	7,802.25	\$	55.50	\$	9,881.98	\$	56.00	\$	9,795.20	\$	40.05	\$	6,986.72	\$	54.00	\$	9,430.80
531	2024		CONC SIDEWALK (14'X5')	122.28	SY	\$	36.85	\$	4,506.02	\$	55.50	\$	6,786.54	\$	52.75	\$	6,450.27	\$	40.33	\$	4,931.35	\$	44.22	\$	5,407.22
550	2001		CHAIN LINK FENCE (INSTALL) (5')	478.00	LF	\$	18.00	\$	8,584.00	\$	20.00	\$	9,520.00	\$	23.00	\$	10,948.00	\$	17.25	\$	8,211.00	\$	21.60	\$	10,281.60
750	2001		DITCH CLEARING (SHRUB) (FOOT)	536.86	LF	\$	7.25	\$	4,085.79	\$	3.00	\$	16,209.98	\$	1.60	\$	9,018.66	\$	5.73	\$	3,298.06	\$	8.70	\$	46,038.94
1122	2013	001	RAILED HAY	5.00	EA	\$	30.00	\$	150.00	\$	10.00	\$	50.00	\$	214.00	\$	1,070.00	\$	57.50	\$	287.50	\$	2.70	\$	13.80
1122	2027	001	TEMP SEDM CONTROL FENCE	626.00	LF	\$	2.25	\$	1,408.50	\$	2.20	\$	1,377.20	\$	3.70	\$	2,316.20	\$	3.71	\$	2,099.46	\$	43.20	\$	1,990.20
4381	2011		THEMOPLASTIC PIPE (18" (HDPE))	111.55	LF	\$	35.86	\$	4,000.18	\$	60.00	\$	6,693.00	\$	45.00	\$	5,010.75	\$	30.62	\$	3,415.66	\$	84.00	\$	4,818.86
4381	2012		THEMOPLASTIC PIPE (24" (HDPE))	44.90	LF	\$	68.18	\$	2,999.97	\$	80.00	\$	3,520.00	\$	48.00	\$	2,122.00	\$	67.17	\$	2,955.48	\$	84.00	\$	3,660.00
						TOTAL BID AMOUNT	\$	724,200.00	TOTAL BID AMOUNT	\$	727,898.92	TOTAL BID AMOUNT	\$	732,560.00	TOTAL BID AMOUNT	\$	752,230.48	TOTAL BID AMOUNT	\$	845,602.32					

to and including 20 percent of any Bid Item, without a change in the unit price, and shall include the right to delete any Bid Item in its entirety, or to add additional Bid Items up to and including an aggregate total amount not to exceed 20 percent of the Contract Price, without formal, authorized Change Order to the Contract.

13. **WITHDRAWAL OF BID** - The Bid may be withdrawn by the Bidder by means of a written request, signed by the Bidder or its properly authorized representative. Such written request must be delivered to the place stipulated in the Notice Inviting Bids prior to the scheduled closing time for receipt of Bids.
14. **MODIFICATIONS AND UNAUTHORIZED ALTERNATIVE BIDS** - Unauthorized conditions, limitations, or provisions attached to the Bid will render it informal and may cause its rejection as being non-responsive. The completed Bid forms shall be without interlineations, alterations, or erasures. Alternative Bids will not be considered unless expressly called for and if supplied, without request, will be considered as additional bids and will be judged non-responsive and therefore rejected. Oral, telegraphic, facsimile or telephone Bids or modifications will not be considered.
15. **LIQUIDATED DAMAGES** - Provisions for liquidated damages, if any, are set forth in the Agreement.
16. **SUBSTITUTE OR "OR-EQUAL" ITEMS** - The Work, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Technical Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Technical Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor if acceptable to the Engineer, application for such acceptance will not be considered by the Engineer until after the Effective Date of the Agreement. The procedure for submittal of any such application by the Contractor and consideration by the Engineer is set forth in Section entitled: "Contractor Submittals" of the Technical Specifications.
17. **AWARD OF CONTRACT** - Award of Contract, if awarded, will be based primarily on the lowest overall cost to the Owner, and will be made to a responsive, responsible Bidder whose Bid complies with all the requirements prescribed. Unless otherwise specified, any such award will be made within the period that the Bids remain open, however, such period shall not exceed 90 calendar days. Unless otherwise indicated, a single award will not be made for less than all the Bid Items of an individual Bid Schedule. In the event the Work is identified in more than one Bid Schedule, the Owner may award schedules individually or in combination. In the case of 2 or more Bid Schedules which are alternative to each other, only one of such alternative schedules will be awarded.
18. **EXECUTION OF AGREEMENT** - The Bidder to whom award is made shall execute a written Agreement with the Owner on the form provided, shall secure all insurance documents specified, and shall furnish all certificates and bonds required by the Contract Documents within fourteen (14) calendar days after receipt of the Agreement forms from the Owner. Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award and forfeiture of the Bid Security. If the lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the Owner may award the Contract to the second lowest responsive, responsible Bidder. If the second lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the Owner may award the Contract to the third lowest responsive, responsible Bidder. On the failure or refusal of such second or third lowest Bidder to execute the Agreement, each such Bidder's Bid Securities shall be likewise forfeited to the Owner. Upon failure

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Council hereby approves the conditional award of a contract to Bruce's General Construction, Inc., of Beaumont, Texas, in the amount of \$727,898.92 for furnishing all labor, materials, equipment and supplies for the construction of the Hike & Bike Trail - Phase II Project pending TxDOT's concurrence of the award of the contract to Bruce's General Construction, Inc.; and,

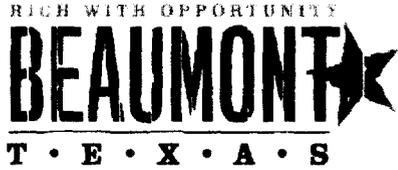
BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with Bruce's General Construction, Inc., of Beaumont, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -

September 16, 2014

Consider a resolution approving the award of a contract to Rural Pipe and Supply, Inc. of Jasper for the purchase of brass fittings and gate valves to be used by the Water Utilities Department



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer *LC*

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council consider a resolution approving the award of an eleven (11) month contract for the purchase of brass fittings and gate valves to be used by the Water Utilities Department, in the total estimated amount of \$275,283.

BACKGROUND

Bids were received from six (6) vendors for an eleven (11) month contract for brass pipe fittings and cast iron gate valves. The eleven (11) month contract period is established to coincide with the expiration of the master water utility inventory contract. The materials are used in the repair and maintenance of existing water and sewer lines and installation of new service lines in order to maintain adequate water and sewer service throughout the City.

Bids were evaluated upon the lowest total price per section on an all or none basis and which provides the best value to the City. Only bidders providing pricing for every item within each section were considered. Pricing is to remain firm for the term of the contract. Specifications also required all bids involving brass materials to quote items that are certified NSF61 lead-free compliant and are of domestic (USA) manufacture.

Requests for local vendor consideration were submitted by Coburn's, Inc., and ACT Pipe & Supply, Inc. However neither calculation resulted in net bids which fell within the five percent (5%) scope of the consideration requirement.

The administration recommends award of an eleven (11) month contract to Rural Pipe and Supply, Inc., of Jasper in the estimated amount of \$275,283.

FUNDING SOURCE

Water Utilities Fund.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, bids were solicited for an eleven (11) month contract for the purchase of brass pipe fittings and cast iron gate valves for use by the Water Utilities Department; and,

WHEREAS, Rural Pipe & Supply, Inc., of Jasper, Texas, submitted a bid in the estimated amount of \$275,283, as shown on Exhibit "A," attached hereto; and,

WHEREAS, City Council is of the opinion that the bid submitted by Rural Pipe & Supply, Inc. 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 Rural Pipe & Supply, Inc., of Jasper, Texas, for an eleven (11) month contract for the purchase of brass pipe fittings and cast iron gate valves for use by the Water Utilities Department in the estimated amount of \$275,283, as shown on Exhibit "A," attached hereto, 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 Rural Pipe & Supply, Inc., of Jasper, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 16th day of September, 2014.

- Mayor Becky Ames -



CITY OF BEAUMONT, BEAUMONT, TEXAS
PURCHASING DIVISION BID TABULATION

Bid Name: Eleven Month Contract for Brass Pipe Fittings & Gate Valves
Bid Number: BF0414-45
Bid Opening: Thursday, August 14, 2014
Contact Person: Robert J. Hollar, Buyer II
 rhollar@ci.beaumont.tx.us

VENDOR	Rural Pipe & Supply Jasper	Johnson Supply Palestine	HD Supply Beaumont	Coburn's Beaumont
SECTION- 1 BRASS PIPE FITTINGS DOMESTIC -NO LEAD ONLY	\$ 146,815.00	\$ 161,661.00	\$ 159,030.00	\$ 158,934.00
SECTION-2 VALVES -DUCTILE IRON AMERICAN FLOW PREFERRED	\$ 128,468.00	\$ 145,882.75	\$ 136,439.10	NO BID
TOTAL	\$ 275,283.00	\$ 307,543.75	\$ 295,469.10	\$ 158,934.00

VENDOR	CPR/MDN New Caney	ACT Pipe & Supply Beaumont
SECTION- 1 BRASS PIPE FITTINGS DOMESTIC -NO LEAD ONLY	\$ 153,960.00	\$ 176,851.00
SECTION-2 VALVES -DUCTILE IRON AMERICAN FLOW PREFERRED	\$ 147,418.90	\$ 141,751.90
TOTAL	\$ 301,378.90	\$ 318,602.90

EXHIBIT "A"

PUBLIC HEARING

- * Receive comments on the 2014 (FY 2015) Proposed Tax Rate



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: September 16, 2014

REQUESTED ACTION: Council to hold a second public hearing on the 2014 (FY 2015) Proposed Tax Rate.

BACKGROUND

Administration recommends maintaining the current tax rate of \$0.69/\$100 of assessed valuation for FY 2015. In accordance with Chapter 26 of the Property Tax Code, if the proposed rate exceeds the lower of the rollback rate of \$.742727/\$100 or the effective tax rate of \$.687249/\$100, the City Council must take a record vote to place the proposal to adopt the rate on the agenda of a future meeting and hold two public hearings. The effective tax rate is the rate that would produce the same amount of taxes in FY 2015 as was produced in FY 2014 if it was applied to the same properties taxed in both years. The proposed tax rate of \$0.690000/\$100 exceeds the effective tax rate of \$.687249/\$100 by \$.002751/\$100. In addition to holding two public hearings, a Notice of Proposed Tax Rate is required to be published in the newspaper prior to the first hearing only, and on the city website, and on a television channel, if available, through the adoption of the tax rate. City Council took a record vote on August 12, 2014. The notice was published in the newspaper, on the website and on the cable channel 4 on August 19, 2014 and the first public hearing was held on August 26, 2014.